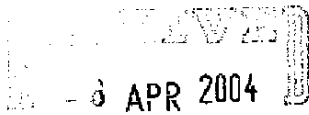


AUSFTA
Submission No: 35

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7/4/04



BY:.....
Committee Secretary
Joint Standing Committee on Treaties
Department of House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Comments on the US/Australia Free Trade Agreement

Dear Committee Members,

I hereby make a submission to this Senate Select Committee on the Australia/USA Free Trade proposal.

From the outset, let me make it clear that I oppose virtually every part of this proposed agreement as it seeks to undermine the very substance of what it is to be an independent Australia and to remove many of the wonderful freedoms and the unique nature that makes up the Australian nation. These freedoms and this unique nature have been won and built up over hundreds of years and stand to be wiped out in a moment of folly. In the main part of this submission I will comment on the potential negative impacts that various parts of such an agreement are likely to have on our great nation.

Economic Benefits

There is no clear economic benefit to Australia in signing up to a bilateral agreement with the US. The government has commissioned two preliminary inquiries into these possible benefits. The first (ACIL report) found that there would be a net loss to Australia trade position overall due to loss of trade with our current preferred trading partners. This did not give the government the answer it wanted so a second report was commissioned (CIE report). This report assumed totally free trade in agriculture with the US (a ridiculous assumption as the final proposal has shown) and came up with a minuscule gain to the economy of 0.3% after 10 years. It should also be recalled that the government then used this second, more favourable report to denigrate the first by saying that the former used faulty modelling. Further, the government has admitted that its favoured report is now invalid and commissioned yet another report to try to convince an already sceptical public that there is some benefit in it for Australia. It is not so curious to note that CIE has been commissioned to come up with this new report. If we stood to gain a miserable 0.3% with completely free trade in agriculture, any improvement on this figure that the report may find would have to be regarded with the most extreme scepticism, now that sugar (the Prime Minister's pet industry) is completely excluded and beef comes on line in 18 years, a figure too ridiculous to even bear considering. Thus the only possible benefit to Australia must be less than the 0.3% already discussed. I ask this committee to reject the proposal on these grounds alone, viz. Why are we going to risk all the freedoms that Australians have achieved in the last 200 years for almost zero predicted benefits.

Dispute Process limits Democracy

The Disputes Process allows foreign governments to either declare that an Australian law should be changed or that compensation be paid if a particular law is deemed to impede free trade. In the final instance, this decision is made by a panel of "trade law experts". The decision may or may not be made public and cannot be appealed. How could a government of the Australian people trade away our democratic process even if there was a huge amount of money to be made (and I stress again, there is not). Under this system our ability to make fair laws for Australia in many areas is effectively removed. It is a clear restriction on the democratic right of governments to regulate in the public interest.

Higher costs for Medicines

This agreement will mean higher costs for medicines. The government agrees that there is no direct mechanism to cause this, but we need to look at several important aspects of the US drug industry. Firstly, the need to include the PBS system at all in the negotiations is not logical. It is at the insistence of the US drug companies that it is included. These companies are the most profitable companies in the world. They would not have become involved if there was not money to be made. Under the PBS the government makes available subsidised drugs, bought in bulk and often the drugs purchased are generic brands, hence considerably cheaper. The way that the PBS will be crippled by this new system is that, now, only new drugs that offer real health benefits and are value for money make it to the PBS listing. The Agreement will allow US drug companies to force many more drugs onto the listing (Viagra, indeed), making the system prohibitively expensive and hence lead to its abandonment.

Secondly, just look at the price of drugs in the US. They are between three and ten times more expensive than they are in Australia. Why would we even contemplate such a system for Australia?

A third issue that should make us wary of the whole US drug industry is the cry from them that it is only fair that the companies get a fair return on their R&D investment. This would be reasonable if it were true. The truth is that these companies will only develop drugs that are going to make a profit on sales in the West. That is why there is not only Viagra, but a whole new raft of similar drugs about to hit the market, but there is not a single safe and effective drug for African sleeping sickness, a disease that kills millions each year. No drug is developed because there is no way that the countries that need it could ever afford to pay for it. In fact it is not the R&D investments that are the main outgoings of big pharmaceutical companies, it the marketing expenses which eclipse the former's costs by a factor of three in many of the drug companies.

Finally, the Agreement sets up a joint medicines working group based on the same commercial principles which contribute to the high cost of medicines in the US.

Copyright

It is proposed, under the Agreement, to increase the life of copyrights and to adopt the US copyright standards without the US' s more generous rules for copying for research and education purposes. This will lead to higher prices for libraries and educational bodies. What benefit will there be in this outcome for Australia?

By adopting US copyright laws, we will be throwing the Australian Internet industry into the same litigious nightmare as the US has already as it becomes the responsibility of Internet Service Provider to police copyrights for large US corporations. This will lead to the closures of ISP' s and to a concentration of ownership of the internet into the hands of a few big players.

Review of Foreign Investment

US investments in Australia must be given "National Treatment" . They must be treated as if they were local investments. Thus US investors cannot be required to use local products, transfer technology or contribute to exports. While there are a few exceptions to this, even the protection on most of these areas can never be increased. On the areas with this tiny remnant of protection, the Foreign Investment Review Board will have its investigative limit lifted from \$50 million to \$800 million. Areas with no protection will not be reviewed at all. Over 90% of US investments in Australia in the last 3 years would not have been reviewed if the proposed conditions had prevailed at this time.

