

**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: 160

Submittor: AMWU

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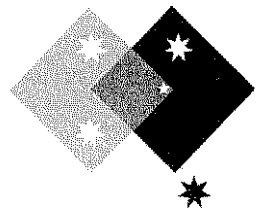
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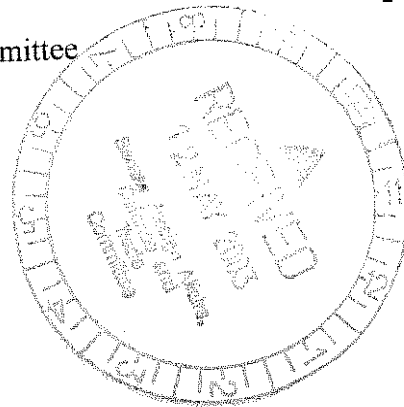
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AMWU

Ms Laurie Cassidy
Senate Foreign Affairs, Defence and Trade References Committee
Suite S1.57
Parliament House
Canberra ACT 2600



9 May 2003

Dear Ms Cassidy

**SUBMISSION TO THE SENATE FOREIGN AFFAIRS, DEFENCE AND
TRADE COMMITTEE: GENERAL AGREEMENT ON TRADE IN SERVICES
AND AUSTRALIA / US FREE TRADE AGREEMENT**

I refer to the inquiry by the Senate Foreign Affairs, Defence and Trade Committee (the Committee) into the General Agreement on Trade in Services and the proposed Australia / United States Free Trade Agreement and to my telephone conversation with you on 9 May 2003.

Please find attached a copy of the Australian Manufacturing Workers' Union's (the AMWU) submission to the inquiry and a copy of the facsimile confirmation for 11 April 2003.

In addition to the attached written submission, the AMWU would value the opportunity to make oral submissions to the Committee.

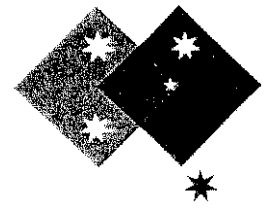
If you have any questions or concerns regarding the submission please contact me at our National Office in Granville NSW on (02) 8868 1502 or (02) 9897 9133.

Yours faithfully

Alister Kentish
National Research Officer
Australian Manufacturing Workers' Union

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AMWU

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DATE: 11 April 2003

TO: Senate Foreign Affairs, Defence and Trade
Committee

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FROM: Alister Kentish

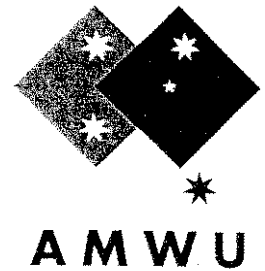
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SUBJECT: Submission re US / Australia Free Trade
Agreement and General Agreement on Trade
In Services



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11 April 2003

The Secretariat
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Canberra ACT 2600

By Facsimile (02) 6277 5818

Dear Sir / Madam

**SUBMISSION TO THE SENATE FOREIGN AFFAIRS, DEFENCE AND
TRADE COMMITTEE: GENERAL AGREEMENT ON TRADE IN SERVICES
AND AUSTRALIA / US FREE TRADE AGREEMENT**

I refer to the inquiry by the Senate Foreign Affairs, Defence and Trade Committee (the Committee) into the General Agreement on Trade in Services and the proposed Australia / United States Free Trade Agreement.

Please find attached the Australian Manufacturing Workers' Union's (the AMWU) submission to the inquiry.

In addition to the attached written submission, the AMWU would value the opportunity to make oral submissions to the Committee.

Yours faithfully

DOUG CAMERON
NATIONAL SECRETARY

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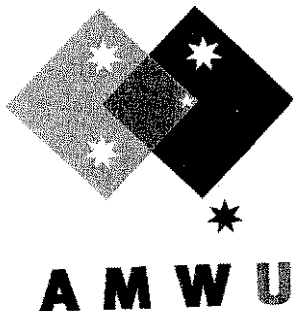


DATE: 11 April 2003
TO: Senate Foreign Affairs, Defence and Trade Committee
FAX NO: (02) 6277 5818
FROM: Alister Kentish
TOTAL PAGES: 70
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AUSTRALIAN MANUFACTURING WORKERS' UNION



**SUBMISSION TO THE
SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE COMMITTEE
PROPOSED AUSTRALIA - UNITED STATES
FREE TRADE AGREEMENT
and
GENERAL AGREEMENT ON TRADE IN SERVICES**

APRIL 2003

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GENERAL INTRODUCTION

The Australian Manufacturing Workers' Union (AMWU) makes this submission in response to the invitation from the Senate Foreign Affairs, Defence and Trade Committee (the Senate Inquiry) to individuals and organisations with knowledge and information relevant to a broad range of matters concerning the General Agreement on Trade In Services (GATS or the GATS agreement) and the proposed negotiation of an Australia - United States Free Trade Agreement (USFTA).

The full name of the AMWU is the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union. The AMWU represents workers in an extremely broad range of sectors and occupations within Australia's manufacturing industry.

The AMWU is one of Australia's largest unions, representing over 150,000 workers. The union has branches or offices in each of the States and Territories.

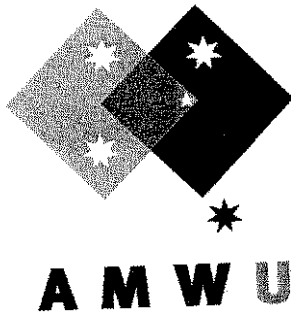
Over a number of years the AMWU has actively participated in debates on trade issues in a variety of forums, including earlier parliamentary inquiries. As with many other trade issues, AMWU members stand to be both directly and indirectly affected by GATS and the proposed USFTA. The AMWU therefore values the opportunity to make written submissions to the Senate Inquiry on these issues. The AMWU would also seek to make verbal submissions to the Senate Inquiry when the dates for public hearing have been finalised.

This submission is structured in two parts. The first part deals with issues concerning the negotiation of a USFTA. The second part deals with issues concerning GATS. At the beginning of each part the AMWU makes a number of recommendations for the consideration of the Senate Inquiry.

Notwithstanding the structure of the submission, many of the issues dealt with; particularly the need for effective community consultation and multi-disciplinary research; as well as the desirability of greater public disclosure and parliamentary oversight and approval; are overlapping and to this extent the two parts should be read together.

Part I

Submissions on the Australia - United States of America Free Trade Agreement



RECOMMENDATIONS

1. The Australian government should not enter into a bilateral free trade agreement with the United States due to Australia's inherent disadvantages of size, influence, strength, and weak bargaining position vis-a-vis the United States.
2. The Australian government must reject the adoption of the U.S. corporate culture within Australia either as part of a proposed free trade agreement or more generally, through the influence of U.S. corporations operating within Australia.
3. The Australian government must reject any overt or covert link between trade and security.
4. The Australian government must ensure that civil society and the trade union movement have sufficient time to analyse, and respond to any call for public submissions on the proposed free trade agreement.
5. Where DFAT does provide information on a trade issue it should acknowledge in its material that trade issues are not necessarily straightforward and that some parts of the community have expressed concerns over certain issues of our trade policy. One very positive step forward would be to make submissions made to DFAT on trade issues available on the DFAT website.
6. The secrecy surrounding trade agreements, the systematic exclusion of union and other civil society representatives from the process and the imbalances the Howard Government has introduced into Australia's trade policy is undemocratic and unacceptable. In the interests of openness and accountability a new approach is required.

The AMWU proposes a three stage approach backed by legislation:

Stage One

The Parliament in both Houses should determine whether to grant negotiating authority for a trade treaty and the terms and conditions under which such authority is granted.

Stage Two

Studies should be undertaken to determine the costs and benefits of any proposals that may be negotiated. These potential costs and benefits should be estimated at a national, state and regional level. The cost and benefit analysis should also extend to industry subsectors.

The effects should be measured through social and economic audits.

The studies must draw on a wide range of expertise and not just the neo-liberal supporters of free trade.

The studies must assess the impact on the capacity of Australia to take future interventions for the benefit of society, the economy and our national independence.

Stage Three

After the terms of the trade agreement have been negotiated the Parliament must have the power to either accept or reject the agreement.

It is the AMWU's view that no trade agreement should be entered into until legislation for this three stage process is introduced and passed by the Parliament.

