



The Indo-Pacific Economic Framework

Submission by the Australian Council of Trade Unions

ACTU Submission, 12 January 2023
ACTU D. No 54/2022

ACTU
australian council of trade unions

Contents

Introduction	1
About the ACTU	1
Executive Summary	1
List of recommendations.....	2
Background	3
Key issues for the ACTU.....	4
Embedding consistently robust labour standards across all four pillars	4
Abuses of human and workers' rights in IPEF countries	5
Secrecy provisions and transparency.....	6
Digital trade provisions.....	7
Supply chains	8
Supporting a Just Transition across IPEF countries.....	8

Introduction

About the ACTU

Since its formation in 1927, the ACTU has been the peak trade union body in Australia. It has played the leading role in advocating for, and winning the improvement of working conditions, including on almost every Commonwealth legislative measure concerning employment conditions and trade union regulation. The ACTU has also appeared regularly before the Fair Work Commission and its statutory predecessors, in numerous high-profile test cases, as well as annual national minimum and award wage reviews.

The ACTU is Australia's sole peak body of trade unions, consisting of affiliated unions and State and regional trades and labour councils. There are currently 43 ACTU affiliates who together have over 1.7 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

Executive Summary

The ACTU welcomes the opportunity to provide input into the ongoing negotiations of the Indo-Pacific Economic Framework (IPEF).

The ACTU is a supporter of trade as a vehicle for economic growth, job creation, tackling inequality and rising living standards. Having a strong export sector is imperative for Australia's prosperity. However, unions are not 'cheerleaders' for a trade agenda that does not deliver for Australian workers or the broader community. Proposed free trade agreements must be fair and in the national interest and the interests of workers.

The COVID-19 pandemic has shown the risks that come with 'just-in-time' supply chains, and the importance of Australia's sovereign capacity. Australian manufacturers who pivoted to making crucial personal protective equipment and other essential goods are now facing job losses. Recovery from the pandemic presents an opportunity to ensure Australia can protect its own interests during a crisis going forward.

The single most important objective of trade policy should be to deliver benefits to the Australian economy, communities and working people by supporting and creating quality, secure, local jobs whilst protecting quality public services and robust public policy. This should not be at the expense of workers in developing countries.

IPEF therefore represents an opportunity for a reset in Australian trade policy towards what US President Joe Biden and US Trade Representative Katherine Tai have called “a worker-centred trade policy”.

List of recommendations

The Australian Government should:

Recommendation 1: Require that IPEF include strong, binding and enforceable labour standards and corporate accountability measures integrated throughout all four pillars.

Recommendation 2: Require strong labour chapters in each pillar which include commitments to the effective implementation of the 10 Core Conventions covered by the ILO’s Declaration on Fundamental Principles and Rights at Work, and countries must address non-compliance with these Core Conventions before they can access the full benefits of IPEF.

Recommendation 3: Ensure that countries in IPEF be required to ensure labour rights, both in law and practice, for all workers in their country regardless of citizenship, immigration status or national origin to enjoy the benefits of the IPEF agreement, including any international funding and support for infrastructure, supply chain development and clean energy. This must include an enforcement mechanism which enables fast and targeted enforcement actions against companies which do not comply with the agreements labour standards.

Recommendation 4: Work with the union movement to develop a template for labour standards in all trade agreements, to be used firstly in IPEF negotiations and then in all other current and future trade negotiations. The template must build on international examples of best practice for labour chapters in trade agreements and must include commitments to the effective implementation of the 10 Conventions covered by the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work.

Recommendation 5: Require that IPEF include funding to support and strengthen the capacity of democratic trade unions to organise and represent workers, collectively bargain, shape public policy and protect and improve rights for workers in IPEF countries.

Recommendation 6: Exit the secrecy agreement signed in April 2022 by the previous Coalition Government, whereby governments agreed to keep all documents exchanged during the negotiations “in confidence” for five years after IPEF enters into force or the talks otherwise come to an end.

