



NSW.ACT

Submission to the Treaties Committee Inquiry into the WTO

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The community sector and the WTO

A submission to the Treaties Committee Inquiry into Australia's relationship with the WTO from UnitingCare NSW.ACT

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The UCA perspective

UnitingCare NSW.ACT is an agency of the Uniting Church in Australia. It is a board of the NSW Synod, and is responsible for chaplaincy, community services, and social justice advocacy. It has oversight of the networks of aged care and child care facilities, and various other community services run by the Uniting Church in NSW and the ACT. It runs Burnside, which cares for children and young people at risk, through programs located in several parts of Sydney and in rural NSW. It also runs Unifam, WESTS (Western Sydney Tenants' Advice Service), a supported living program for people with an intellectual developmental disability, and a HACC service. It is responsible for chaplaincy in prisons, hospitals, mental health services and the police force. It also engages in social justice advocacy on behalf of the NSW Synod of the Uniting Church, on a wide range of state and national issues.

In looking at the question of Australia's role in the WTO, UnitingCare NSW.ACT takes into account a wide range of material about trade and investment, as well as its knowledge of a range of community services, and the Christian beliefs and values of the Uniting Church. Those beliefs and values include a commitment to the poor and the marginalised, and a particular emphasis on human rights.

The Uniting Church recognises that economics and business play an important role in human life. But we do not see economic activity or business as the only factor in improving human well-being. People need more than money, or the goods and services that money can buy. Human well-being is a matter of spiritual, cultural and social well-being as much as economic well-being. Indeed, an over-emphasis on the economic can damage other aspects of human life. Human well-being does not automatically improve as business activity and GDP increase. Both Australian and international studies show that increased GDP can be accompanied by alienation, insecurity,

injustice, poverty and crime. The USA spends the most on health services but does not have the best showing on standard health indicators. An over-emphasis on business and trade can lead to a squeezing out of other important aspects of human life, so that human well-being suffers. Human wellbeing depends on respect for human dignity, and participation in social, cultural, spiritual, and political life. It also depends on a healthy environment, an intact web of life.

The Uniting Church understands all human beings and all governments as being accountable to God. We believe in a God who is gracious, merciful and forgiving, but the very fact that God accepts all people and values them equally means that God calls us to treat one another with dignity and respect, and to ensure that the basic needs of all are met.

Our concern for other dimensions of life follow directly from our Christian beliefs and values. However, there is now a considerable secular literature exploring better ways of measuring human well-being because economic measures such as GDP are now recognised as being inadequate. See, for example, the proceedings of the 1997 conference sponsored by the CSIRO and the Australian Bureau of Statistics, *Measuring Progress: is life getting better?* (edited by Richard Eckersley, CSIRO Publishing 1998).

Community sector involvement, accountability and transparency

There are two issues here – community sector involvement in Australia's internal policy-making process, and community sector involvement in negotiations at WTO meetings. The two are interconnected, since the Australian government is not fully accountable to the Australian people unless both its process for formulation of policy and its actual advocacy at the WTO are transparent and open to public scrutiny and debate.

Respect for democratic values and human rights requires that the Australian public be



well informed about WTO and any other multilateral (or bilateral) treaty on trade and/or investment; that there be a vigorous debate about the issues; that the community sector (non-government organisations) be consulted about the views of members of their organisations; and that bureaucrats and politicians pay some heed to those who draw attention to the non-economic dimensions of life that can be affected by trade and investment. None of these circumstances are true at the present time.

Up until now, there has not been adequate opportunity for the community sector to be involved in Australia's development of its negotiating position, or in actual negotiations on trade and investment. Any consultation has been only with business organisations, whose interests are somewhat different from that of the community sector or the electorate as a whole. Often there has been no publicity about the issues involved, and no attempt to encourage public debate. Public concern has been ignored. The number of submissions on the MAI shows that there is considerable interest in and concern about such issues. The Treaties Committee itself concluded that inadequate submissions on MAI from Treasury, the Attorney-General's Department and the Department of Foreign Affairs and Trade showed that bureaucrats responsible for Australia's negotiations were unable to see wider perspectives on the issues, and were severely out of touch with many of the concerns of the community. The problem was again illustrated last year, when DFAT engaged in public consultations on the future of international trade negotiations, but produced a slim report that showed no engagement with the substance of the submissions it received. UnitingCare NSW.ACT (under its old name of Board for Social Responsibility) has already corresponded with the Treaties Committee about this.