Parliamentary Trade Agreement Committee

To give effect to stage two of this process an appropriate and representative infrastructure for consultations and oversight and negotiation of trade treaties should be put in place known as the Parliamentary Trade Agreement Committee (PTAC).

This committee should have the responsibility of commissioning multi-disciplinary research from a wide range of sources on the consequences of various trade treaty options and assessing the costs and benefits of any trade treaty sent to the Parliament for ratification.

It should also be the function of the PTAC to produce an agreed statement at the commencement of any trade treaty negotiation which contains Australia's objectives for the trade negotiations. That statement should indicate in what areas the government will seek to negotiate and what areas are non-negotiable.

Until the PTAC is established DFAT should provide funding for groups from civil society, including from the union movement, to produce studies showing the consequences of a free trade agreement. All studies so commissioned must be published to inform and encourage public debate.

7. The Senate Inquiry should recommend full trade union representation in all appropriate trade and industry policy forums, as well as representation from other groups in civil society who are affected by trade agreements.
8. The Senate Inquiry should commission research into the consequences of an FTA for individual industry sub sectors.
9. Based on the current available evidence there are no grounds for including manufacturing in a U.S.-Australia FTA (USFTA). Instead a comprehensive industry/trade policy for manufacturing should be developed, as part of a nation building economic development strategy for Australia.
10. If civil society concerns are met and the processes outlined in the recommendations above have been implemented and the Government decides to go ahead with a USFTA:
 - a) The agreement should include environment and core labour standards. The U.S. - Chile agreement is the minimalist approach that should be further developed. Prior to the negotiation of any FTA Australia must:

- i) Make appropriate changes to industrial relations and trade practices legislation so that it is no longer in breach of ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organise) and ILO Convention No. 98 (the Right to Organise and To Bargain Collectively).
- ii) Ratify those ILO conventions not yet ratified including the Minimum Age Convention (No 138) and Worst Forms of Child Labour Convention (No. 182).

Similarly, the U.S. should ratify and comply with all core labour standards.

- b) The framework for disputes resolution in any USFTA must be transparent, open to third party submissions with all proceedings and evidence available to the public. Again the U.S. - Chile agreement is the minimalist approach that should be further developed.
- c) Australia should not agree to any treaty that restricts our capacity to limit foreign ownership, allows foreign investors to sue the Government of Australia for public interest legislation in areas such as health and safety or the environment; restricts our capacity to use procurement policy or the existing range of industry policy instruments we can use consistent with our WTO commitments.
- d) The basic core services that strengthen Australian society and culture, including health, education the media etc, must be excluded from any restrictions and excluded from any trade agreement. This should be included in a clear unequivocal statement of negotiating objectives. For example such a statement must make it abundantly clear that Australia's Pharmaceutical Benefit Scheme (PBS) is not on the table and not negotiable in any FTA.
- e) Any USFTA must have a comprehensive and effective rules of origin mechanism.

INTRODUCTION: A USFTA

The AMWU is opposed to a USFTA that would put "everything on the table". Further, based on the presently available information and analysis, the AMWU does not believe that any USFTA which included manufacturing is likely to address the pressing issues facing Australian manufacturing and. The AMWU considers a USFTA which includes manufacturing is a potentially serious threat to the jobs and working conditions of manufacturing workers.

This part of the AMWU's submission is structured in three broad sections:

A. The Process of Negotiating a USFTA

This section deals with issues relevant to the current USFTA negotiations. Although the USFTA is the focus of this submission, the issues identified apply equally to other international trade negotiations, including the GATS negotiations, and trade policy formation more generally. The section includes:

- A discussion of the consultation and public input relating to the process of negotiating a USFTA.
- A discussion of the need for DFAT to publish and/or commission genuine multidisciplinary research in relation to trade issues.

B. The Content of a USFTA

This section deals with the content of a USFTA should a trade agreement be entered into. The section includes:

- A discussion of the question of core labour standards
- Concerns about investor / state dispute mechanisms
- A statement supporting strong effective rules of origin should a USFTA be agreed
- The AMWU's position on a number of the key US targets of a USFTA identified in the Zoellick letter and the 2002 US Trade Estimates Report

C. Preliminary Analysis of the Effect of a USFTA on Australian Manufacturing

This section includes an assessment of a USFTA on the manufacturing sector. Some initial preliminary comments of the National Institute of Economic and Industry Research in relation to a USFTA are also appended to the end of the section.

A. THE PROCESS OF NEGOTIATING A USFTA: CONSULTATION AND PUBLIC INPUT

The Trade Minister has made it plain that "everything is on the table" in the upcoming USFTA trade negotiations.¹ In the context of this extraordinarily broad position; and taking into account the contents of other free trade agreements, and statements of the United States government, it appears a USFTA could easily include:

- relaxation of Australia's quarantine laws;
- substantial modification of the Pharmaceutical Benefits Scheme to make the scheme more profitable for US drug companies;
- abolition or reduction of media content and ownership laws;
- abolition of foreign investment controls;
- a dramatic overhaul and/or removal of industry policy including tariffs and subsidies;
- privatisation;
- abolition of the single desk agriculture arrangements;
- multinational corporations being given the right to sue Australian governments over health, industrial and environmental laws; and
- the banning of decisions of Australian governments at all levels to support local industry by purchasing Australian made goods.

Given the breadth and significance of the above issues, there is an obvious need for a wide ranging and well informed public debate on the proposed USFTA. Importantly, those who will be directly affected by the proposed USFTA must have direct input into the process. The AMWU is particularly concerned that its members in Australia's manufacturing industry are not only properly consulted but have a seat at the table of any negotiations. Further, if a USFTA will not advantage manufacturing workers, and the preliminary analysis of the AMWU suggests it will not; manufacturing workers voices should be heard and the USFTA should not include manufacturing.

¹The "everything's on the table" remark has been consistently made by Mark Vaile, examples include: Interview on ABC's AM radio program 14 June 2002, and a report by Tom Allard in the Sydney Morning Herald 30 August 2002. More recently the Minister has stated that the PBS will not be abolished however, substantial modification of the PBS appears to remain on the table.

The Need For a Well Informed Public Debate: Generating Public Awareness

As a number of proponents of bilateral free trade agreements have recently pointed out, "free trade" agreements like that proposed with the United States are something of a misnomer.² In the early twenty first century, so-called "trade agreements" now go well beyond trade in goods to cover almost every aspect of economic and social life, including but not limited health, education and water services, investment, government procurement, quarantine, media and even cultural policy.

As the subject matter and significance of proposed trade agreements expand, so too should the debate that takes place prior to Australia entering trade agreements.

Notwithstanding the increased public interest generated by the holding of this inquiry, far too few Australians appear to be aware of the potential issues surrounding Australia's entry into a bilateral free trade agreements with the United States. When AMWU members are told that a USFTA not only threatens key sectors of manufacturing but could also impact on the government ownership of Telstra, the Prescribed Benefits Scheme and local content requirements they have almost invariably expressed both outrage and surprise.

The AMWU submits that there is a clear imperative that more government resources be made available to broaden public awareness and debate on the serious economic, social, environmental, political and cultural issues that could arise from "free trade" agreements, particularly bilateral "everything on the table" free trade agreements.

The Howard Government has spent millions promoting the dangers of international terrorism with glossy brochures, fridge magnets and the "alert but not alarmed" lifestyle commercials. Many more millions were used to promote the government's health policy and a tax that most Australians didn't want. The AMWU notes that the media have reported that the Commonwealth government spent \$160 million dollars on advertising in 2001 and was Australia's top advertiser. This is not a government afraid to spend money to raise awareness about issues it considers to be of national importance. A proposal to enter a free trade agreement with the United States raises issues of tremendous national importance.

While the DFAT webpage is a useful tool to disseminate information, many community members do not have access to the internet or are unlikely to regularly visit the DFAT website. For this reason publicity surrounding trade issues needs to spread beyond the website and into the broader media.

The AMWU submits that it is imperative that when generating public awareness the government should provide and be seen to provide credible and objective information. The AMWU will develop this point further later in this submission however, the union notes in the current context that it is inappropriate for instance, that the DFAT website refers interested persons to the APEC Study Centre paper "An Australia-USA Free Trade Agreement - Issues and Implications" (the APEC Study) as an apparently independent commissioned study on the topic, without mentioning the principal author of the report, Alan Oxley, is also the director of the major business lobby group campaigning for a USFTA.³

²Alan Oxley observed in the *Australian* on 17 March 2003 in an article titled "A great deal's in the offing": "We should no longer call these free-trade agreements. The World Bank calls them regional integration agreements."

