28 May, 2012

Committee Secretary
Joint Standing Committee on Treaties
House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

Email: jsct@aph.gov.au

Dear Committee Secretary

Re: Review of the Treaties Ratification Bill 2012.

At the outset, the AMWU apologises for the delay in sending this submission to the Committee and seeks the Committee's indulgence in accepting it for consideration.

The Bill, if it becomes an Act of Parliament, would prevent the Governor General from ratifying a treaty until both Houses of the Parliament have, by resolution, approved the ratification.

The AMWU has long supported greater public consultation, transparency and the implementation of improved democratic processes when Australia negotiates trade agreements[1] and is broadly supportive of the intent behind the Bill as far as it goes to achieving these aims. From the first reading of the Bill it would appear that Mr Katter, the member presenting and recommending the Bill to Parliament, shares the AMWU's goal in bringing improved scrutiny, transparency and ultimately democratic processes to the procedures involved in making treaties.

In his presentation speech Mr Katter said:

> Treaties ought to be determined by the parliament after proper debate. This process enables public awareness of what is being proposed and a thorough analysis of the consequences of what is being proposed.

The AMWU supports this position while noting that the effect of the proposed Bill would only essentially give the Parliament the power to approve or disapprove a treaty once it has already been made and presented to Parliament.

Whilst the AMWU acknowledges that the making of treaties is an executive power within Section 61 of the Constitution, a residual power maintained by the most undemocratic notion of royal prerogative, and that this particular Bill might have some constitutional difficulties, this should not mean that the push for greater transparency and democracy in the making of trade agreements be abandoned.

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[1] See for example our *Supplementary Submission to the Productivity Commission Review of Bilateral and Regional Trade Agreements* available at:
www.pc.gov.au/__data/assets/pdf_file/0019/102493/subdr072.pdf
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It would not be contrary to the Constitution, and would assist in achieving greater democratic scrutiny and involvement, if legislation were enacted to establish committees similar to, and with similar roles and obligations as those United States advisory committees established under section 2104(e) of the Trade Act 2002 (USA). The AMWU urges the Committee to make such a recommendation in its report.

The Committee should at the very least take the opportunity to reiterate its recommendation made during its study of the Australia-Chile FTA in 2008 that:

> prior to commencing negotiations for bilateral or regional trade agreements, the Government table in Parliament a document setting out its priorities and objectives. The document should include independent assessments of the costs and benefits. Such assessments should consider the economic regional, social, cultural, regulatory and environmental impacts which are expected to arise.

The AMWU notes that there is a provision in the US Trade Act that makes similar requirements: s2104 – *Consultations And Assessment*. Further, that same Act has at s 2102 as part of its *Trading Negotiating Objectives* provisions specifically providing for (5) Transparency and (6) Anti-corruption.

The AMWU is of the view that the adoption of similar legislation here would improve Australia's negotiating position, be of immense benefit to Australia's economy and would improve public satisfaction in the democratic process.

Yours sincerely

PAUL BASTIAN
ACTING NATIONAL SECRETARY