The situation at WTO negotiations is also unacceptable in terms of democratic values, accountability and transparency. The processes stand in sharp contrast to the processes of the United Nations, where non-government organisations have a role. Yet most UN agreements have only moral force, and are not subject to the sanctions and disciplines that apply in WTO agreements. Australia should lobby strongly for more open, transparent and inclusive processes in WTO negotiations.

Only when the processes are transparent can

either the Australian government or the WTO expect to have credibility as acting in the interests of all Australians, rather than simply the international corporations.

The WTO and services

In developing this argument, we will use trade in services such as education, health and social services as examples.

GATS

The WTO explains the effect of GATS in the following terms:

The GATS expressly recognizes the right of Members to regulate the supply of services in pursuit of their own policy objectives, and does not seek to influence these objectives. Rather, the GATS establishes a framework of rules and disciplines to ensure that Members regulate their services sector in a manner which avoids that any ensuing trade restrictions and distortions are more burdensome than necessary. ("What is GATS?" Q and A, on the WTO website www.wto.org)

There are several problems with this: who determines the criteria for defining what constitutes trade restriction and distortion, or the extent to which those regulations are "burdensome"? What level of burden is "necessary" or "more burdensome than necessary"? These are not really technical issues, but rather issues requiring value-laden judgements. They are therefore issues that need to be widely debated and resolved in open political processes which take account of different perspectives, rather than closed negotiations to which access is restricted.

Services

The WTO has published a package of discussion papers and background briefing notes about services and their inclusion within the WTO agreements. This package includes discussion of services which have quite different impacts on human wellbeing. Some are primarily services to other businesses or to consumers – eg engineering services, distribution services and hospitality and tourist services. In arguing for or against international trade in these services, the issues are more about the general economic impact of trade (eg on levels of employment), rather than about the services themselves.



Some are “utilities”, to which all people need some access, but which are primarily technological rather than dependent on human interaction for their delivery, such as telecommunications, postal services, transport, and energy. The problem for international trade policy is that these services are essential to people, and access cannot be entirely left to the open market.

Some services have a high human component – such as education, health services and social services. In these services, the issue is both access and appropriateness.

Exemptions...but...

The GATS exempts services that are considered to be “an exercise of government authority”. However, the WTO papers on services also show a bias against public provision and towards private sector provision. There seems to be an implicit assumption that all services can and should be traded internationally. This value-laden judgement is inappropriate in an international organisation that is intended to serve sovereign nations, not determine their political philosophy.

In these papers there seems to be little understanding of the enormous variation in the human element, and therefore human impact, of services. This is absolutely clear in the paper which deals with health and social services. It assumes that an examination of health services covers other forms of social services, and fails to explore any differences. Yet it relies primarily on an argument that medical and hospital services are becoming increasingly a matter of information exchange, which is amenable to international trade. It ignores the fact that these technological developments are more a part of diagnosis than treatment, and therefore leaves most health services untouched. It further ignores the fact that information exchange is far less important in social services, where “diagnosing” a problem depends on personal interaction, not technical exploration.

Australia's position

The WTO paper on health and social services indicates that Australia has made a number of commitments in this area (See extract from Table 3).

Extract from Table 3: Summary of Specific Commitments on Medical, Health-Related, Social, and Health Insurance Services

Members	Professional Services			Health-Related and Social Services				Health Insurance
	Medical and Dental Services	Veterinary Services	Nurses, Midwives etc.	Hospital Services	Other Human Health S.	Social Services	Other	
Australia	x	x			x			x

This raises a number of questions which are pertinent to the terms of reference of this inquiry. When were these commitments made? Who made the decisions? On what basis? Who was consulted? What publicity was given to the fact that the decision was being considered? What is the content of the commitments that Australia has made? What are the long term implications? How do citizens gain access to this information? When and where have these issues been debated by Australians?

The basis of decision-making

In the areas of education, health, and social

services, it is inappropriate to make such decisions without widespread debate among citizens and widespread consultation with the community sector. It is not appropriate for the government to make decisions about these services either in isolation, or after consultation only with the business sector. First, because these services impinge directly on the human rights and quality of life of every Australian. Second, because the community sector is an important provider of these services, and does so on a different basis to the business sector. Both these factors mean that the well-being of Australians as individuals and as a nation is at stake in decisions about trade in these services.



