

The Secretary,
Joint Standing Committee on Treaties,
R1-109, Parliament House,
Canberra ACT 2600

Dear Sir

Submission to the Inquiry into the USFTA

I would like to bring to the Committee's attention my concerns about the proposed USFTA. From the information publicly available, it is clear that the agreement is a bad deal for Australia on many levels, and must not be ratified.

My major concern is that if implemented, the agreement will compromise Australia's democratic system, as it has the potential to prevent future governments from enacting legislation on any matter for which it has an electoral mandate, if that legislation can be interpreted as breaking the conditions of the agreement. The FTA reduces all decisions to economics and trade terms, with inadequate consideration for social or environmental factors. It permits interference by a foreign power at all levels of Australian government. It will force Australia to obsequiously follow the US led on all matters even more closely than at present, making us a vassal of the US economically, socially and in foreign policy. These contentions are detailed in the following examples.

1. The economic benefits are unclear at best, and probably negative. Even assuming free access for agricultural exports to the US, the government's own predictions of economic benefit were trivial, and well within the marginal for error for such complicated calculations. The exclusion of sugar, the incredibly long phase in period for other agricultural products, and the wild variations in exchange rates have made any net benefit to the Australian economy highly unlikely.
2. The disputes process is opaque. The proposed tribunal of 'trade experts' can deliberate in secret, can declare a law to be in breach of the agreement, and force such laws to be changed or compensation to be paid. These decisions cannot be appealed, and can be used to challenge any regulation that could be interpreted as being inconsistent with the agreement. The disputes process can force and elected government to make laws that are not in the interests of the Australian electorate.
3. Interference with the PBS. Australia has a drug purchasing regime which is the envy of the world – a single, knowledgeable purchaser of drugs, achieving economies of scale and providing medicines of proven value at an affordable cost. It also restricts the profits that US drug companies can make from Australia. The FTA will provide the the US government with a mechanism to directly influence decisions about what drugs are included in the PBS, and to argue for higher prices. It is hardly likely that this mechanism will be used to improve the health of Australians at the cost of profits to the drug producers.
4. Extension of copyright. Only the duration of copyright in Australia has been extended – the rules for education and research usage remain unchanged. This will increase costs to Australia with no benefit, given the disparity between the volume of trade in copyrighted material traded.
5. Restrictions on regulation. Unless specifically excluded, all laws and regulations at all levels of government that could in any way be considered trade or services related can be challenged and disallowed under the FTA. Even those areas that are excluded can only be changed to make them less restrictive for trade, and the areas of health, education and welfare, new laws and regulations are restricted. This is a significant restriction of Australia's democratic system.

6. Foreign investment. The FTA will allow almost unrestricted access for US interests to purchase assets in Australia, without review, which will inevitably increase the already very high level of foreign ownership. Australia faces the prospect of decisions on the actions of companies being made which may give no consideration to domestic concerns, and an increase in the repatriation of profits to foreign owners.
7. Regulation of essential services. The FTA includes restrictive definitions of what may be considered a "public service", such that any publicly funded activity which could be considered to be in competition with other providers could be subject to the conditions of the agreement. This could be used to argue that unless specifically excluded, publicly owned and funded health, child care, media (such as the ABC and SBS), utilities (water, electricity) and postal services will be covered by the FTA. Taken to a logical conclusion, this could result in, for example, the funding of the ABC being challenged as a subsidy to a competitor to the commercial broadcast media, and thus as a barrier to the trade in media "services".
8. Quarantine and food labelling. The FTA provides a mechanism similar to that described for the PBS, allowing a foreign government to influence areas such as policies on quarantine and food labeling. Any regulation or policy that could be interpreted as a barrier to trade could be challenged and disallowed. Australia's advantage in not sharing a land border with another nation, which has thus far provided a barrier to pests and diseases (apart from those deliberately introduced) could be compromised in the interests of free trade.
9. Media content rules. The FTA will restrict requirements for local content on commercial media to existing media and at existing levels. New media, whatever that turns out to be, will be unrestricted. Australia's commercial TV is already dominated by material from the US, and programming slavishly follows trends set in the US. Without the current local content requirements, it would be completely swamped by imported material, and we would never see ourselves and our society, which would in a few years lead to the complete loss of the few but vital characteristics that set us apart from the US.
10. Government purchasing rules. The agreement requires elimination of Australia's tariffs on manufactured goods, and disallows preference by government for locally produced goods and services. There appears to be no similar requirement on the US. Even if there is, the economies of scale in the US will inevitably mean local sources will be undercut on price, with a consequent loss of yet more manufacturing jobs.

To summarise, the proposed FTA will provide the US with far more benefits and advantage than it will to Australia. This is hardly surprising given the relative size of the two economies, and the lack of resolve of the Australian negotiators to insist on inclusions and exclusions that were declared by the proponents of the agreement to be 'non-negotiable' when the process started. The US government and commercial interests would be given powerful means of influence in Australia's government processes, without any reciprocal influence in the US process. For the sake of Australia's future as an independent, sovereign and democratic nation, the proposal must be rejected.

Yours sincerely

A handwritten signature in black ink that reads "Peter Youll". The signature is written in a cursive style with a large, looping initial 'P'.

Peter Youll