

**SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE  
REFERENCES COMMITTEE**

**INQUIRY INTO GENERAL AGREEMENT ON TRADE IN  
SERVICES AND AUSTRALIA/US FREE TRADE AGREEMENT**

**SUBMISSION**

**Submission No:** 152

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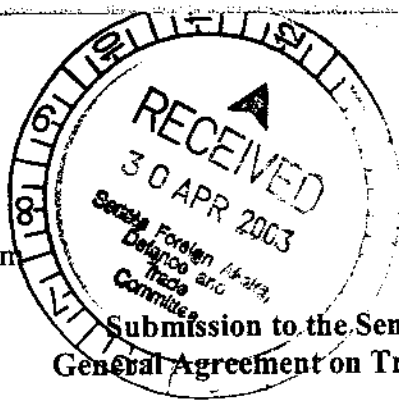
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**PUBLIC HEALTH ASSOCIATION**  
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ABN 41 062 894 473

Dear Sir/Madam

**Submission to the Senate Inquiry into the  
General Agreement on Trade in Services (GATS)**

The Public Health Association of Australia welcomes this opportunity to provide a submission on World Trade Organisation Trade Negotiations, in particular the potential effects of such negotiations on equity of access to health and other currently publicly provided services.

The PHAA is a non-government organization dedicated to:

- encouraging research and promoting knowledge related to the problems, needs and development of public health;
- promoting and providing a forum for the regular exchange of views and information;
- promoting the development and education of public health workers; and,
- promoting excellence in public health practice.

The Association has a national and multi-disciplinary perspective on public health issues, and makes a major contribution to the public health debate in Australia through representation on boards, committees and other decision-making bodies at the Commonwealth and State/Territory levels, as well as by working with other non-government organizations.

The PHAA supports the submission made by the National Centre for Epidemiology and Population Health from the Australian National University (**Attachment A**) and wishes to record the attached document as part of the PHAA submission. The attached submission, presents several issues that we believe ought to underlie any negotiations on free trade, GATS or other trade agreements. In addition we believe that the principles of equity, efficiency and impact on the Australian workforce need to be considered in any decisions on boundaries of trade negotiations.

The submission concludes with a set of observations concerning the erosion of democracy and national sovereignty, urges application of the precautionary principle in the development of the GATS where population health may be threatened, and makes several recommendations for protecting Australian values, priorities and public goods, particularly the public health system.

As this submission substantially focuses on issues of public health a short background to public health is provided below.

Public health requires much more than appropriate medical care. It also relies on favourable cultural, social and economic trends, and on a broad array of institutions, services, regulations and legislation covering such diverse aspects as food and water, transport, and workplace health and safety. Consequently, population health stands to be

affected in many ways by current directions in international trade, including the General Agreement on Trade in Services (GATS).

The Public Health Association of Australia calls upon the Australian government to commit itself to the protection of public health services in the GATS negotiations, and in all future free trade discussions.

### **Principles for free trade agreements**

The Public Health Association of Australia (PHAA) opposes the inclusion of government health care and health services in WTO GATS. Research has demonstrated that the public provision of health care ensures that services are more efficient and more equitable (Deeble 1999).

The PHAA has noted that all levels of Australian government have adopted policies that call for privatisation of government institutions, competitive tendering for services and contracting the provision of government services to private organisations. It is also aware that there are moves by the World Trade Organisation (WTO) to impose General Agreements on Trade in Services (GATS) on health and other industries. Corporations from the United States have openly admitted that the health sector is one area that they are hoping to dominate. PHAA is aware that at this stage, Australia has not agreed to include health services in its obligations under GATS. However, there will be on-going pressure for it to do so, or risk its exports in other services. In addition, the Howard Government, in the way that they have carefully and narrowly defined 'health services' – see the Department of Foreign Affairs and Trade web-site – are clearly putting the integrity of Medicare and the Pharmaceutical Benefits Scheme at risk.

PHAA opposes the inclusion of health care and health services on several grounds: equity, efficiency, and the impact on Australia's workforce.

### **Equity**

The inclusion of health services in GATS threatens the universal provision of health care and health services.