³This point was made by Ross Garnaut in his paper "US and Australian Free Trade Agreement: National Interest or Vested Interest" which was presented to an Australian Business Economists meeting on 28 February 2003.

Similarly where DFAT does provide information on an issue it should acknowledge in its material that trade issues are not necessarily straightforward and that some parts of the community have expressed concerns over certain issues of our trade policy. One very positive step forward would be to make submissions made to DFAT on trade issues available on the DFAT website. While those making submissions should be given the option of having their submission remain confidential, a list of *all* those who made submissions on a particular topic would also enhance the openness of the process. In this context, the AMWU regards it as particularly unfortunate that on the DFAT webpage inviting submissions on the USFTA the department had a link to Alan Oxley's pro-USFTA business lobby group and no mention of any alternative view or community organisation.

A more open process and meaningful consultation

The AMWU submits that trade negotiations such as those surrounding the USFTA should be more open and consultations with stakeholders should be more meaningful.

The Australian government initially gave no preliminary framework for discussions of the USFTA. At the time of DFAT's invitation for public comment on the USFTA there were a number of hints and possibilities on the DFAT website including, somewhat ironically, reference to the contents of the Singapore Free Trade Agreement - which itself had not been made public - but no indication from the government as to its specific negotiating objectives.

When the objectives eventually were provided on 3 March 2003 it was years after the government first flagged the issue as a serious policy objective, almost four months after the United States issued its objectives, two weeks before the beginning of formal face to face negotiations and on the heels of the embarrassing leak of a government commissioned report that contradicted what the Prime Minister and Trade Minister were claiming in public about the benefits of a USFTA.⁴ In such circumstances the release of the objectives appears to have been more of an exercise in damage control than reflecting a genuine commitment to openness.

Community groups have been saying for some time that there is an urgent need for greater openness in all aspects of international trade negotiations. In the context of the USFTA, this should have started with the early release of the government's negotiating objectives. A genuine and credible commitment to community consultation will require the provision of timely, useful and specific information as well as the opportunity to comment on that information in realistic time frames and at regular stages of the negotiating process. To date such a process has not taken place. The negotiating objectives were withheld until the last minute. A report not to the government's liking was suppressed for months after it should have been released. The timing of the call for submissions to DFAT broadly co-incided with the Christmas period and notwithstanding the genuine efforts of individual DFAT officers, consultations with community groups have so far added little to what was already publicly available.

Meaningful consultation can only be achieved when the government acts in good faith and is open about its intentions. In this context the AMWU notes the negotiators of the USFTA were made available for interview after the first round of negotiations however, more needs to be done.

⁴Details of the ACIL Consulting Report were reported by John Garnaut on the front page of the Sydney Morning Herald on 26 February 2003.

Giving Workers and Other Community Representatives A Seat at the Table

The AMWU always welcomes the opportunity to make submissions to DFAT on trade issues however, the AMWU is concerned that public involvement is not merely limited to submissions made in relation to departmental discussion papers that are never heard of again.

In particular, the AMWU strongly believes that where the manufacturing industry is likely to be directly affected by the actions of the government, manufacturing workers, through their unions, should have a seat at the table. While business is regularly consulted on trade and industry issues and involved in ongoing trade policy formulation and negotiations, unions appear to be rarely consulted on specific or substantive issues. This "business only" approach is reflected in the composition of the formal trade consultative mechanisms as is shown in the box below.

Formal Trade Consultative Mechanisms

Trade Policy Advisory Council - the council is made up of 13 senior business representatives from major Australian companies. There are no union representatives.

WTO Advisory Group - the group contains mainly business representatives however, there are some non-business groups represented. Formerly Mr Bill Mansfield of the ACTU was a member of the group however, a search of the DFAT website on 17 March 2003 indicated that there are no union representatives on the WTO Advisory Group. Union representation has therefore fallen from one out of sixteen to zero out of fifteen.

Agricultural Trade Consultative Group - the group is comprised of government and senior representatives from major agricultural associations.

Automotive Trade Council - the council is comprised of government and business representatives (ten senior executives from vehicle and component manufacturers). The recent circumstance of major multinational vehicle manufacturers being approached prior to the release of the Productivity Commission's final report into the tariff protection afforded to the automotive industry - to the exclusion of the unions in the industry - was a disappointing, if not unusual, example of unions being excluded from informal as well as formal consultative mechanisms.

Electricity Energy Industry Export Council - the council is comprised of government representatives and 12 senior industry representatives.

APEC Australian Business Forum - the forum is comprised of governments and 160 business representatives

APEC Business Advisory Council - as the name suggests the council contains no union representation.

Export Advisory Panels - the panels comprised of senior executives and representatives from key industry sectors

National Trade Consultations - which provide for consultation, coordination and collaboration on trade and investment issues between governments and major industry associations. The DFAT website indicates that the ACTU is also consulted through this body. The body meets only twice a year.

Australian Trade Commission - The Board of AUSTRADE included a union representative from the Commissions inception in 1984 until January 2001. There is no union representative today.

The AMWU submits that there is an obvious need for a greater number of advisers to come from community and non-business interests, especially union representatives, when Australian trade policy is formulated and in the Australian delegations negotiating treaties relating to international trade.

Union representation should not merely be limited to the ACTU acting as a single or token voice on one or two bodies. Workers should have a significant say in trade issues that impact upon the future of their industries. In the case of manufacturing industries a starting point might be that wherever the Australian Industry Group, the Printing Industries Association of Australia (both employer bodies which cover similar industries to the AMWU) or any major employer of AMWU members sits on a trade body, the AMWU should similarly be offered a position on the same body. This would include, in the case of the AIG for example, the WTO Advisory Group and the National Trade Consultations. Where industry groups or associations are consulted on a trade specific issue - unions should be invited to the same consultation.

Whatever the mechanism for involvement, the AMWU submits there is an urgent need for manufacturing workers to be given a real and effective say in any USFTA negotiations.

Parliamentary Oversight and Approval

It is the AMWU's view that given the nature of modern trade agreements it has now become essential that trade agreements are subject to Parliamentary oversight and approval as befitting a true democracy.

To facilitate such oversight and approval, the AMWU advocates a three stage approach, backed by legislation. In stage one the Parliament in both houses should determine whether to grant negotiating authority for a trade agreement and the terms and conditions under which such authority is granted.

In stage two studies should be undertaken to determine the costs and benefits of any proposals that may be negotiated. These potential costs and benefits should be estimated at a national, state and regional level. The cost and benefit analysis should also extend to industry subsectors.

The effects should be measured through social and economic audits.

The studies must draw on a wide range of expertise and not just the neo-liberal supporters of free trade.

The studies must assess the impact on the capacity of Australia to take future interventions for the benefit of society, the economy and our national independence.

To give effect to stage two of this process an appropriate and representative infrastructure for consultations and oversight and negotiation of trade agreements should be put in place known as the Parliamentary Trade Agreement Committee (PTAC).

This committee should have the responsibility of commissioning multi-disciplinary research from a wide range of sources on the consequences of various trade treaty options and assessing the costs and benefits of any trade treaty sent to the Parliament for ratification.

It should also be the function of the PTAC to produce an agreed statement at the commencement of any trade treaty negotiation which contains Australia's objectives for the trade negotiations. That statement should indicate in what areas the government is prepared to negotiate and what areas are non-negotiable.

The third stage requires that any trade agreement must come before the Parliament on an accept or reject basis prior to Australia entering that agreement.

In the Interim: A Broader Analysis of Free Trade Agreements Is Needed

Until the three stage process for trade agreements proposed by the AMWU is legislated and the Parliamentary Trade Agreement Committee established, DFAT should commission *genuine* multidisciplinary research on the effect of trade agreements from a wide range of groups in civil society including unions.

If the Australian government and the Australian public are to know what the real consequences of a USFTA will be there is a need for broader and more balanced analysis than has been undertaken to this point.

To date DFAT has commissioned two reports into a possible free trade agreement with the United States. A report by the Centre for International Economics entitled "Economic Impacts of an Australia - United States Free Trade Area" published in June 2001 (the CIE report) and a report written by the Australian APEC Study Centre, Monash University entitled "An Australia-USA Free Trade Agreement: Issues and Implications" published in August 2001 (the APEC study). Both papers are written by authors with a strong trade / economics / management focus and a strong ideological commitment to free trade.