The role of the community sector – a WTO blind-spot

The WTO papers acknowledge that there is a proper role for government in providing some of these services to citizens. What they fail to acknowledge is the important role of the community sector, in which citizens use their civil and political rights to organise themselves as civil society, to take care of one another as an expression of interdependence and community, and to protect their interests as citizens. Instead, the WTO misleadingly includes not-for-profit organisations as part of the “private” sector, as if there were no difference between business and community organisations. (See, for example, Box 2 of the health and social services paper, where “private” beds are said to compose most of the hospital beds in the Netherlands, but they are then described as mainly owned by not-for-profit organisations). Government decisions based on the WTO’s ignorant approach are likely to lead to harm to civil society and the various non-government organisations that provide care. For example, participation of business in the provision of health and social services leads to competitive tendering. Many non-government organisations, having participated for several years in competitive tendering for social services such as the Job Network, have serious reservations about such an approach because it reduces service and care to trade.

The role of the community sector

Health and social services must be provided on the basis of need, not market power, since the people with the greatest need for these services often have least market power. Indeed, many of them could not buy the service in a purely market economy. That is why the community sector has worked cooperatively with government in providing such services, without a concern for profit. That is why they should not be seen as in competition with international service providers, even if they charge some fees for their services, and why government should be able to continue to treat them differently from international commercial operators.

We suggest that there is a great deal of difference between paying local community based organisations to provide services such as residential aged care, and paying international community operators to do so. The former is an investment in civil society and enriches

Australia because the money remains in the sector; the latter is a payment to predominantly overseas shareholders and enriches them rather than society. For example, residents in nursing homes now pay an accommodation charge, which is supplemented with a government subsidy. This is intended to provide funds for capital expenditure to upgrade nursing homes. In the community sector, the money remains in the sector even if a particular facility ceases to operate – eg in *UnitingCare*, it would be used for capital expenditure somewhere else within our aged care network. If a commercial operator closes down a nursing home, the money is lost from the capital resources of the sector. The operator does not have to account to the government for the use of the money (nor to the residents for use of their “accommodation charge”). The WTO’s focus on the charging of a fee hides this significant difference in the way the organisations operate.

Education, health and social services also need to be provided in a culturally and socially appropriate way. Health care and healing is about more than scientific tests, pills and procedures. Aged care is about more than providing a bed, a meal and laundry service, and some help with washing and dressing. Child care is about more than ensuring the child is fed and safe. In all these services, human interaction is crucially important. Care is an expression of culture, values and beliefs. Similarly, education is about more than the conveying of information and skills. While the rich can buy the physical and medical services they need, and make their own arrangements about the other dimensions of care, the poor and even people on middle level incomes cannot. They need a holistic approach that responds to the human person, not merely to a particular symptom or need. Health and social services thus need to be embedded in the national and local culture and community.

Where are human beings, and human rights, in the WTO approach?

The WTO paper on health and social services lumps health, *veterinary services*, and social services together within one discussion paper as if the issues were the same for all. This shows that there is no concept of human life or human rights informing the WTO discussion.

Under the international human rights instruments, governments have responsibility to ensure that all their people have access,



without discrimination, to education, health and social security, family support, and so on. These rights follow from human dignity. Animals do not have these or equivalent rights. The issues for WTO negotiations on health and social services are different at their core from the issues about veterinary services. The issues regarding veterinary services are likely to be little different from any other business or consumer service, and there is no major issue about public, community sector or commercial provision of services. The WTO approach lacks credibility – it simply does not understand the implications of what it is advocating.

Accountability and fiscal responsibility

The current lack of transparency, accountability and openness in Australia's negotiations with the WTO also leads to concerns as to whether application of WTO "disciplines" to education, health and social services would be in the best interests of Australia. These are services that consume a very large proportion of government budgets – it is the community, rather than the individual, that is the consumer. The situation in the USA, which relies on market mechanisms, spends the highest proportion of GDP on health but has only mediocre status on standard health indicators, shows that the WTO concept of market discipline in the area of health is unrealistic. Similarly, the USA experience shows that leaving nursing homes to the disciplines of the market is not the way to get quality care.

Conclusion

Australians are entitled to something more than ideological claims that free trade in services is beneficial – they need substantive evidence, based on a sound conceptual framework that relates to community values, not merely economics, and they need to be able to debate the issues. Without that process, there is no rigorous, credible policy development; more importantly, there is no democracy and no exercise of human rights.

That is, the failure to engage in open, inclusive and transparent processes about the WTO both within Australia and in the WTO negotiations means that the WTO and its member governments lack adequate understanding of the issues involved in the decisions they are making. A more satisfactory process would be

based on more openness, wider consultation that included the community sector and a great deal more public debate. This would ensure a more well-informed and rigorous policy making process that would better serve the interests of the Australian people, by ensuring that adequate account is taken of issues of both access and appropriateness in key services.

(This submission was prepared by Rev. Dr. Ann Wansbrough and adopted at the meeting of the *UnitingCare* NSW.ACT Board on 17 August 2000)