The Federal Government has human rights and equity responsibilities to guarantee access to essential health and social services for all Australians. The Government must make an explicit commitment to take into account the values and wishes of all Australian for fair access to all essential services including health, education and housing before agreeing to further GATS commitments or any other trade concessions.

Australians are very supportive of our universal health services and believe that the public health system should be sufficiently funded to maintain its integrity and reliability so that everyone can feel secure that their care will be based on medical need not their ability to pay. Australia's expenditure on health, as a percentage of GDP, has been held relatively steady in the 1980s and 1990s, a comparatively favourable economic result compared to more market-driven health systems, including the USA. Australia cannot afford to sacrifice equity and risk a significant growth in total health expenditure by

letting health care be treated as another tradable service under GATS or any other trade agreement.

A recent five-nation survey of public attitudes toward health care reveals that the United States, the nation whose health sector is pushing for inclusion of health services in GATS, has the highest share of residents facing access problems. Americans with below-average income reported more health care access problems than their counterparts in the other four countries. (Blendon, R.J., *et al.*, *Inequities in Health Care: A Five-Country Survey*. Health Affairs, 2002). In addition, American families have to pay much more out of their own pockets for health care, which wipes out many of the benefits of lower taxes for which many proponents of less public provision of health services argue. (Jackson, A., *Canada Beats USA - But Loses Gold to Sweden*. 2002, Canadian Council on Social Development).

To the extent that the general GATS agenda increases material inequality within nations, there is evidence that this has negative outcomes for population health. (Wilkinson, R.G., *Unhealthy Societies: The Afflictions of Inequality*. 1996, London: Routledge. 255).

#### **Efficiency**

The proportion of GDP spent on health services is much lower in nations that have higher public sector health services delivery and expenditure. The USA proportion of GDP spent on health is a drain on that nation's economy.

Tax-funded health insurance is much lower cost than private health insurance due to the efficiency of the tax collection and distribution systems. Commitments that the Federal Government is making under GATS, combined with increasing private sector participation in the delivery of health services, threaten the capacity of Australian governments to maintain effective control over our health system.

There is scant evidence that private provision has resulted in equal or better outcomes at a lower price in Australia. The South Australian experiment in privatisation of public hospitals is about to fail after bail-out attempts.

In the UK, a recent analysis shows that the case for using a 'private finance initiative' (PFI) rests on a value for money assessment skewed in favour of private finance. Also, the higher costs of PFI are due to financing costs which would not be incurred under public financing. Many hospital PFI schemes show value for money only after risk transfer, but the large risks that are claimed to be transferred are not justified. (Pollock, A.M., J. Shaoul, and N. Vickers, *Private finance and "value for money" in NHS hospitals: a policy in search of a rationale?* BMJ, 2002. 324(7347): p. 1205-1209).

The PHAA notes recent examples of market failure in other sectors, which have resulted in transfers of risk to the public purse and seriously doubts that privatisation arguments - about governments minimising risk by privatisation - can be taken seriously.

**Workforce**

The PHAA believes it is critical that in preparing for negotiations, the Department of Foreign Affairs and Trade undertake analysis of the domestic impacts of GATS agreements not just the impacts on the export sector. Four out of five workers in Australia work in the services sector, so any treaty obligations or benefits arising in this sector will have wide ranging impacts. Such analysis must be made available to the Australian public.

Should you wish to discuss any of the issues raised in this submission, do not hesitate to contact me at [plaut@phaa.net.au](mailto:plaut@phaa.net.au), or on (02) 62852373.

Yours sincerely

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Submission to the  
Senate Inquiry into the  
General Agreement on Trade in Services (GATS)

**THE EFFECTS OF  
THE GENERAL AGREEMENT ON TRADE IN SERVICES ON AUSTRALIAN  
POPULATION HEALTH**

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## **THE EFFECTS OF THE GENERAL AGREEMENT ON TRADE IN SERVICES ON AUSTRALIAN POPULATION HEALTH**

### **Executive summary**

In this submission, we present several substantial examples of potential changes arising from existing or proposed commitments under the GATS. Specifically, we discuss:

- Privatisation of public services
- The Pharmaceutical Benefits Scheme
- Medicare and public health services
- Private health insurance
- Labelling genetically modified foods
- Quarantine
- Water services

We conclude with observations concerning the erosion of democracy and national sovereignty, urge application of the precautionary principle in the development of the GATS where population health may be threatened, and make several recommendations for protecting Australian values, priorities and public goods, particularly the public health system.