A third study was commissioned from ACIL Consulting by the government's Rural Industries R&D Corporation. The report was eventually entitled "A Bridge Too Far?: An Australian Agricultural Perspective on the Australia / United States Free Trade Area Idea - A Report for the Rural Industries Research and Development Corporation" (the ACIL Report). ACIL Consulting also has a very strong neo-classical economics focus. Notwithstanding that neo-classical focus, the Committee would be aware that the study states that a USFTA will be harmful for the agricultural sector and for Australia more generally with or without US concessions in agriculture. The Committee would also be aware of the government's attempts to distance itself from the findings of that report.

It is perhaps worth noting that the Howard Government has not always been so quick to disregard research it commissioned from ACIL Consulting. The AMWU particularly notes that in 1996 the government relied on ACIL Consulting to draw up a secret report on the Australian waterfront in the lead up to the waterfront dispute.⁵

In this instance however the government clearly did not find the research by ACIL Consulting to its liking. Indeed it appears ACIL Consulting's research was so not to the governments liking that the publication of the ACIL report was delayed by the government for as long as

⁵Davis, M. "Time Tests Waterfront Reforms", an article in The Australian Financial Review, 7 April 2003 on page 6

possible in the hope of prevailing upon the authors to alter their findings, and was only eventually released after the report was leaked to the Sydney Morning Herald.

In such circumstances there must be serious questions surrounding the government's commitment to commissioning genuinely independent and credible, let alone multilateral, research. The whole process highlights the need for the establishment of a parliamentary trade committee to oversee the commissioning of research.

Aside from a very brief background paper to support the call for submissions, DFAT has released no internal analysis of the costs and benefits or effects of a USFTA. The AMWU has been told in a community group consultation with DFAT that there are no plans to commission any further research into the costs and benefits of a USFTA.

Problems and Limitations of the presently published material

Problem Number 1: Nobody has bothered to ask about jobs or wages

The first and most obvious problem from the AMWU's perspective is that the government has now spent what the AMWU estimates to be in excess of \$250,000 on commissioned studies (\$98,500 on the CIE Report and \$90,000 on the APEC Study⁶ - the AMWU was unable to discover the cost of the ACIL report however, presumably a similar amount was paid) and not one of the reports has provided any real analysis of either the impact of a USFTA on jobs or the impact on of a USFTA on wages. Not one report has looked at the distributional effects of a USFTA. No economic study of any depth has been made on the possible impact of manufacturing. There is no serious research into who wins and who loses, or of course, what is likely to become of those who lose.

As Senator Cook observed in an exchange with a DFAT official on this topic in a Senate Estimates Committee on 22 November 2003: "People losing jobs in Adelaide, for example, may want to know what the government is going to do to help them to relocate to where the jobs are. Because we never model jobs, we do not know what the real economic impact on Australian people might be. It might make a difference to profits in some industry sectors, but we do not know what the impact on people will be"⁷.

The AMWU strongly submits its is time governments started commissioning studies that measure the impact on jobs. Jobs by industry sub-sector *and* jobs by region.

⁶Department of Foreign Affairs and Trade Annual Report 2001-2002 at page 342.

⁷Senate Foreign Affairs, Defence and Trade Legislation Committee, page 189 of Hansard.

Other Problems with the Reports

The CIE Report

As the AMWU stated above, the CIE has a strong economic / management focus. The majority of its staff are economists and its view of the world and commitment to neo-classical economic theory and free trade are well known.

There can be little doubt that the government would have felt confident that the CIE would produce a report that would have something positive to say about the government's policy to negotiate a free trade agreement with the United States.

Background: The Centre for International Economics

The analysts at the Centre for International Economics are almost exclusively economists. The work of the centre includes: policy evaluation and development; strategic planning; forecasting; setting structural arrangements for government trading enterprises; trade policy analysis; economic model building; and analysis of commodities and markets courses, think tanks and conferences.

According to Australian Electoral Commission records, in 2001/02 the Centre for International Economics made a payment of \$29,700.00 to the Menzies Research Centre Limited - a liberal party associated entity.

The CIE report has been used by the government to suggest that Australia could pick up a \$4 billion gain from a USFTA. The likelihood of this gain becoming a reality has not been accepted by a number of other economists, particularly and most vigorously by the free trade economist and Australian National University professor, Ross Garnaut.

In a recent paper presented to an Australian Business Economists meeting titled "US and Australian Free Trade Agreement: National Interest or Vested Interest", Professor Garnaut made a number of comments and criticisms of the report and the use made of the report including:

- The CIE report draws eclectically from two different models making it difficult to follow.
- In the best case scenario the study finds benefits of approximately zero.
- The study contains assumptions relating to the freeing up of agriculture in the United States that are simply not realistic.
- The study assumes that there is full liberalisation of services (including on Telstra and the banking sector) and that this increases the productivity across the whole services industry by 0.35 percent. This gain accounted for around half of the projected gains to Australia. Garnaut (and the ACIL report) rejects this assumption as totally unrealistic.

- The study assumes zero transaction costs. An assumption Garnaut says does not reflect reality.
- The analysis of the potential for trade diversion is said to be flawed.

The AMWU also notes the ACIL report took issue with many of the findings of the CIE report. Rather than repeating the comments of the authors of that report in this submission the AMWU refers the senate inquiry generally to that report. The report can be downloaded at www.rirdc.gov.au/reports/GLC/ACIL-ABridgeTooFar.pdf.

In addition to the ACIL/Garnaut criticisms, the AMWU holds broader concerns regarding the type of modelling used in the CIE report.

The bulk of the CIE report provides the results of econometric modelling using a particular type of APG-Cubed model and GTAP model. The modelling is based on the usual simple neo-classical assumptions which underpin much econometric modelling.

Whilst the AMWU would acknowledge that any modelling must necessarily make simplifying assumptions, it must equally be acknowledged that a good deal of the assumptions relied upon bear no resemblance to the real world. Neo-classical assumptions, like perfect competition and zero unemployment are quite simply not evident in the real economy.

By and large econometric modelling does not have a particularly strong record of forecasting economic results, let alone social or cultural change. This is compounded by the fact that, as anyone who has followed the trade debate for any length of time would know, there is a strong tendency for economic forecasts to be made and then not reviewed. As the NZ Greens have commented in relation to the proposed NZ - Singapore free trade agreement:

"Clearly we should take this estimate with a large grain of salt. It was undoubtedly based on the same unrealistic assumptions about perfect competition that are trotted out time and again to justify trade liberalisation. These studies always promise "free beer tomorrow" but literally no one comes back the day after and checks whether anyone actually got a drink. In other words there are no studies documenting econometrically actually realised gains from trade liberalisation."⁸

Unrealistic assumptions cannot simply be brushed away without a clear and convincing explanation as to why the model nevertheless remains accurate and useful. The Senate Inquiry should demand such an explanation from those who seek to rely on the models.

The GTAP Model

The AMWU submits that the GTAP model relied upon by CIE suffers from the same sorts of problems as other computable general equilibrium modelling.⁹ These problems are well discussed in a paper by Dorman of the Economic Policy Institute called "The Free Trade Magic Act: In dubious study, first you see the benefits of globalization, then you don't". The paper is available at www.epinet.org. The paper also notes that computable general equilibrium modelling was not successful in predicting the effects of the NAFTA agreement.

⁸From a speech by Rob Donald MP, NZ Greens, August 2000. The speech can be downloaded at www.greens.org.nz/searchdocs/speech2952.html

⁹For criticisms of the Brown-Deardoff-Stern model, which also uses GTAP-4 as a base see Dorman, P "The Free Trade Magic Act: In dubious study, first you see the benefits of globalization, then you don't", September 2001, www.epinet.org

The AMWU is very concerned for instance that the GTAP model assumes away unemployment (and take allocative efficiency gains as automatic). In this context the AMWU notes that the report states "[t]he change in welfare reported by the GTAP model arises principally from the reallocation of resources within an economy and the resulting change in allocative efficiency."

The AMWU also notes the GTAP model used by CIE uses some 1997 trade data for Australia (and apparently earlier data for some other "regions"). This data may be almost 10 years old before a USFTA is actually entered into.

It should also be noted that capital and investment are assumed to be constant in the model.