Recommendation 7: Ensure a comprehensive and independent assessment is undertaken regarding the full economic, social, labour market, environment, and health impacts of any final IPEF agreement before Australia signs on to IPEF.

Recommendation 8: Require that digital trade provisions in IPEF include protections to preserve robust policy space for governments to regulate the digital economy, and include positive commitments to protect worker and consumer data privacy, address employer misuse of technology, and address abusive employment practices in the platform economy and tech sector, according to the list of principles detailed on pages 7 to 8 of this submission. It should not prevent governments from regulating the cross-border flow of data, setting standards for data security, or regulating rights for platform or gig economy workers.

Recommendation 9: Ensure the supply chain pillar addresses violations of workers' rights in company supply chains by embedding the requirement for companies in IPEF countries to undertake human rights due diligence to identify, prevent and address risks to worker's rights, and enable workers in supply chains to seek redress when harm is caused by a company's failure to conduct due diligence.

Recommendation 10: Ensure IPEF contains commitments to phase out the use of asbestos in supply chains across the region.

Recommendation 11: Support IPEF to lead work supporting partner countries to develop or build upon their just transition efforts. This should include high level commitments and targets within the IPEF around worker support and good quality job creation, provision of technical assistance and support and clear commitments for social partners (unions and industry) to provide input into the development of the IPEF transition commitments and their roll-out at country level.

Background

US President Joe Biden launched IPEF on 23 May 2022 at a meeting of the "Quad" (Australia, India, the United States and Japan). Negotiations were formally launched on 9 September, with Australia's Minister for Trade, Tourism and Investment, Senator the Hon. Don Farrell and other trade ministers travelling to Los Angeles for the event.

IPEF is being presented as an economic framework rather than a traditional trade agreement, although it does include a trade dimension—albeit that this will not include market access elements such as tariff reductions. The ACTU welcomes the announcement that IPEF will not include other problematic measures such as mandatory medicinal drug patents and investor-

state dispute settlement (ISDS) mechanisms. IPEF countries include the United States, Australia, Brunei, India, Indonesia, Japan, Republic of Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand and Vietnam, with the potential for other countries to join later.

The US proposal is for IPEF to be a non-legally binding trade and investment discussion forum for sympathetic countries in the region, with the aims of achieving high labour and environmental standards; a digital trade framework; diverse, open and predictable supply chains; and greater investment in decarbonisation and clean energy.

IPEF will be comprised of four Pillars:

- Trade (including digital trade, labour rights and environment)
- Supply chain resilience
- Infrastructure and decarbonisation
- Tax and anti-corruption

While it is unclear how these goals will be negotiated outside of a legally-binding trade agreement framework, it is likely to involve incentives such as infrastructure funding for countries who sign on. IPEF member states will be free to sign on to as many or as few Pillars as they wish.

Key issues for the ACTU

Embedding consistently robust labour standards across all four pillars

The ACTU is concerned that giving IPEF member states the flexibility to sign up to as many—or as few—of the four pillars as they wish will mean countries can easily avoid labour and environmental obligations by simply avoiding any pillars with decent labour standards, such as the trade pillar. Labour rights are not a niche issue to be “siloed” into merely one of the four IPEF pillars, but a lens through which we examine the costs and benefits of trade and international economic relations.

To address this, we recommend the Australian Government insist that robust labour standards are replicated across all four pillars of IPEF. The ACTU appreciates the diplomatic and policy flexibility of a “pick-and-mix” approach to the four pillars of the Indo-Pacific Economic Framework, but this should not be allowed to devolve into a “pick-and-mix” on workers’ rights. The Government should also use negotiations around the supply chain pillar and the infrastructure and decarbonisation pillar to promote labour rights throughout the region by insisting on strong labour standards be attached to supply chain provisions and any financing arrangements for infrastructure and energy.

The ACTU does not stand for a parochial, nationalist interpretation of workers' interests, but instead stands as a member of an international movement of working people for workers' rights everywhere. Australian unions stand in solidarity with working people across the region and the world at large, and Australian trade and international economic policy must support the rights of workers across the Indo-Pacific to organise and fight for the pay and conditions they deserve.