Specifically, we propose that the Australian government take the following actions:

- Exempt the PBS from negotiations under the GATS
- Shield Medicare, public hospitals and community health centres from the GATS
- Reserve its authority to regulate private health insurance
- Preserve the authority of governments at all levels (Commonwealth, State/Territory and local) to regulate services
- Protect food labelling from weakened standards, especially as regards GM content
- Protect quarantine services and standards from trade-related erosion
- Exclude water treatment, water supply and sanitation services from GATS negotiations
- Publicise and debate all GATS negotiating requests and responses publicly before making any commitments
- Request that independent public health and environmental experts and organisations appear before trade disputes panels
- Subject GATS and other trade agreements to parliamentary debate and ratification, not private discussion by Cabinet
- Refuse any WTO investment agreement which would remove the rights of government to regulate foreign investment or give corporations the right to challenge public interest legislation and sue governments for damages
- Assume an international leadership role in insisting on the preservation of public goods and population health in international trade fora

## **Introduction**

Public health requires much more than appropriate medical care. It also relies on favourable cultural, social and economic trends, and on a broad array of institutions, services, regulations and legislation covering such diverse aspects as food and water, transport, and workplace health and safety. Consequently, population health stands to be affected in many ways by current directions in international trade, including the General Agreement on Trade in Services (GATS). This submission outlines potential threats to public health infrastructure, goods and services, and the national sovereignty on which they rely. It also calls upon the Australian government to commit itself to the protection of public health services in the GATS negotiations, and in all future free trade discussions.

Agreements liberalising trade in goods have already had harmful effects on health, as is evident in the struggle by poor nations to obtain essential drugs at affordable cost. Their difficulties are a product of trade agreements and the market power of rich countries and corporations. As the services sector becomes increasingly lucrative and hence attractive to commercial interests, there is growing pressure to add health services to the trade liberalisation process. Each such addition will amplify the potential for obstacles to be thrown in the path of health promotion and equitable health services within Australia as well as internationally.

Free trade entails the potential to challenge and ultimately dismantle the current cornerstones of Australian health provision. We are deeply concerned about the prospect of Australia without Medicare, the Pharmaceutical Benefits Scheme or public hospitals. Community rating (uniform premiums) of private health insurance is in jeopardy. We are also worried about the possibility that more of Australia's water supplies may be privatised and subject to only limited health regulation. There is a further danger of Australia being compelled, in the name of free trade, to accept health damaging or environmentally dangerous imports, to lower product safety standards, to accept hazardous waste products, or to relax restrictions on the advertising and distribution of alcohol and tobacco.

Although some people claim that free trade poses no threat to public health, considerable ambiguity surrounds the resolution of disputes among signatories to trade agreements. Thus, no government is in a position to reassure its citizens about the health impact of adding any particular service to the GATS schedule, since the interpretation of the Agreement is not within national control (1). Indeed, the WTO itself has acknowledged that obligations of members remain unclear. But because 'the prime goals of multilateral trade agreements are to facilitate international trade in goods and services... provisions to protect health must pose the least necessary interference with trade, rather than those possible to optimise health' (2). Consequently, public health is viewed as an impediment to free trade, rather than a fundamental national and international priority.

## **Privatisation of public services**

Compulsory competitive tendering and privatisation of public services are central elements of trade liberalisation treaties, including the GATS. Public funding and subsidies are considered interference with free trade and can be declared breaches of an agreement, requiring Australia to make subsidies available to commercial interests which must be allowed to compete with public provision. Australia already diverts substantial public funding to subsidise private health insurance, but that is a matter of national government policy and could be reversed if sufficient political pressure were



exerted. That is, it is ultimately susceptible to the democratic process, unlike trade agreements which are devised behind closed doors by a largely unelected elite and are not debated in Parliament. Yet the consequences of trade agreements are vastly more significant to population health than the private health insurance rebate.