The APG - Cubed Model

The assumptions underlying the APG-Cubed Model are more easily accessible in the CIE Report. For this reason the AMWU will go to them in more detail. As with a good deal of neo-classical based economics there is more than a slight whiff of unreality to the assumptions used by the APG-Cubed Model. For example:

In the APG - Cubed Model, the world is divided up into "regions:" A "region" in the model is generally a country or a number of countries.

A region (for example Australia) is made up of six sectors: Energy, Mining, Agricultural, Non-durable Manufacturing, Durable Manufacturing and Services.

There is only one firm per sector.¹⁰ It would appear that the behaviour of each firm is assumed to be identical. That's six identically behaving producers for Australia and six identically behaving producers for the United States. As an aside that would also be six of the same identically behaving producers for the "region" of "OECD Europe and Canada".

"Household" behaviour is assumed to be "a weighted average of two types of behaviour". This "weighted average" is said to be the weighted average of two theoretical modes of behaviour rather than a weighted average of any empirical data or psychological study.¹¹ Households appear to be treated in the usual manner for neo-classical economists, that is, all households are assumed to have identical behaviour - so Jamie Packer will spend an extra dollar in exactly the same way as a single parent on social security.

Labour is assumed to be perfectly mobile within Australia (and within the United States) across all sectors. This is clearly a dubious assumption - and one of great concern to the AMWU. A retrenched 50 year old full-time tradesman living in Newcastle will not be re-employed as a trade expert by an international consultancy firm with an office in Melbourne; or by a tourist operator or sugar farmer in Cairns.

Each sector in a region pays the same wages - that is, the model would appear to equate wages across the whole of Australia. Again this would appear to be a serious limitation in the modelling - the wages of a part-time food process worker employed in Batlow NSW are markedly different from a Sydney solicitor working 50 hours a week for an international law firm specialising in employment law. Even at an industry level wages and conditions can and do differ markedly from one industry or sector to the next. Like the GTAP modelling, the

¹⁰See page 87 of the CIE Report "Each sector is represented by a firm"

APG modelling studiously ignores the differences in various labour markets (and the institutions within them) both within Australia and the United States.

The AMWU is particularly concerned that the allocative efficiency gains which the model relies upon where labour is presumably reallocated to a more productive industry are unlikely to be present in the real world. Instead it is far more likely that the 50 year old tradesman and the food process worker if retrenched due to import competition from the United States, will remain unemployed, be underemployed in precarious part-time or intermittent employment, or perhaps drop out of the labour force (and the unemployment figures) altogether. The AMWU notes that Australian Bureau of Statistics data shows that manufacturing workers who have been made redundant tend are often out of work for long periods. A significant proportion are forced to leave the industry.¹²

The loss of skills and socio-economic effect of this unemployment is not measured by the APG-Cubed model. In fact the model not only does not measure the cost - it appear to assume a net benefit in the retrenchment of the tradesman and the food process worker as labour is assumed to have been reallocated to a more productive industry.

It should come as no surprise in this six firm Australia where wages of all industries are identical and where wages and hours are flexible up or downwards that there are also no unions, no awards and no industrial tribunals.

Even if these types of neoclassical assumptions underpinning the models used by CIE are accepted - and there is no reason why the Senate should be accepted without a detailed explanation from those that rely on the results - the CIE modelling by its own admission does not deal with many issues that are extremely relevant to Australia and Australians eg. media local content and foreign investment controls, the removal of quarantine¹³, subsidies¹⁴, parallel imports / intellectual property¹⁵; single desk arrangements, and rules of origin¹⁶.

When the above assumptions and omissions are taken into account together with the criticism from Garnaut, ACIL Consulting and others, it is clear that the estimated cost/benefit should be treated with extreme caution - if relied upon at all. However, such caution is not evident in the statements of either the Prime Minister or the Trade Minister, who continue to trumpet the \$4 billion win. In that context, the AMWU asks that the senate inquiry note that the Prime Minister and Trade Minister have been less keen to highlight other results from the CIE report including that:

- A partial liberalisation leads to a terms of trade deterioration.¹⁷
- There is a "slight fall in the output of the Australian MVP sector, meaning that the sector's loss of market share to US MVP imports outweighs any expansion effect brought on by cheaper production inputs and increased export opportunities to the US"¹⁸

¹²See Australian Bureau of Statistics Catalogues Labour Force - 6203.0 and Retrenchment and Redundancy, Australia 6266.0.

¹³Page 7 of CIE Report.

¹⁴Page 6 of CIE Report.

¹⁵Page 8 of CIE Report.

¹⁶Page 10 of CIE Report.

¹⁷Page 36 of CIE Report.

¹⁸Page 36 of CIE Report.

- The "greatest increase in exports occurs in the durable manufacturing sectors (metal products, motor vehicles and parts, other manufacturers."
- "The majority of additional exports from the US to Australia as a result of AUSFTA are manufactured goods ... For example US exports of motor vehicles and parts to Australia increase by US\$525 million following Australia's elimination of bilateral motor vehicle and parts tariffs."¹⁹
- Australian imports of US goods and services rise more than Australian exports to the US - our bilateral trade deficit with the United States is predicted to widen (see table 4.8 of the report).²⁰

If nothing else, the CIE report's many limitations (and indeed its results) point clearly to the need for more detailed and thorough research of probable outcomes of a free trade agreement. The senate should recommend that the Australian people are provided with a realistic assessment of the accuracy of the modelling.

Prior to entering any agreement there must be sound economic research that shows the distributional effects of the trade agreement and the effect on wages and employment in different sectors. This is not an unreasonable request. If the executive government will not do it - and the AMWU has been told by DFAT that no further studies are planned - the senate should.

Future modelling should show not only the alleged net benefits but also should quantify who loses and how much.

Without wishing to unduly labour the point, the fact that unrealistic neo-classical assumptions are made does matter. A number of economists are attempting to work beyond such assumptions. For a worthwhile discussion of the problem of neo-classical assumptions, the AMWU refers the Senate Inquiry generally to the recent book by Professor Steve Keen of the University of Western Sydney called "Debunking Economics: The Naked Emperor of the Social Sciences"²¹ as well as to the material on international trade on Professor Keen's website at www.debunking-economics.com.

The APEC Study

The CIE Report acknowledges that the authors seek only to give an economic cost/benefit analysis and therefore its results "need to be kept in perspective"²². To this extent, the CIE Report is aware of at least some of its limitations and notes that notwithstanding its results "[t]here are hosts of issues to consider in assessing a free trade agreement".²³

Unlike the CIE Report the APEC study purports to be authored by a research team with "multidisciplinary expertise".²⁴ In reality however, the authors appear to be hand picked from a fairly narrow field of trade law, economics and management. The APEC study finds exactly what you would expect it might find given it is headed up by Alan Oxley.

¹⁹Page 43 of CIE Report.

²⁰Page 43 of CIE Report

²¹Keen, S. "Debunking Economics: The Naked Emperor of the Social Sciences", 2001, Pluto Press Australia.

²²Page 1 of the CIE Report.

²³Page 1 of the CIE Report

²⁴See the introduction by Alan Oxley in the forward on page viii of the APEC Study.

Background: The APEC Study Centre & Alan Oxley

At the APEC Leader's Summit in 1993 each APEC economy agreed to set up an APEC Study Centre in the higher education sector. Monash University now has the contract for the Australian APEC Study Centre. According to its internet site Its role is to research, to inform and to promote discussion on issues related to Asia Pacific Economic Cooperation.

Alan Oxley is the chairman of the APEC Study Centre and managing consultant of International Trade Strategies Pty Ltd. He is a former Australian career diplomat and trade negotiator and a former Chairman of the GATT Council. He is now both a business consultant and lobbyist for free trade. For many years Oxley has had and continues to have a vocational and/or financial interest in promoting free trade. A regular in the press, Oxley views on most trade issues are well known.

Another member of the four person research team, Alan Moran, is a member of the anti-union, anti-regulation Institute of Public Affairs. Moran has recently written such objective analysis as " Union leadership Czars increasingly resemble dinosaurs on the cusp of extinction ".²⁵ Presumably at least partly because he has such views, Moran has also been invited to deliver lectures to the HR Nicholls society.²⁶ This may go some way to explaining why the APEC study sees one of the apparent benefits of the USFTA as making Australian human resource practices more Americanized, that is, less centralised, more reliant on lawyers and more antagonistic to unions.²⁷

The other two members of the APEC research team were Kristen Osbourne, an economics and law graduate who is employed by Oxley's International Trade Strategies company and David Uren, director of *themanager.com.au*.

