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Mr Grant Harrison,
Secretary,
Joint Standing Committee on Treaties
Parliament House
Canberra
ACT 2600

25 August 2000

Dear Mr Harrison,

Submission to Joint Standing Committee on Treaties

Thank you for your letter of August 3, inviting Austand Inc to make a submission to your committee of inquiry into Australia's relationship with the World Trade Organisation. Attached is Austand's submission which outlines our position regarding the World Trade Organisation and provides recommendations for consideration by the Committee.

Austand is a non profit research organisation which has provided valuable information to the community through its publication Oznews and through its research division. For more than ten years, Austand has informed Australians about their country, reporting on the withering of national sovereignty, the erosion of our national industries and the consequences of privatisation programs. Austand's mission statement : "stand to win Australia back" refers to our desire to ensure that Australian businesses, producers, manufacturers and wage earners are encouraged and assisted to keep profits in Australia and to build strong and viable Australian owned and operated businesses.

Austand believes that globalisation, driven by unelected and undemocratic bodies such as the WTO, does not benefit Australia. We commend the committee for taking the initiative to inquire into Australia's relationship with the WTO, and look forward to your final report. Should you require any further details regarding this submission, please contact me on my personal telephone number: 07 54 72 3060.

Yours sincerely,

S.Bryce

Susan Bryce
Austand Inc.

PEASANTS IN OUR OWN LAND

Australia's relationship with the World Trade Organisation

“Will they [members of Parliament] help me explain to the people who see themselves being reduced to the status of coolies by an uncaring government, why this is part of a grand plan to which they should aspire?”

-Warren Martin, Chair, Australian Cane Farmers Association, March 2000

**Submission to the Joint Standing Committee on Treaties
Prepared by Austand Inc.**

August 2000

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CONTENTS

Summary and Conclusions.....p2

The WTO Agenda – Farewell Democracy?.....p3

Harmful WTO Policies and Decisions.....p5

Problems with the WTO.....p7

Recommendations.....p9

1. SUMMARY & CONCLUSIONS

In this submission, Astand has identified a number of issues and problems relating to the operation and functioning of the World Trade Organisation and its relationship with Australia. They include: the WTO's penchant for secrecy and lack of transparency; the prioritisation of commercial over other values; the constraints on democratic decision-making and bias against local economies.

Critical decisions made by the Australian government in areas such as privatisation, public spending, job creation, industry protection, currency relationships, protection of the environment, capital investment and interest rates are removed from our national government and the public domain and are being directly dictated by an external organisation - the WTO - a supra-national body that is not popularly elected.

It is Astand's view that the aggressive trade liberalisation policies of the WTO have not improved the welfare of Australia and that our membership of the WTO has had significant adverse impacts upon our nation, our economy and people. Astand recommends that Australia should rescind its membership of the WTO and that the WTO – in its present form -should be disbanded.

Astand concludes that the development, prosperity and progress of Australia as a nation is being severely compromised by WTO policies which do not allow for any change of course, apart from unfettered trade liberalisation. If Australia does not act first in the national interest, rather than the global interest, then we will become peasants in our own land.

THE WTO AGENDA – FAREWELL DEMOCRACY?

From the outset, the WTO was crafted like no other international agency. The architects of the final agenda for the Uruguay Round wanted to put in place a political institution that would oversee the building of the new global economic order. In particular, the WTO would administer and enforce a body of rules governing the global economy which include the General Agreement on Tariffs and Trade [GATT], Trade Related Investment Measures [TRIMS], Trade Related Intellectual Property Rights [TRIPS], General Agreement on Trade in Services [GATS], to name a few. In order to undertake this mandate, the WTO needed the powers and tools of a global government. Over the past five years, the operations of the WTO show that it has acquired the judicial, legislative and executive powers of global governance.

Judicial Powers

Under the WTO's dispute settlement mechanism, member countries, acting on behalf of their own corporate clients, can challenge the laws, policies and programs of another country as violations of WTO rules. Panels of unelected experts have the power to adjudicate claims of alleged violation of WTO rules and hand out punishments through various kinds of economic sanctions. There are no conflict of interest rules. They operate in secret, with all documents, hearings and briefs kept confidential.

Legislative Powers

In turn, these WTO tribunals have the authority to, in effect, strike down domestic laws, policies and programs of member states judged to be in violation of WTO rules and/or establish new laws, policies or programs in conformity with the WTO rules. The panelists have little or no concern for the domestic laws of other countries, let alone respect for the social obligations of governments towards their citizens. As a result, virtually every environmental and health law that has been adjudicated by these WTO tribunals has been declared illegal and ruled "out of order." While the WTO cannot directly command a nation state to change its laws, the threat of economic sanctions creates, if nothing else, a 'chill effect' compelling governments to comply with the WTO rulings.

