

SUBMISSION NO 5

10/4/02

The Secretary
Joint Standing Committee on Treaties
Parliament House, Canberra

Dear Sir/Madam

Please find enclosed a submission from the Australian Fair Trade and Investment Network (AFTINET) to the Inquiry on 13 proposed international treaties.

Yours sincerely

Dr Patricia Ranald
Convenor,
Australian Fair Trade and Investment Network AFTINET

The Australian Fair Trade and Investment Network (AFTINET) is a network of over 50 churches, unions, environment groups, human rights groups and other community organisations and many more individuals which conducts public education and debate about trade policy.

AFTINET supports the development of trading relationships with all countries and recognises the need for regulation of trade through the negotiation of international rules. AFTINET been very active in efforts improve community consultation about trade policy in Australia, including through making submissions to JSCOT.

We are deeply disappointed and wish to register a strong objection to the limited time for submissions on 13 proposed international treaties. The short time for submissions makes it impossible to make detailed remarks on all of the treaties, and brings into question whether the committee can properly consider them. We have had time to prepare only brief remarks on Agreement with Uruguay on Promotion and Protection of Investments, an Agreement with Egypt on the Promotion and Protection of Investment and the Pacific Agreement on Closer Economic Relations (PACER).

Bilateral Investment Treaties

The two bilateral investment treaties (the Agreement with Uruguay on Promotion and Protection of Investments, and the Agreement with Egypt on the Promotion and Protection of Investment) contain investor-state complaints mechanisms, which allow corporations to challenge government legislation and to sue governments for damages. We object to these provisions as an undermining of democratic governance and an expansion of legal powers for corporations which can already exercise huge economic influence on governments.

The clauses in the agreement on the complaints mechanism allow for the use of the International Centre for Settlement of Investment Disputes, which is organised by the World Bank. A tribunal of this centre is currently hearing a case by Compania de Aguas del Aconquija (a subsidiary of Vivendi) which is suing Argentina for US\$300 million. The company was involved in the Privatisation of Water services in Argentina. The claim alleges that regulation regarding public health mandatory service obligations, and rate regulations required by government offended its investor rights
(www.worldbank.org/icsid/cases/pending.htm)

This kind of complaints mechanism clearly enables companies to challenge the right of governments to regulate essential services like water in the public

interest, and has a disincentive effect on other governments from proceeding with such regulation. We believe that such decisions about regulation in the public interest should be made by democratic means at the local and national level, and should not be subject to challenge by transnational corporations through trade agreements. Any bilateral trade agreement should have a clause which specifically makes this point and prevents such complaints. This point is reinforced by the fact that there has been so little time for public discussion of these agreements and their implementation.

The Pacific Agreement on Closer Economic Relations (PACER)

The Pacific Agreement on Closer Economic Relations (PACER) is an agreement which provides the framework for future free trade agreements which would include the removal of all trade and investment barriers between Australia and New Zealand and the much smaller and vulnerable economies of the Pacific Islands. It is proposed that Australia ratify the PACER Agreement at the Pacific Islands Forum in August 2002.

Non-government organisations in the Pacific Islands through the Pacific Network on Globalisation have noted that PACER has not been widely debated by the public or by parliaments in the region and have raised the following questions:

the impact of a free trade agreements on traditional communal ownership of land and on the ability to regulate use of natural resources such as minerals and timber

the impact of free trade in government procurement on the ability of governments to encourage local development through purchasing products from local firms

the impact of liberalisation of food imports on food security and health. Studies of countries such as Fiji and Tonga have shown that cheap food imports have undercut local food products, driven local farmers out of business and have led to higher consumption of fatty and high-carbohydrate foods with consequent health impacts

We ask that the committee consider these questions carefully and if necessary extend the time for the inquiry.

We would be happy to provide further information to the inquiry if public hearings are held.

References

" A Critical Response to PICTA, PACER and the Pacific Island's Social Impact Assessment" issued by the Pacific Network on Globalisation, Fiji, 2001.