The APEC study provides no independent economic modelling of the USFTA and in the AMWU's view adds very little to the debate. The AMWU notes and agrees with Professor Garnaut's assessment of the paper that:

"All that can be said of Oxley's case for the benefits of economic union is that the proposed arrangements have been defined with too little precision even for intelligent assessment of the most general kind. In one statement, Oxley argues the benefits of Economic Union by reference to the performance of states of the American Union." In truth, a number of the states grew much less rapidly over the past hundred years than Tasmania, in economic terms the poorest performing of the Australian states."²⁸

Reflecting the background of its authors, the APEC Study is acutely management focused. The APEC Study's management focus and lack of *genuine* multidisciplinary research is

²⁵The statement was made in Moran, A "Writing on Wall for Unions and ALP" in the Australian Financial Review 24 June 2002. A copy of the article can be found at <http://www.ipa.org.au/Media/amaf240602.html>.

²⁶ See for example Moran A, "Compulsory Workplace Insurance and Its Effect on Productivity" at <http://www.hrnicholls.com.au/nicholls/nichvo23/moran2002.html>

²⁷On page 144 the APEC Study notes in a section on "Australian weakness" that the US has never had anything like Australia's centralised wage fixing system and that US firms spent more money on human resources and were more likely to get advice from law firms. The study - which sees one of the benefits of a USFTA as the influence of US management on Australian management - observes that US firms "were less likely to recognise unions."

²⁸An extract of Garnaut's speech "US and Australian Free Trade Agreement: National Interest or Vested Interests" at an Australian Business Economists meeting on 28 February 2003.

presumably why it argues that one of the benefits of Australia adopting a more US style to management may be that there is less overt sexism amongst Australian executives²⁹ but at the same time is blind to the more general point that US style human resource practices and decentralised wage fixation (both of which the paper triumphs)³⁰ has consistently delivered poorer outcomes in terms of gender wage discrimination for the rest of the community.

The award based system that the APEC Study sees as "a weakness" delivered better results for Australian women as compared to their North American counterparts. But this piece of important labour economics is either not understood or not considered by the authors of the study.³¹ This is just one example of why there is a need for *genuine* multidisciplinary research - not more neo-classical mathematical models or anecdotes from management consultants committed to free trade.

Another example of the limitations of the APEC study can be observed in the study's devotion of a whole "Annex" to "Attitudes of Australian business to an FTA". In the Annex the study describes the responses the researchers have gathered from Australian business. Notably however, the study makes no effort to gather the views of Australian workers potentially affected by the FTA or attitudes of the Australian public more generally - preferring instead to make some unreferenced and untested general assertions about the views of the Australian public in Annex 1 "The nature of future of globalisation".

In the same manner the study devotes an "Annex" to the way in which a USFTA might effect Australian business cultures. However, the study provides precious little on how a USFTA might affect Australian culture more generally.

When considering the strategic importance of a USFTA, the APEC study deals with the political significance of the USFTA in an extraordinarily shallow way.

Glib statements and orthodoxies are the order of the day rather than careful examination or analysis. As a result the claimed benefits of a USFTA in the APEC Study may serve to further convince the converted - but even they would have to have either no real interest in international politics or a robust capacity to suspend disbelief.

On page 73, for example, the paper talks about Australia and the United States having a "shared commitment to democracy, international security, and an open trading system". Any analysis that takes as an act of faith the United States' commitment to democracy, international security and an open trading system should be treated with due circumspection. The United States government has shown itself time and again to have a very limited commitment to a genuinely open trading system (for example the steel industry and agricultural protectionism of 2002), a very selective view of international security and very little interest in democracy (having routinely provided support and succour to dictatorships and military uprisings against democratically elected governments and other governments through out the world over a period of many years).

²⁹Page 146 of the APEC Study.

³⁰In addition to the comment in Annex 5 see also the comments at page 66 of the report.

³¹For a discussion of centralised and de-centralised systems of bargaining in the context of gender discrimination see Bennett L, "Equal Pay and Comparable Worth in the Australian Conciliation and Arbitration Commission" 30 *Journal of Industrial Relations* 533, Bennett L, "The American Model of Labour Law in Australia" 5 *Australian Journal of Labour Law* 135, or Rafferty F, "Equal Pay: The Evolutionary Process 1984 - 1994", 36 *Journal of Industrial Relations* 451.

The AMWU can readily accept that the United States may be more likely to come to the defence of Australia if United States has significant economic interests in Australia rather than out of any sense of "a shared commitment to democracy" or for the sake of "international security" - but where Australia's best political interests lie and what should be done to secure such interests is not analysed with any credibility or depth in the study. The publication and/or commissioning of more credible and objective analysis would be of great value to the public debate surrounding entering a USFTA.

A Call for Common Sense

At its simplest the AMWU's rather uncontroversial or even "common sense" submission is that other schools of thought and expertise beyond neoclassical economics may well bring an entirely different perspective on a USFTA. DFAT should not limit studies to the narrow fields of neo-classical economics and management and rely on the public to try and work out the rest.

Studies should also be commissioned from bodies that can draw on the expertise of industry experts, labour economists, sociologists, unions, environmentalist scientists, feminists, cultural theorists political scientists and others with the capacity to make a contribution.

The AMWU is not alone in observing the need for multilateral research. The Joint Standing Committee on Treaties recommended that the Commonwealth Government commission multi-disciplinary research to evaluate the socio-economic impact of trade liberalisation in Australia since the conclusion of the Uruguay Round in 1994.³² Such multi-disciplinary research would also be appropriate for proposed trade liberalisation such as the USFTA. In the absence of such research it is hard to see how the Australian government - let alone those they purport to represent - will know the social and economic consequences of what is being agreed and entered into.

Until the parliament moves to directly oversee the trade negotiation process, broader published research by DFAT could only lead to a broader and healthier debate.

³² See Joint Standing Committee on Treaties, Report 42 "Who's Afraid of the WTO? Australia and the World Trade Organisation", September 2001 at paragraph 1.96. The recommendation was referred to in the AMWU's submissions to DFAT on the negotiating objectives for the WTO Doha round.

B. THE CONTENT OF A USFTA

The following is a brief discussion of some of the issues that may be the subject of a USFTA. The discussion is not exhaustive and the AMWU may well seek to expand or add to the submissions should it be given the opportunity to do so at a later date.

Labour Standards

The AMWU notes that according to the letter from Robert Zoellick to Senator Byrd (a link to the letter is provided on the DFAT website), one of the "specific objectives" of the US Governments negotiating position includes the following:

"Labour, including Child Labour

Seek an appropriate commitment by Australia to the effective enforcement of its labour laws.

Establish that Australia will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its labour laws.

Establish procedures for consultations and cooperative activities with Australia to strengthen its capacity to promote respect for core labor standards, including compliance with ILO Convention 182 on the worst forms of child labor."

The AMWU strongly believes that core labour standards should be included in international trade agreements. Liberalisation of trade without observance of core labour standards risks fundamental human rights being sacrificed for corporate profits.

The internationally recognised "core labour standards" can be found in the ILO Declaration on Fundamental Principles and Rights at Work. The ILO Declaration on Fundamental Principles and Rights of Work in effect reaffirmed the commitment of the Organization's member States to:

- the right of workers and employers to freedom of association and the effective right to collective bargaining (conventions 87 and 98);
- the elimination of all forms of forced or compulsory labour (conventions 29 and 105);
- the effective abolition of child labour (conventions 138 and 182); and
- the elimination of discrimination in respect of employment and occupation (conventions 100 and 111).

As the ILO Declaration on Fundamental Principles and Rights at Work states in its preamble "economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty ... [I]n seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned to claim freely and on the basis of equality of opportunity their fair share of the wealth which they have helped to generate, and to achieve fully their human potential."³³

All members of the ILO, regardless of whether they have ratified the specific conventions dealing with the core labour standards have "an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions".³⁴ Both Australia and the United States therefore have an obligation to respect and promote core labour standards.