Executive Powers

Although official WTO decisions are made by votes or consensus in the 134 member General Council, it appears that real decision making power is now increasingly being exercised through what has become known as the QUAD, namely, the USA, the European Union, Japan and Canada. The QUAD convenes separately several times a year between General Council meetings, repeatedly making key decisions on what the WTO will do on major agenda priorities. These QUAD meetings take place behind closed doors without the participation of other member countries. Although the QUAD is not formally recognised as the WTO executive, it is by its composition able to informally exercise executive powers.

This WTO governance structure, in turn, is interlocked with, and fortified by, a battery of big business coalitions composed of the most powerful global corporations. For example, the International Chamber of Commerce [until recently chaired by the CEO of the Nestlé corporation] functions as the general watchdog for big business with direct access to the highest decision-makers in the WTO. But perhaps the most

- 4 -

effective exercise of corporate power over WTO decision making comes through the political machinery of global corporations in each of the QUAD countries.

Based on the 1998 rankings, 443 of the Global Fortune 500 corporations are still home-based in either the U.S.[185], Europe [158] or Japan [100]. It should come as no surprise, therefore, that global corporations are best able to manipulate the legal and political structures they have in their own countries to effect WTO decision making.

- In the U.S., the President's Advisory Committee for Trade Policy Negotiations, for example, is primarily composed of representatives of major U.S. transnationals including AT&T, IBM, and Eastman Kodak. The powerful U.S. Business Round Table, which represents the country's 200 largest corporations, has direct influence at the highest levels of Washington decision making on international trade, finance and investment matters.
- In Japan, direct links between the big Japanese corporations and the government are well institutionalised through the Keidanren, the Japan Federation of Economic Organisations. The Keidanren is organised in terms of public policy committees chaired by the CEO's of major Japanese corporations. The Committee on Trade and Investment, for example, is chaired by the CEO of the Mitsubishi Electric Corporation while the Committee on Environment and Safety is chaired by the CEO of the Nissan Motor Corporation. The Keidanren regularly presents its policy platform to the Diet and highest levels of the Japanese government.
- In Europe, the Commissioner for the European Union [EU] on WTO policies and administration maintains direct links with the European Round Table of Industrialists [ERT]. The ERT is composed of the 50 largest European based corporations including Nestlé, Unilever, Bayer and Philips. While big business linkages may not be as structured in the EU as they are in the U.S. and Japan, the ERT still exercises a powerful influence over policy making at the European Commission. Major events like the Geneva Business Dialogue also play a key role.
- In Canada, the fourth member of the QUAD, corporate-government links have also been well institutionalised through the Business Council on National Issues [BCNI]. Modeled after the U.S. Business Round Table, the BCNI represents the 150 largest corporations in Canada. Like the Keidanren in Japan, the BCNI also has major public policy committees chaired by CEOs which have their own direct links with the Canadian government's policy-making apparatus for the WTO.

Bodies such as the World Trade Organisation argue that national governments are subject to political pressures and are likely to make decisions based on social and political grounds instead of on a purely commercial basis. The WTO urges national governments, including the Australian government to abolish regulations which had been previously legislated and implemented. Federal government responsibility to provide infrastructure and formerly sacrosanct 'government services' is being handed over to the private sector. The 'deregulation of the labour market' means that certain controls over industrial relations by the state (e.g. by the Industry Commission in Australia) are being abandoned. All this has taken place in the context of increasing global instability, the collapse of national economies, growing inequity both between and within nations and increasing environmental and social degradation. All as a result of the acceleration of the process of corporate globalisation.

New forms of economic and political administration are emerging. The transnational corporations are directly taking over the functions of the state. Wealth disparity, megamergers and the resulting consolidation of corporate power are becoming the order of the day. Little consideration is given to the questions: What powers or functions will elected governments have if privatisation and deregulation take their full course? How can governance remain national?

HARMFUL WTO POLICIES & DECISIONS

The globalisation of production processes means that Transnational Corporations are acting on a global scale and their managements think and plan on a global scale. Terms such as ‘partnership’, the ‘common interests of employers and employees’, ‘the national interest’, ‘balancing the budget’, ‘equity’, ‘fairness’, ‘level playing field’, ‘competition’, and many more, while often having an element of truth, are used to impose the objectives and interests of Transnational Corporations at the expense of local producers. Employee shares, the new workplace culture, the continual obsession with efficiency and productivity (meaning slashing jobs to make more profits) are just some of the arguments being used by the proponents of free trade. A priority of the Australian government should be to expose the real meaning behind these phrases and to counter them with political concepts which meet the needs of the Australian people, not the needs of the undemocratic bodies such as the WTO.