Continuing privatisation is a fundamental objective of trade liberalisation, and commitment to it is part of the original GATS agreement that Australia has already signed. Consequently, it is likely to increase in the wake of each round of trade negotiations. If a publicly funded service already has some private involvement (as hospitals, schools, pharmaceuticals and broadcasting all do), the GATS could require further opening to private interests through competitive tendering or by completely removing the 'subsidy' (i.e. government funding). Often services will be transferred to private control through competitive tendering, rather than outright privatisation. As we show below, the effects of such changes can threaten public well-being in a number of ways.

### **The Pharmaceutical Benefits Scheme**

Since it began operating in 1950, the PBS has ensured access to affordable medications for all Australians. Several studies have found that Australians pay less for drugs than almost all other developed countries (3).

The PBS incorporates several cost-control mechanisms. As well as a government subsidy (increased for those on low incomes), the cost of drugs to patients is substantially lower because of the effective Commonwealth monopsony to negotiate favourable prices for drugs on behalf of the Australian population (4). The Pharmaceutical Benefits Advisory Council (PBAC), the body that decides which medications are listed on the PBS, is legislated to apply criteria of cost-effectiveness, ensuring that public money is used to subsidise only the most useful, safe and effective medications.

Manufacturers also benefit because the sales of listed drugs are enhanced by the government subsidy. While the profit on the sale of an individual dose may be reduced, the overall profit from a pharmaceutical is probably higher because of the greater volume of sales generated by PBS.

Without the PBS, the price of prescription drugs to the Australian public would certainly increase. For example, in the USA, where the cost of prescriptions is largely driven by the private sector and the market, prices are around 250% higher than in Australia (5). Such an increase in prices would restrict the availability of useful drugs to consumers who can afford them. Recent research shows that 44% of elderly Americans take less medication than prescribed because of rising costs (6), and without the PBS, a similar situation would almost certainly develop in Australia. Inadequate medication contributes to increased morbidity and hospitalisation when, for example, people with hypertension develop cardiovascular disease. People with several conditions (such as schizophrenia) who can be well maintained in the community with appropriate medical support may be institutionalised if they cannot afford to purchase necessary pharmaceuticals, leading to higher costs and diminished quality of life.

The PBS is a cornerstone of Australian health care, and is internationally admired. It ensures that all Australians have access to the medications they need, regardless of income. However, because the PBS is a system of government regulation and subsidy, it flies in the face of the principles that underpin trade agreements such as GATS. If the GATS is expanded to include pharmaceuticals, Australia could become the target of a complaint from another GATS member arguing that the cost

effectiveness criteria or the government monopsony constitute unnecessary restraint of free trade. Both national (Medicines Australia) and international (PhRMA) pharmaceutical interests are lobbying vigorously for 'liberalisation' of the Australian prescription drug market; the Australian people stand to lose if they succeed.

To protect the PBS from the impact of international trade agreements, the government must state clearly that the PBS will not be considered in any negotiations. **The Australian government should immediately commit itself to exempt the PBS from negotiations under the GATS.** Since Australia has already signed on to the GATS, even this assurance is not a watertight guarantee against future complaints, so it is imperative that the PBS be declared 'off limits.'

### **Medicare and public health services**

The provision and financing of public hospitals, the Medical Benefits Schedule, or Medicare itself might be similarly attacked as 'unfair barriers' to free trade. Including health insurance and hospital services in Australia's GATS schedule would push Australian health services towards the inequitable and inefficient American model. According to the Doctors' Reform Society, 43 million Americans had no health insurance cover in 1998, and medical bills have been the greatest cause of personal bankruptcy in the USA. This was also the trend in Australia before Medicare, when many Australians had no health insurance; a 1973 South Australian study found 'failure to pay healthcare bills was the most common cause of imprisonment for debt' (7).

Americans clearly do not receive health value for their expensive medical services. Life expectancy in the US is lower and infant mortality higher than other developed countries in the OECD. US medical care is not only failing the American people, it is also failing the US healthcare industry, whose profits have been falling. The Australian health care system achieves better health results, and maintains the principles of equity of access and quality of care for all while limiting expenditure as a proportion of GDP.

The application of the WTO rules of free trade place the commercial interests of private profit before the public good ([http://www.wto.org/english/tratop\\_e/dispu\\_e/distab\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/distab_e.htm)), and to date the Australian government has made no commitment to protecting public health services.