The AMWU notes that the Australian Government through the *Workplace Relations Act 1996* and the *Trade Practices Act 1974* has been in breach of a number of core labour standards for some time (see for example the ILO's comments in CEACR: Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise, 1948 Australia (ratification: 1973) Published: 2001; CEACR: Individual Observation concerning Convention No. 98, Right to Organise and Collective Bargaining, 1949 Australia (ratification: 1973) Published: 1998 - both of which can be found on the ILO website at www.ilo.org).

These breaches would and should be inconsistent with a USFTA which genuinely sought to promote respect for core labour standards. If not amended by legislation they would and should result in legal action being taken against the Australian Government through the disputes procedure for breaching a USFTA.

It should also be noted in the context of the US negotiating objectives that Australia has not ratified the Minimum Age Convention, 1973 (No. 138) or the Worst Forms of Child Labour Convention, 1999 (No. 182) - both conventions contain core labour standards in relation to child labour. These conventions should be ratified by Australia before entering the USFTA.

It is also important to note in the context of labour standards that the United States has only ratified two of the eight core labour standards: one of the forced labour conventions (Convention 105) and one of the child labour conventions (Convention 182). The United States has not ratified either of the conventions on freedom of association or either of the conventions on discrimination. While the AMWU recognises that ratification has a different effect in United States law than in Australian law, this nevertheless puts the United States in the company of Oman, Myanmar and Armenia - as one of only four states that has ratified two of eight core labour standards. The only ILO nations to have ratified less of the core labour standards are the Solomon Islands and the Lao's Peoples Democratic Republic.

Both Australia and the United States government should therefore ratify and uphold all core labour standards conventions as part of a USFTA. If the formal ratification of ILO treaties is not achievable in the negotiations with the United States, clauses which guarantee the same core standards should be part of the USFTA.

The AMWU does not support the type of "side-agreement" approach which has accompanied the NAFTA agreement. The NAFTA agreement has proven ineffectual at enforcing core labour standards. Enforcement of core labour standards should be part of the mechanism of any USFTA.

The AMWU notes that labour provisions are part of the core text of the recently negotiated United States - Singapore free trade agreement (SUSFTA). As the ACTU has noted in a recent submission to DFAT:

³⁴ See the Declaration at www.ilo.org/public/english/standards/relm/ilc/ilc86/com-dtxt.htm

"This agreement reaffirms the two countries' ILO obligations, and includes the onus to ensure that domestic laws provide for labour standards consistent with internationally recognised principles and that such laws are not weakened to encourage trade or investment.

The Chile-US Agreement (CUSFTA) has similar provisions to SUSFTA. In addition, CUSFTA contains procedural guarantees to ensure that workers and employers have fair, equitable, and transparent access to industrial tribunals, and a cooperative mechanism to promote compliance with the ILO Convention on the Worst Forms of Child Labour, and respect for the ILO Declaration on Fundamental Principles and Rights at Work."

The CUSFTA model should be built on and improved in a USFTA to create a mechanism that guarantees the observance of all core labour standards.

Investor / State Mechanism

The AMWU does not support the type of investor / state compliance mechanism that has been so infamous in the NAFTA agreement. Despite earlier assurances to the contrary the mechanism in the NAFTA agreement has been used to allow companies to sue governments for compensation where governments have merely enacted legislation to protect the environment or health of the communities that they represent.

The very wide and apparently unexpected way in which "expropriation" has been interpreted in the NAFTA agreement should cause the Australian government to be very cautious concerning any proposed investor / state mechanism. The AMWU generally opposes such a mechanism. The following examples of the NAFTA investor-state dispute mechanism are taken from a recent AFTINET submission to the Department of Foreign Affairs and Trade:

Metalclad v Municipality of Guadalupe. The US Metalclad Corporation was awarded \$US16.7 million (later reduced to \$US15.6 million), because it was refused permission by a local municipality to build a 650,000 ton/annum hazardous waste facility on land already so contaminated by toxic wastes that local groundwater was compromised.

The site had previously been managed by a Mexican company which Metalclad had then bought. Metalclad applied for a permit to operate a toxic waste processing plant and landfill, which had previously been refused by the local municipality. After local protests, the Governor declared the site part of a special ecological zone. Metalclad sued the government of Mexico under NAFTA, claiming that the actions of the municipal government amounted to expropriation without compensation. The ICSID tribunal found that the creation of an ecological reserve amounted to 'indirect' expropriations in violation of NAFTA Chapter 11. Mexico appealed this finding, which was upheld (Shrybman 2002 p56).

Sun Belt v British Columbia. The US-based Sun Belt Water Inc. is suing Canada for \$US10.5 billion because the Canadian province of British Columbia interfered with its plans to export water to California. Even though Sun Belt has never actually exported water from Canada, it claims that the ban reduced its future profits. This case reinforces the concerns of many Canadians that NAFTA rules treat an essential service like water as a traded commodity (Shrybman 2002 p57).

United Parcel Service v Canadian Postal Service. The US company United Parcel Service (UPS) is the world's largest express carrier and package delivery company. In 1981 the Canadian postal system was transformed from a government department to a publicly owned corporation called Canada Post, which has been delegated by the Canadian government as the

universal provider of postal services. In 1993 Canada Post bought an overnight courier company. The joint entity makes the postal system the fifth largest employer in Canada. In April 1999 UPS filed a suit under NAFTA Chapter 11 for \$160 million, claiming that Canada Post was in violation of NAFTA's provisions on competition policy, monopolies and state-run enterprises. UPS is arguing, among other things, that Canada Post abuses its special monopoly status by utilising its infrastructure to cross-subsidise its parcel and courier services. The availability of affordable postal services is a public policy issue in Canada. Freedom of Information requests by the NGO Public Citizen to the US government for information about the case were refused on national security grounds. UPS "seems to be claiming that the very existence of Canada Post, a public sector competitor, violates its rights under NAFTA" (Public Citizen 2001 p 32).

Ethyl Corporation v Canada. Ethyl Corporation is a US chemical company which produces a fuel additive called MMT containing manganese - a known human neurotoxin. In 1997 MMT was banned from use in unleaded fuel by the US Environmental Protection Agency and the state of California due to environmental and public health concerns. In April 1997 the Canadian Parliament imposed a ban on the import and inter-provincial of MMT in 1997, on grounds of public health as well as to reduce air pollution and greenhouse gas emissions. "Although the potential hazards to human health were not fully known, Canada acted in a precautionary manner until more information was available as had the state of California and the US E.P.A." (Public Citizen 2001 pp 8-9).

On September 10 1996, while the prospective ban was being debated in the Canadian Parliament, Ethyl Corporation notified the government of Canada that it would sue for compensation under NAFTA's investment chapter if restrictions were placed on MMT. The Parliament continued to debate and then pass the ban in April 1997, when in the same month Ethyl filed a NAFTA Chapter 11 investor-to-state claim against the Canadian government for \$251 million in damages at the UN Commission for International Trade and Law (UNCITRAL). Ethyl argued that:

- (a) the Canadian ban amounted to a NAFTA-forbidden expropriation of its assets,
- (b) the ban was a violation of NAFTA rules requiring national treatment for foreign investors, because it banned imports, but not local production of MMT, and
- (c) the ban was a 'performance requirement' forbidden under NAFTA, because it would effectively require Ethyl to build a factory in every Canadian province to comply with the transport ban and make an MMT investment in Canada.

A NAFTA panel was constituted at UNCITRAL. Canada's objections to the case - on the grounds that the MMT was not a 'measure' covered by NAFTA Chapter 11, and that Ethyl Corporation had not waited the requisite six months after the ban was implemented before filing a suit - were rejected. The case was set to move forward when Canada settled with Ethyl. It reversed its ban on MMT and paid \$13 million in legal fees and damages to Ethyl and issued a statement for Ethyl's use in advertising declaring that 'current scientific information did not demonstrate MMT's toxicity'.

The case is significant because of Ethyl's claim that restrictions on MMT 'expropriated' the company's investment. This effectively discourages environmental or public health regulation by forcing governments to pay a corporation that imports the substance which is being regulated. The fact that Ethyl threatened to initiate a NAFTA suit before a law was passed may be viewed as an intimidation of legislators, and allowed NAFTA to be used to undercut a public interest protection based on the precautionary principle. While the long-term studies

needed to better understand the dangers posed by MMT are now being undertaken, Canadians are being exposed to the potentially dangerous compound (Public Citizen 2001 pp 8-10).