While there is no Investor-state Complaints mechanism that allows our Government to be sued, there is an opening for such a process when a change of circumstance is deemed to exist. Let us not kid ourselves, such a process is pivotal to the NAFTA and will certainly be added to the arsenal of dirty tricks that the US will be able to play on Australia.

Essential Services

Public and essential services are exempt from the Agreement. This however is cold comfort when we read the definition of a public service: "services not supplied on a commercial basis, not in competition with one or more service suppliers" . This is the same flawed definition that has been used in other agreements such as GATS. In Australia many public services are supplied on a commercial basis or in competition with other service providers. They include health, education, water, energy, post and communications. Such services would be covered by the Agreement unless specifically reserved. They have not been, and even if some are reserved, what about new services or the change in circumstances of their supply? That all means that we could have health, education, water, energy with no governmental controls as to staffing, standards, local input, simply at the mercy of US commercial interests.

In particular, water services have not been excluded. While supply is of particular interest to consumers, there is absolutely no way of controlling large issues such as the Murray Darling Basin. The project is so large and so critical to Australia's future that the prospect of having it carved up into a number of commercial interests is terrifying.

It is telling to note that the US insisted that a "side letter" be added outlining the government's policy on the sale of Telstra. Surely this is a matter of internal Australian politics, not part of a trade agreement.

Environmental Issues

Under the Agreement, quarantine will be handed over to two new committees, both of which have trade as primary goals. Again, this is terrifying, to have quarantine handed over to trade driven committees. Australia's quarantine regulations should be made on a scientific basis in the interests of Australia, not part of trade dialogue with a much more powerful country.

The US has bowed to pressure from huge multinational food companies and does not have labelling on genetically modified food. It has already challenged the EU and has declared Australia's labelling laws a barrier to trade. Under the Agreement, US representatives must be given the same rights as Australians to participate in the development of Australian standards and regulations. Further the Australian government will recommend that Australian non-governmental bodies give US government representatives the same rights as Australian citizens to participate in Australian NGO processes for developing Australian standards. This is an absolute betrayal of our country, its

people and the whole democratic principles for which we have fought over the last two hundred years. What chance would any Australian representative have on such a committee given the sheer weight of numbers and power that US companies would bring to bear, keeping in mind that the entire process is trade driven?

Environmental protection will depend on "flexible, voluntary and **market-based mechanisms**" (my emphasis). Environmental laws must not be "disguised restriction on trade in services" . Why has this rubbish been written? How can environmental regulation be voluntary or market based?

Australian Content

The government claims that the Agreement protects Australian content and culture. The truth is that there are strict limits on future Governments' ability to ensure that Australian voices continue to be heard. On existing services the "ratchet" principle has been applied. Existing local content laws are "bound" and if they are reduced in the future they can never be restored to existing levels.

New media presents an abominable picture. What about technologies that may come up in the future? Our government will have virtually no say in their local content.

The net result will be huge job losses in the entertainment industry and the loss of a truly Australian culture.

Public broadcasting is not listed in either of the Annexes and is therefore not excluded from the Agreement. While its funding is protected by the general exclusion of subsidies and grants, there is an obvious loophole in the "provided on a commercial basis" clause since SBS has advertising and ABC has product promotion. This ambiguity may mean that the US could challenge some regulation of public broadcasting, claiming it is inconsistent with the USFTA.

Job losses from Tariff Cuts

We have seen over the past years the devastation caused by tariff cuts. Job losses inevitably result.

The Agreement proposes immediate abolition of tariffs on motor vehicle parts and a fairly speedy phasing out on assembled vehicles. The motor vehicle industry and the tariff protected clothing industries employ thousands in often rural areas. The unemployment and social disruption that removal of tariffs will cause will be catastrophic.

Even the ability of state governments to insist on local content and employment will be removed.

There is also the question of the loss of government revenue from tariffs. What will suffer? Obviously education and health will be affected first but so will all the other social services that this government has already decimated.

What concessions has the US made? Sugar? No! Beef? In 18 years time! Manufactured goods? What difference would it make anyway as we import something like 5 times more than we export!

Conclusion

There are almost no gains for most Australians in this Agreement. The business community may well sing its praises, but so many of these companies are already US dominated that the bias in any of their statements is not to be overlooked. Consider the response of the recorded music industry or a large section of the printed media industry. These are so controlled by the US that it is in their narrow interests to push ahead with this flawed Agreement.

Not only do Australians stand to gain almost nothing financially, we stand to lose our democracy. The thought of US companies suing Australians for letting a contract to a local company or insisting on a reasonable level of local content on our media or refusing to have our environment laws set by some "trade" committee or for trying to control standards of our public services is terrifying beyond belief.

The whole deal is so repugnant that it should be thrown out. That an elected government in one of the great democracies of the world would want to sell out the rights of its people to the commercial interests of one of the world's most aggressive countries beggars belief. There is almost no financial gain for most Australians and there is at stake a huge loss of freedom. This Agreement must be killed now and its architects shown up for the traitors they are.

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Mike Hanratty