The Australian government must protect the services Australians consider necessary, and ensure that industries supporting public health change only in accordance with Australian social, economic and environmental needs. **As a first step, we call upon the Australian government explicitly to shield Medicare from any provision opening insurance to the 'national treatment' rule, which defines public funding as unfair subsidy. Similarly the provision of publicly funded services in hospitals and community health centres must be exempted from the application of GATS provisions.**

American-style health care arrangements are inappropriate for Australia. In reference to gun control, John Howard recently stated: 'I do think we have a capacity to avoid going down the American path, and I devoutly hope that this country has the wisdom to take that decision.' (<http://www.abc.net.au/worldtoday/s720125.htm>) A similar sentiment should apply regarding all our public and essential services.

## **Private health insurance**

Currently the private health insurance industry enjoys a privileged position in Australia, receiving substantial support, mostly in the form of the 30% rebate (\$3.6b). Although we argue this is money poorly spent and that reform is called for (8, 9), any reform must reflect the priorities of Australian industry and public health needs, not the objectives of overseas markets. For this reason private health insurance must be protected from demands for the liberalisation of trade in services.

Health insurance is already committed in Australia's GATS services schedule (under Financial Services). Australians would not want to see the 30% rebate go to foreign firms such as Humana, with profits of over US\$52m annually, on revenue of US\$2.84b; yet trade liberalisation of insurance could have such a result. Once the market is opened up, unprecedented commercial pressure can be brought to bear. The combined worth of US health insurance providers would exert immense influence on Australian government policy, and Australian health funds would probably disappear.

Some might claim that this will make little difference to Australian consumers, but we argue otherwise. Australians take for granted the right to purchase private health insurance. Community rating (uniform, non-discriminatory premiums) and the common carrier policy mean that an Australian can insure against adverse health events any time. However, a US firm providing insurance to Australia would encounter regulation that diminishes their profit margin. This would motivate them to lobby the US government to have community rating labelled a practice 'not least restrictive of trade' and take Australia to the disputes tribunal to have it removed. Previous experience suggests they would succeed, leading to the replacement of our private health insurance industry with one similar to that in the US. Indeed, much of our industry would probably be owned by the same US firms.

**To protect Australians' access to a range of health services, the Australian government should declare that it reserves the authority to regulate private health insurance.**

## **Labelling of GM foods**

The Australian labeling laws on genetically modified food could be targeted under the GATS as 'technical barriers to trade'. Although our labeling laws are weak, they must remain in force. Labeling GM food is essential if any research is to be possible into the long-term health impacts of eating GM food. No longitudinal studies of population health have been conducted to date, as GM food is a relatively new phenomenon. Such studies are essential if any adverse impacts from inclusion of GM foods in the general diet are to be identified. Consumers have the right to know whether they are eating GM ingredients in foods.

**The Australian labelling standard on GM foods provides some identification of GM food ingredients – these standards must not be subject to GATS negotiations.**

## **Quarantine services**

Geography has served us well in protecting Australia from many pests and diseases. Quarantine services are essential to continue to protect our environment and health from unwanted introduction of pests and diseases which would seriously damage Australia's position as a leading exporter of

quality primary produce, and could potentially pose hazards to human health. **Quarantine services should not be subject to any further weakening through trade agreements.**

## **Water Services**

Water is vital to every sector of society as well as to life itself. It requires management for equity between the poor and the rich, between different users and between periods of high rainfall and drought. It must be integrated with catchment management and with conservation and reuse mechanisms. Water and sanitation services are 'natural monopolies' because they rely on a single infrastructure. Consequently, competition in their provision is not feasible, and ratepayers will not see lower prices from a handover to the private sector.

Water supply requires regulation to ensure monitoring and standards regarding treatment, quality, and access. Pricing must ensure that people on low incomes can afford water. If society and the environment are to be well served, water management cannot be left to the vagaries of free market forces.