Austand believes that Australia has reached a critical turning point and as a nation, we must decide whether we are to survive or thrive. While Australia continues with a ‘business as usual approach’, many sectors of the economy are being devastated and our people are being reduced to a sense of disgust, disillusionment and disenfranchisement. The economic rationalist world of “survival of the fittest” is reducing our people to the status of coolies as a result of a grand plan to which the WTO aspires. The following examples illustrate just a few sectors where Australian industries have been adversely affected by WTO liberalisation policies

Sour note for sugar

The Australian sugar industry receives third world prices for a product with first world costs. The Federal government has been at pains to tell the Australian sugar industry to ‘toe the WTO line’. It was claimed that if Australia removed tariffs on the sugar industry the world would see us as the bearers of enlightenment on matters of world trade. The elimination of Australian tariff on sugar, it was argued, would convince other countries to ‘see the error of their ways’.

While Australia pursued liberalisation policies in this sector, the U.S. government maintained a high domestic price for sugar through a system of import tariff rate quotas. The US sugar program has reduced world prices by an average of 4.8 cents per pound and caused Australia to export 89 percent less sugar to the U.S. since 1981. This program costs Australian exporters \$274 million annually. The US calls for free trade via the WTO, but fiercely protects its home markets.

Sink or Swim for Salmon

Australia is the last continent in the world to have a disease free salmon population. To risk damaging this precious global resource would be the most extraordinary display of human arrogance - and yet, intervention by the WTO means that potentially diseased salmon can now be brought into Australia.

The dispute over salmon importation erupted when Canada declared that it had never accepted the Australian contention that the ban on imported salmon was for health reasons. Canada challenged the Australian decision at the WTO. Rather than risk retaliatory policies through the WTO, Australia lifted the 25 year old ban on importation of Canadian fresh, chilled and frozen salmon. In return, Canada agreed to revoke its challenge at the WTO. Canadian exporters of both wild and farmed salmon are now able to supply a wide range of salmon products and species to the Australian market which is valued at over AUD\$100 million dollars (US\$67million).

Howe leather dispute

The WTO Panel findings into the United States complaint against the assistance provided to Australian Leather Holdings (ALH) and to its subsidiary, Howe and Company was clearly an overturning of the democratic process. The Panel found that the loan to ALH was not inconsistent with the WTO Subsidies Agreement. The Panel further concluded that grant payments to Howe were inconsistent with the WTO Subsidies Agreement and would have to be repaid. The WTO Panel interpreted the Subsidies Agreement and the facts of the case so as to find that the grant payments were tied to exports. At the time, the then Deputy Prime Minister, Tim Fischer declared that the Federal Government did not agree with the Panel's interpretations. Australia, however, was forced to accept that it had acted inconsistently with WTO rules.

PROBLEMS WITH THE WTO

Austand Inc. draws the Committee's attention to the following challenges and difficulties with the World Trade Organisation.

Prioritising trade and commercialism over other values

- The WTO has prioritised trade and commercial considerations over all other values. WTO rules generally require domestic laws, rules and regulations designed to further worker, consumer, environmental, health, safety, human rights, animal protection or other non-commercial interests to be undertaken in the "least trade restrictive" fashion possible - almost never is trade subordinated to these noncommercial concerns.

Undermining democracy

- The WTO undermines democracy. Its rules drastically shrink the choices available to democratically controlled governments, with violations potentially punished with harsh penalties. The WTO advocates this overriding of domestic decisions about how economies should be organised and corporations controlled. Under WTO rules, once a commitment has been made to liberalise a sector of trade, it is difficult to reverse.

Promotion of global trade

- The WTO does not just regulate, it actively promotes global trade. Its rules are biased to facilitate global commerce at the expense of efforts to promote local economic development and policies that move communities, countries and regions in the direction of greater self-reliance.

Protection for new industries dismantled

- The WTO forces Australia to open our markets to transnational corporations and abandon efforts to protect infant and domestic industries. In agriculture, trade liberalisation, has catalysed a massive social dislocation of many rural people.

Thwarts the precautionary principle

- The WTO dismisses the Precautionary Principle. WTO rules generally block countries from acting in response to potential risk - requiring a probability before governments can move to resolve harms to human health or the environment.