To this end, the ACTU recommends the Government work with the union movement to develop a template for labour standards in all trade agreements, to be used firstly in IPEF negotiations, based on international examples of best practice for labour chapters in trade agreements. The labour and sustainable development chapter currently being negotiated with the EU might also provide a positive starting point in this regard.

We further recommend the Government uses the negotiation process to promote corporate accountability mechanisms. Companies in the IPEF region should be required to respect labour rights to enjoy the benefits of the IPEF agreement, including any international funding for infrastructure, supply chain development and clean energy.

A strong, independent and democratic trade union movement is essential for inclusive and resilient democracies. In order to strengthen the capacity of democratic trade unions to organise and represent workers, collectively bargain, shape public policy and ensure that workers in IPEF countries enjoy rights at work, IPEF should include funding to support trade union development. This commitment would complement robust labour standards and corporate accountability mechanisms in IPEF and ensure that the agreement will have a real impact in protecting and improving the rights of workers in IPEF countries.

Abuses of human and workers' rights in IPEF countries

IPEF must be used to advance the rights of workers in all IPEF countries. The Indo-Pacific region is one of the worst when it comes to respect for workers' rights, according to the International Trade Union Confederation (ITUC)'s annual Global Rights Index. For example:

- The Philippines is ranked among the world's worst 10 countries for working people, where unionists and workers have been murdered and live in fear of violent attacks and arbitrary arrests;
- In Thailand, the President of the State Railway Union of Thailand (SRUT) and 12 other union leaders remain wrongfully imprisoned for carrying out a national rail safety campaign following a spate of fatal train accidents;
- The leader of the Fiji Trades Union Congress is facing charges relating to legitimate trade union activities;

- The leader of the Korean Confederation of Trade Unions has been charged with organising mass rallies;
- There are no trade unions in Brunei, and the law does not provide for collective bargaining;
- Forced labour and human trafficking is an issue across the region, especially among migrant workers in Malaysia and Thailand; and child labour is prevalent in India and Indonesia.

The scale of workers' rights abuses across the region reinforces our call for IPEF to contain strong and enforceable labour standards and corporate accountability measures integrated throughout all four pillars, including commitments to the effective implementation of the 10 Core Conventions covered by the ILO's Declaration on Fundamental Principles and Rights at Work.

Countries must address non-compliance with these Core Conventions before they can access the full benefits of IPEF. Countries in IPEF should be required to ensure labour rights, both in law and practice, for all workers in their country regardless of citizenship, immigration status or national origin to enjoy the benefits of the IPEF agreement, including any international funding and support for infrastructure, supply chain development and clean energy. This must include an enforcement mechanism which enables fast and targeted enforcement actions against companies which do not comply with the agreements labour standards.

Secrecy provisions and transparency

The Office of the US Trade Representative has confirmed that it signed secrecy agreements with Australia and the 12 other members of the IPEF in April, whereby governments agreed to keep all documents exchanged during the negotiations "in confidence" for five years after IPEF enters into force or the talks otherwise come to an end. This secrecy agreement signed by the Morrison Government contravenes Labor Party policy. We urge the new Government to exit this agreement at the soonest possible availability.

Furthermore, we urge the Government to ensure a comprehensive and independent assessment be undertaken regarding the full economic, social, labour market, environment, and health impacts of any final IPEF agreement before Australia signs on to IPEF. This should include commitments to the effective implementation of the 10 fundamental Conventions covered by the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work.

Digital trade provisions

Digital trade provisions have traditionally focused on promoting the rights of corporations to move, process, and store data as they see fit. We have seen, for example, widespread bans on data localisation measures, even on measures designed to protect particularly sensitive data such as personal medical and financial records.

The ACTU agrees with our US counterpart, the AFL-CIO, that the goals of digital trade provisions in IPEF must a) preserve robust policy space for governments to regulate both current and as-yet unknown challenges in the digital economy which may emerge in future; and b) include positive commitments to protect worker and consumer data privacy, address employer misuse of technology, and address abusive employment practices in the platform economy and tech sector. IPEF must not prevent governments from regulating the cross-border flow of data, setting standards for data security, or regulating rights for platform and gig economy workers.