Access to safe water services is a right of all citizens, but it is not guaranteed, even in wealthy nations. In Detroit USA, more than 40,000 citizens were cut off from water services between June 2001 and July 2002 as part of an aggressive debt collection campaign, and cut-offs have continued subsequently ([www.citizen.org/cmep/water](http://www.citizen.org/cmep/water)). Living in a fire- and drought-prone continent, Australians are keenly aware of the health risks of unsafe or inadequate water supply. They would not accept such a situation being allowed to happen here.

The Australian Constitution states: 'The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.' However, the rules of GATS mean that regulations to ensure equitable access and affordable pricing of water can be challenged by transnational corporations as barriers to free trade. Large multinational companies see water as a new opportunity for investment, along with other services now primarily provided in the public sector (10).

The Australian Government has signed the initial GATS agreement, which amongst many other service areas, applies to environmental services, including water treatment and sanitation. If drinking water is included, subsidies would be reduced, privatisation would be likely, and water would be traded as an economic commodity, rather than the essential public good that it is (11). Despite extensive promotion by commercial interests, privatisation of water supplies has led to such undesirable outcomes as failure to honour contractual commitments, substantial price rises, and termination of supply (12). In several jurisdictions, privatisation contracts have been terminated because the service was substandard (Grenoble, France and Birmingham, USA; see [www.psiru.org](http://www.psiru.org)). However, the GATS will make it virtually impossible to withdraw from privatisation contracts because of the threat of penalties or trade retaliation.

**To protect Australians' future regarding these essential services, water and sanitation services must not be subject to trade negotiations.**

## **Erosion of national sovereignty and democracy**

Free trade negotiations are essentially undemocratic, removing control of many sectors of society from nations and communities, and effectively handing it to processes committed to enhancing private corporate interests. We object to this trend.

When a service sector (or parts thereof) is committed in Australia's GATS services schedule, it must be opened up so as to effect deregulation of the industry, thus diminishing or removing government's ability to protect its national and local interests or preserve its own sovereignty. Once a service sector becomes part of a free trade agreement, removing it from the agreement is exceptionally difficult; any such reversal must be accompanied by substantial compensation to trading partners. Failure to achieve this will result in countervailing duties (a familiar tool of negotiation and protectionism under GATT already).

Because the GATS rules are still untested (1), it is unclear how they will be interpreted in practice. However, precedents established in previous WTO disputes resolutions do not, on balance, augur well for national sovereignty. For example, in response to widespread public concern (intensified by mad cow disease), the European Union imposed bans on the import of beef containing residues of growth hormones. However, in the absence of scientific proof that hormones in meat cause harm to human health, the WTO disputes panel found against the EU, and gave the United States permission to impose retaliatory trade sanctions when the EU refused to rescind the ban ([www.speakeasy.org/~peterc/wtow/wto-case.htm](http://www.speakeasy.org/~peterc/wtow/wto-case.htm)).

In another case, the United States filed a complaint against Japan's standards for pesticide residues in certain imported foods. The WTO disputes resolution process found in favour of the USA because the Japanese standard was not based on "sufficient scientific evidence," and this decision was upheld on appeal. ([www.speakeasy.org/~peterc/wtow/wto-case.htm](http://www.speakeasy.org/~peterc/wtow/wto-case.htm))

Some Asian nations have attempted to discourage or even ban the import of tobacco products, since foreign cigarettes may be more attractive (and therefore pose a greater risk to health) than domestic brands. 'Smoking rates increased after the introduction of Western brands in Asia' (13). However, these efforts have been thwarted, in most cases simply by the threat of penalties by powerful trading partners. Thailand resisted threatened trade sanctions from the United States, and imposed such a ban. However, a disputes panel found that the Thai prohibition on cigarettes imported from the US violated the GATT agreement.

To take another example, Canada was forced to roll back its ban on MMT (a petrol additive that is a suspected neurotoxin) and pay US\$13 million in damages and legal fees to settle the claim. MMT's US manufacturer used a NAFTA dispute process to charge that Canada's ban had defamed the company's good name and hurt its profits in violation of NAFTA provisions barring the partial 'expropriation' of investor property. Under the precedent established in this case, virtually any environmental law that affects the profits of a foreign investor can be challenged as a NAFTA violation. (<http://www.sierraclub.org/trade/summit/testimony2.asp>)

All these cases involved an ultimately unsuccessful attempt by a government to keep a product out of the country in the interests of public and environmental health. We are concerned that, while there are exceptions, in most WTO cases, health criteria have proven insufficient to prevent the marketing of hazardous products and consequent threats to public health. Furthermore, the NAFTA

disputes procedure is being recommended as a model for the GATS, which would expose Australia to similar problems.