Severely limits and restricts diversity

- The WTO diminishes opportunities for diversity. WTO rules establish international health, environmental and other standards as a global ceiling through a process of "harmonisation". Countries or even states and cities can only exceed them by overcoming high hurdles.

Displays an acute lack of transparency

- The WTO operates in secrecy. Its tribunals rule on the 'legality' of nations' laws, but carry out their work behind closed doors.

Limits government's purchasing abilities

- The WTO limits governments' ability to use their purchasing power for human rights, environmental purposes, worker rights and other non-commercial purposes. In general, WTO rules state that governments can make purchases based only on quality and cost considerations.

Offers no protection regarding the use of child labour

- The WTO disallows bans on imports of goods made with child labour. In general, WTO rules do not allow countries to treat products differently based on how they were produced - irrespective of whether made with brutalised child labor, with workers exposed to toxins or with no regard for species protection.

Legitimises life patents

- The WTO legitimises life patents. WTO rules permit and in some cases require patents or similar exclusive protections for life forms.

Recommendations

Austand takes the view that Australia should rescind its involvement with the World Trade Organisation, and that the Organisation, in its present form be abolished. Recognising that this would be extremely difficult to achieve immediately - given the undemocratic nature of the WTO and the influence of transnational corporations within the Organisation - Austand makes the following recommendations:

RECOMMENDATION 1

No WTO expansion

- Austand recommends that the Federal government does not support support the expansion of the WTO or the addition of any new areas of responsibility for the WTO. Austand is opposed to any of the following areas being added to the WTO's agenda:: investment, competition, Government procurement, biotechnology, accelerated tariff liberalisation.

RECOMMENDATION 2

WTO Hands off: Protect Democratic Rights and Needs

- Austand takes the view that it is inappropriate and unacceptable for democratic rights and basic needs to be constrained by WTO rules. Thus Austand recommends that WTO Agreements should not apply to issues critical to human or planetary welfare, such as food and water, basic social services and health and safety.

RECOMMENDATION 3

Eliminate GATS: Protect Basic Social Services

- Austand recommends that areas such as health, education, energy and other basic human services must not be subject to international free trade rules. In the WTO General Agreement on Services (GATS), the principle of "progressive liberalisation" and the implications of foreign investment in service sectors has already caused severe problems.

RECOMMENDATION 4

Take TRIPS Out: Restore National Patent Protection Systems

- Austand recommends that the Trade Related Intellectual Property Rights Agreement (TRIPS) should be removed from the WTO. There is no basis for inclusion of intellectual property claims in a trade agreement. Additionally, the TRIPS agreement promotes monopoly by transnational corporations; prevents access to essential medicines and other goods; leads to private appropriation of knowledge and life forms; undermines biodiversity; and restricts countries from increasing their levels of social and economic welfare and developing their technological capacity.

RECOMMENDATION 5

No Patents on Life

- The patenting of life forms must be prohibited in all national and international regimes.

RECOMMENDATION 6

Food self sufficiency

- AUSTAND recommends that measures be taken to promote and protect food self sufficiency and sustainable agriculture in Australia. Our agricultural sector must be exempt from international free trade rules. The trading system must not undermine the livelihood of Australian farmers.

RECOMMENDATION 7

No Investment Liberalisation

- AUSTAND recommends that Australia should advocate for the WTO Trade Related Investment Measures (TRIMS) Agreement to be eliminated. All countries must have the right to use policy options (such as local content policy) to increase the capacity of their own productive sectors, especially small and medium enterprises.

RECOMMENDATION 8

Fair Trade: Special and Differential Treatment

- Special and differential rights for countries experiencing economic difficulties must be recognised, expanded, and operationalised in the world trading system. This is to take into account the weak position of third world countries in the international trading system. Instability, conflict and wars will result without the enforcement of special and differential rights. Unless this area is addressed, there can be no possibility of third world countries benefiting from world trade.

RECOMMENDATION 9

Democratise Decision-Making

- AUSTAND recommends that the Australian government address the specific issue of transparency within the WTO. The WTO operates in a secretive, exclusionary manner which shuts out the public. It is dominated by a few powerful governments acting on behalf of their corporate elites. People must have the right to self-determination and the right to know and decide on international commercial commitments. Among other things, this requires that decision-making processes, negotiations and enforcement are democratic, transparent and inclusive.

RECOMMENDATION 10

Dispute System

The WTO dispute settlement system is unacceptable. It enforces an illegitimate system of unfair rules and operates with undemocratic procedures. Astand recommends that the Committee reviews all WTO decisions in terms of their political, social, cultural and economic costs and benefits to Australians. These outcome of such reviews should be made public.