Workers' data is increasingly being created, collected, stored and sold by employers and technology service corporations. This data is used by employers to make managerial decisions, and is being monetised by tech companies providing payroll, training and other corporate services. Corporate surveillance and monitoring of workers has gone to new heights during the pandemic, and now extends into workers' homes and private lives via software, apps and GPS. Data collected and stored by employers is often personal and sensitive, including home addresses, tax and bank information, health information, biometric and location data, and more. There are very few rights for workers to privacy or transparency in how employers and other corporations use, store and sell data. As more data is collected about workers, this data is an increasingly attractive target for hackers. In Australia, an increasing number of employers and technology providers have subject to breaches of personal and sensitive worker data. Tens of thousands of workers had their personal and sensitive data breached.

IPEF's digital trade provisions must respect the following principles regarding workers' data and privacy rights:

- Employers should be required to protect their employees' data
- Workers must have right of access to data collected on them, including right to have data rectified, blocked or erased
- Workers and their unions should have access to relevant employee and other data to enable the effective implementation of rights of freedom of association, collective bargaining and organising.
- Workers & unions must be consulted and agreement reached before introduction of new systems that enable surveillance or monitoring

- Data collected about workers must be minimalised to only what is necessary
- Data collection and processing policies and decisions must be transparent and available to workers and their unions
- Restrictions on collection and use of biometric and GPS/location data
- These rights should be implemented and enforceable via collective bargaining.

Supply chains

The supply chain pillar must address violations of workers' rights in company supply chains by embedding the requirement for companies in IPEF countries to undertake human rights due diligence to identify, prevent and address risks to worker's rights, and enable workers in supply chains to seek redress when harm is caused by a company's failure to conduct due diligence. These requirements should be binding and subject to an accessible complaints mechanisms with effective remedies within IPEF.

IPEF should also include commitments to end the use of asbestos in supply chains throughout the region. Asbestos is still in widespread use throughout the Indo-Pacific, and unions across the region have been campaigning for a global ban on asbestos, recognising it hurts workers in producer countries. The ACTU believes a regional ban on asbestos within the architecture of IPEF would be a good first start. We note it is not unknown for asbestos contamination to end up in supply chains and products bound for Australia.

The ACTU calls on IPEF member governments to use the opportunity presented by the IPEF negotiations to secure commitments to phase out the use of asbestos in supply chains across the region. Asbestos kills workers, both in production in countries of origin and in its commercial use in destination countries. IPEF must drive better safety outcomes for workers across our region.

Supporting a Just Transition across IPEF countries

The climate crisis is impacting every worker, every job, every industry, and every country. Governments must both reduce emissions and ensure a Just Transition for workers. A Just Transition means that the decarbonisation process should be fair and inclusive, creating decent work opportunities and ensuring no one is left behind. This requires active collaboration and effective social dialogue between all affected groups including workers, their unions, families and communities, with respect for fundamental labour principles and rights.

Workers and their communities affected by the transition to a net zero emissions economy should be supported, including access to secure jobs with decent labour standards in new industries, particularly renewables. To do this effectively requires a thoughtful strategy that is

adequately resourced, well-coordinated with the right regulatory settings, and the full involvement of union and industry in its design and implementation. Each IPEF partner faces particular challenges in managing transition. The clean energy pillar of IPEF should contain commitments to support them, including through developing shared goals, and sharing of knowledge and experience in the development and roll out of transition plans.

The ACTU recommends IPEF countries lead work supporting partner countries to develop or build upon their Just Transition efforts. This should include high level commitments and targets within IPEF around worker support and good-quality job creation, provision of technical assistance and support, and clear commitments for social partners (unions and industry) to provide input into the development of the IPEF transition commitments and their roll-out at country level.

address

ACTU
Level 4 / 365 Queen Street
Melbourne VIC 3000

phone

1300 486 466

web

actu.org.au
australianunions.org.au