Privatisation procedures can also be anti-democratic. In some competitive tender processes, reports or documents used as the basis for a decision to privatise have been kept secret (as happened with the partial privatisation of ACTEW, and in privatisation processes in Austria and Ghana, for example). In some instances, competitive tendering for previously public sector services has prohibited public sector or local companies from competing, thereby ensuring transfer of ownership or control to multinational companies. In the context of health services, these processes are contrary to public interest.

If changes as significant as those in the GATS are to accord with Australian needs, values and priorities, it is essential to ensure that the public will is known. Unfortunately, the Australian public remains largely ignorant of the potential of the GATS to deprive them of valued social goods (<http://www.hartford-hwp.com/archives/44/060.html>). The public have been excluded from information and discussions, and have had to rely on leaks from the EC or announcements by commercial trade negotiators instead of government briefings and consultations.

To restore the free flow of information and participation of the Australian public in these vital discussions, we call upon the Australian government to: **publicise and debate all GATS negotiating requests and responses publicly before making any commitments; request that independent public health and environmental experts and organisations appear before trade disputes panels; and subject GATS and other trade agreements to parliamentary debate and ratification, not private discussion by Cabinet.**

### **The precautionary principle**

If Australia maintains its public services, the US and the EC might continue to subsidise their agricultural and other markets (which they may do anyway). The opportunity for powerful countries to take advantage of such a practice effectively means that a nation wishing to retain autonomy in any service sector must be prepared to do so in the face of sustained pressure. Free trade poses a significant threat to the provision of services in Australia. However, any concession is unlikely to lead to sudden changes; gradual decline of public services and community health is more likely.

When it comes to health, we argue for application of the *precautionary principle* which, in this instance, means that the definition of free trade must not be enlarged to incorporate terms that would jeopardise public goods that are essential to population health: public health insurance, public hospitals, public subsidy of pharmaceuticals, public water supply, or government's capacity to regulate environmental and other health standards. The erosion of these essentials would probably be gradual and piecemeal, but once lost, it is difficult to see how they could be recovered.

Because of the vital significance of health to citizens, the Canadian Commission on the Future of Health Care in Canada proposed that the Canadian government should 'play a leadership role in international efforts to improve health and strengthen health care systems' (1). The advent of this round of GATS negotiations supplies the Australian government with the opportunity to take on a similar function, demonstrating for other small and medium sized economies the benefits of

formulating trade agreements in harmony with and on behalf of the overall well-being of the population.

## **SUMMARY**

All the above areas are critical for the health and well-being of Australians. Trade negotiations have largely become an end in themselves, rather than a means of improving the quality of life of Australians and protecting the environment on which we depend. Australia must not trade away the many benefits inherent in our public services for the faint hope of improvements in market access for our agricultural and other products.

We do not want to see Australia develop health care like that in the United States, which has among the worst medical services arrangements in the developed world. While middle-class Americans buy their prescription drugs (illegally) over the border in Canada, and are bankrupted by serious illness, Australia has preserved its commitment to risk pooling and to the idea that the healthy should subsidise the sick. For all its imperfections, the Australian health system costs less (to both the public and private purses), is far more equitable and accessible, and delivers better health outcomes than America's.

The deficiencies in the Australian system (such as its failure to meet the needs of indigenous people) will not be remedied by signing up to an agreement that ignores the realities of market failure, and radically constrains the capacity of governments at all levels (national, state and local) to promote any values apart from free trade. When population health lines up against restraint of trade, the definition of 'necessary' regulation may be very narrow indeed (14). We are concerned that the current GATS negotiations may result in arrangements that are harmful to public health and social goods.

Trade negotiations must be limited to specific identified and agreed areas, which are then examined closely, including considering inputs from a broad and proper consultation process. Such a review must take into account the social, economic, health and environmental implications of proposals before any agreement is concluded. Only in this way can all Australians benefit from trade liberalisation, including the GATS.

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