

Submission by the Australian Nursing and Midwifery Federation

Inquiry into Australian Government's approach to negotiating trade and investment agreements

Submission to Joint Standing Committee on Trade and Investment Growth

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**Australian
Nursing &
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Introduction

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 322,000 nurses, midwives and care-workers across the country.
2. Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.
3. Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.
4. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.
5. The ANMF thanks the Joint Standing Committee on Trade and Investment Growth for the opportunity to provide feedback on the Australian Government's approach to negotiating trade and investment agreements.
6. The ANMF submits this brief submission in support of the more detailed submission by the Australian Fair Trade and Investment Network (AFTINET) and endorses their recommendations. The ANMF is a member of AFTINET. Their submission raises a number of important issues and shortcomings in the process for negotiating trade agreements and its impact on a range of other matters of public interest.



7. In our July 2020 letter to the Joint Standing Committee on Treaties (JSCOT)¹, the ANMF highlighted the long standing concerns around the secrecy, lack of transparency and absence of public scrutiny in the trade agreement process. The ANMF refers the committee to our JSCOT submission for further information concerning trade agreements and the COVID-19 pandemic.
8. The ANMF would like to highlight the below areas of particular concern.

Labour rights

9. The ANMF understands the importance of working together with like-minded organisations from around the world. The ANMF is an affiliate of the Australian Council of Trade Unions (ACTU), which in turn is an affiliated organisation of the International Trade Union Confederation (ITUC). ANMF works with regional trade unions in New Zealand and the Pacific on issues of common concern. Through an arrangement with the Australian College of Nurses, the ANMF is an affiliate of the International Council of Nurses (ICN). International solidarity is important to the ANMF.
10. Trade agreements must include enforceable obligations to the following International Labour Organisation (ILO) conventions and declarations:
 - The right of workers to freedom of association and the effective right to collective bargaining (ILO Conventions 87 and 98);
 - The elimination of all forms of forced or compulsory labour (ILO Conventions 29 and 105);
 - The effective abolition of child labour (ILO Conventions 138 and 182);
 - The elimination of discrimination in respect of employment and occupation (ILO Conventions 100 and 111); and
 - A safe and healthy working environment (ILO Conventions 185 and 187).

¹ ANMF submission, [Certain Aspects of the Treaty-making Process in Australia](#) (July 2020)



First Nations People

11. The Commonwealth government must ensure that trade agreements are consistent with protecting the rights of First Nations People. This requires the exclusion of Investor-state dispute settlement (ISDS). ISDS is an optional dispute process that grants additional legal rights to a single foreign investor to sue governments for compensation, enabling them to bypass local courts. Their existence goes against the fundamental core of governments being accountable to their citizens and lack transparency.
12. First Nations Peoples must also have guarantees of the right to free prior and informed consent for investment projects on First Nations Peoples' land. There must also be explicit protections in intellectual property rules for Indigenous art, culture and the use of traditional plants.

Intellectual property rights

13. Intellectual property rights concerning medicines are primarily expressed in patent law. Trade agreements must exclude medicines gaining access to longer monopolies through patent law. Monopolies granted by governments to patent holders, including for medicines, are intended to provide incentives for innovation. There must be a balance between these patent law rights and access to essential medicines for people around the world.
14. Trade agreements must not unduly protect pharmaceutical monopolies, as this limits access to affordable medicines and the ability for countries to manufacture medicine locally. This can have significant detrimental effects on health and limit the right to access health services, as was seen for example when licences to manufacture COVID 19 vaccines were not released to low and middle income countries.
15. As AFTINET highlights in its submission, pharmaceutical companies are highly profitable. Their profits are significantly larger than other large public corporations. There is no reason to grant them more power with further ways to dictate prices on their products.



Overseas workers

16. Trade agreements must work towards a permanent migration scheme that protects the rights of migrant workers. Temporary or seasonal migration must be based solely on genuine need demonstrated by local labour market testing. Arrangements for genuine temporary or seasonal labour shortages should be separate stand-alone government to government agreements, such as the Pacific Australia Labour Mobility (PALM) scheme.
17. These schemes must contain protections for temporary and seasonal workers to ensure they are not exploited and enjoy the same rights as other workers in Australia. Unions must have a role to play in such schemes like they currently do in the PALM scheme and the Aged Care Industry Labour Agreements scheme.

Digital trade rules

18. Trade agreements must not prevent the regulation of market power inequities and digital platform workers' rights.
19. Trade rules that enable corporations operating in the gig-economy to access Australian markets without a local presence, could restrict the government's ability to implement regulation of labour rights and working conditions for digital platform workers. This would undermine Australian employment and work health and safety laws.

Conclusion

20. The detail of trade agreements must be open to public scrutiny and debate, and subject to the usual parliamentary processes.
21. The ANMF urges members of the Joint Standing Committee on Trade and Investment Growth to support the recommendations outlined in our submission and the more detailed submission of AFTINET.