The AMWU notes the Canadian Government has recently stated in relation to the proposed Free Trade Agreement of the Americas that:

"With regard to an investor-state dispute settlement mechanism provision, which would provide for investors of countries within the free trade area the right to seek arbitration of disputes arising from alleged breaches of obligations in the chapter, Canada is not advocating the replication of the NAFTA investor-state dispute settlement mechanism in the FTAA. Canada is engaged in ongoing discussions with its NAFTA partners with respect to the clarification of certain substantive and procedural provisions of NAFTA's Chapter 11."³⁵

The AMWU opposes any investor / state dispute settlement mechanism being introduced into a USFTA.

Rules of Origin

If a USFTA is successfully negotiated the AMWU submits that it is critical that adequate rules of origin are put in place (and properly policed) to ensure that a USFTA does not become a defacto unilateral liberalisation process. The current 50% rule of origin in the CER agreement should be increased significantly and a study of how best to do this and the benefits should be commissioned and published.

The AMWU is not satisfied that the recent Australia-Singapore agreement which allows for a 30% rule of origin in certain circumstances would be adequate protection in a USFTA.

US Identified "Trade Barriers" in Australia

A number of what the US considers to be "trade barriers" are contained in the letter from Zoellick to Byrd. These include:

- Australia's sanitary and phytosanitary measures
- elimination of restrictions on US service providers
- elimination of tariffs and other duties
- elimination of Australian government export monopoly arrangements
- foreign investment screening by the Australian government
- government procurement
- state monopolies and state enterprises

³⁵The Canadian Government position on investor -state mechanisms can be found on the Canadian Department of Foreign Affairs and International Trade website at <http://www.dfait-maeci.gc.ca/tna-nac/I-P%26P-en.asp>.

There has also been discussion of substantially modifying Australia's Pharmaceutical Benefits Scheme.³⁶

In addition, the 2002 National Trade Estimate Report on Foreign Trade Barriers³⁷ noted a number of "trade barriers" in Australia, including:

- all tariffs but particularly textiles, clothing and footwear and passenger motor vehicles and components
- the economic benefits to the US of removing Australia's sanitary and phytosanitary measures (quarantine measures) particularly for Florida citrus, stone fruit, chicken, pork, apples, pears and corn
- requirements for GM labelling
- government procurement
- export subsidies, particularly in the textile clothing footwear and automotive sectors
- local content for free to air media and pay TV - "the United States continues to oppose discriminatory broadcast quotas and maintains that market forces best determine programming allocations
- controls on foreign investment
- commodity boards and agricultural support
- the Government holding 50.1% of Telstra

The AMWU strongly believes that these issues should not be dealt with in a USFTA. While tariffs are more traditionally an issue for free trade agreements, the AMWU believes that an across the board elimination of tariffs as part of a USFTA will lead to more costs than benefits for Australian workers. The welfare of ordinary Australians will fall as more jobs are destroyed than created. Manufacturing workers, their families and communities are likely to be the worst hit. The AMWU strongly opposes an across the board elimination of tariffs.

³⁶For example see the article "US drug firms push for changes to PBS", *Australian Financial Review* 3 March 2003 by Morgan Mellish.

³⁷

C. A PRELIMINARY ASSESSMENT OF THE EFFECT ON MANUFACTURING IN AUSTRALIA

The AMWU is deeply concerned about the likely effect of a USFTA on the lives of manufacturing workers. Canada's experience in relation to free trade agreements with the United States points to the risk of large scale job losses, particularly in manufacturing. Between 1989 and 1997 it has been estimated that Canada lost 276,000 jobs as the 870,700 export jobs created were not enough to match the 1,147,100 jobs destroyed by imports.³⁸

The United States National Association of Manufacturers estimates the US manufacturing sector could gain an extra \$US1.8 billion per year from tariff reductions under a USFTA.³⁹ The CIE report also predicted significant gains to US manufacturing.

Australian manufacturing workers deserve an answer to a simple question:

“Will Australia's manufacturing industry and the living standards and job security of manufacturing workers improve or deteriorate as a result of a trade agreement with the United States.”

For many manufacturing workers the proposed Australia - U.S. Free Trade Agreement (FTA) is simply about consolidating the U.S. - Australia military alliance and the traditional approach of the National Party to use its control of the Trade Portfolio within the Coalition Government to advance the interests of the agricultural sector (particularly in marginal electorates dependent on sugar and dairy products) regardless of the consequences for other workers in other industries.⁴⁰

The reversion of Australia to a trade policy based on the quarry and the sheep's back under National Party control of the trade portfolio is highlighted in the table below showing the collapse of manufacturing exports since 1995-96.

³⁸These figures are further discussed in the Appendix to part one.

³⁹See the testimony of Franklin Vargo on behalf of the National Association of Manufacturers to the Trade Policy Staff Committee in January of this year. The testimony can be found on the National Association of Manufacturer's website.

⁴⁰The Foreign Minister, Alexander Downer has explicitly linked a free trade agreement with the Australia - US security alliance. For example, in a speech in August of 2002 the Minister, quoting the United States Trade Representative said: "[A]n FTA would help engender a broader appreciation - in both countries - of the bilateral security alliance and the manner in which ANZUS, together with the web of US alliances in the region, helps to underpin the stability and prosperity of East Asia and the Pacific. This last point is important - and one on which I will expand further. Namely, an FTA would be an opportunity to render our economic relationship with the United States on the same sort of footing as our political relationship, which is expressed overwhelmingly - and highly successfully - through our security alliance." The speech can be downloaded at
2002/020820_fa_usfta.html

Composition of Australian Exports			
	Trade Portfolio under Labor		Trade Portfolio under the National Party
	1987 - 88	1995-96	2001-2002
Primary Products	67.4%	56.7%	59.2%
Manufactured Products	23.6%	33.8%	31.4%
Miscellaneous Products	9.0%	9.5%	9.4%
Total	100%	100%	100%

Annual % Growth of Australian Exports		
	Trade Portfolio under Labor	Trade Portfolio under the National Party
	1987-88 to 1995-96	1995-96 to 2001-2002
Primary Products	5.8%	8.9%
Manufactured Products (total)	13.1%	6.8%
a) ETM's	16%	6.5%

Source: Calculated from DFAT: Exports of Primary and Manufactured Products: Australia 2001 - 2002.

As was noted above, even conventional neo classical economists such as Professor Ross Garnaut have poured scorn over the alleged benefits of such an agreement (including the much publicised \$4 billion gain that the Prime Minister says it will deliver). No one believes the \$4 billion figure, and its use is simply to disguise the real purposes of an Australia - U.S. FTA, which is to integrate Australia further into the U.S. military alliance and promote agriculture.

Even if half that gain was realised by 2010 it would mean the living standards of the nation on the 10th of December 2010 are exactly what they would have been on December 31 2010.

An agreement that creates both winners and losers, further locks Australia into Pax Americana, and reduces our ability to implement an independent nation building agenda has the ultimate benefit this decade (if all the neo classical assumptions are accepted) of pulling forward the nations standard of living by three weeks. And there is no evidence that the benefits of this three week "bonanza" would be evenly distributed or the losers compensated ²⁴.

24. The econometric study suggesting a \$4 billion gain argues that GDP will be 0.4% higher in the long run from an FTA. But given the longer phase in period for agriculture 0.2% would be optimistic by 2010. Since Australia's long run GDP is 3.5% per annum, a long term gain of 0.2% is about three weeks of economic growth. Hence the analysis above. The assumptions of the models used by the International Centre for Economics to generate the \$4 billion estimate are totally unrealistic. As noted by R.E Scott from the Economic Policy Institute such models "assume a world in which no one is ever unemployed, consumers and investors have perfect knowledge and all adjustments happen instantaneously (i.e. someone laid off today from a steel mill in Indiana will immediately land a job as a real estate broker in Arizona " EPI Issue Brief 170 November 2001. On top of this the assumed export demand elasticities of 5 - 20 (compared to actual empirical estimates of 0.6) give totally unrealistic perspectives of trade gains.

The case of Australia's motor vehicle and parts industry is a good example of the potential costs and benefits of an FTA with the United States. It also illustrates the many unanswered questions about the down side risks involved for manufacturing workers, their families and communities from such an agreement.

To begin with it should be noted that the study the Prime Minister relies on for his claimed \$4 billion gain from an FTA with the United States shows outcomes for 24 industries covering all U.S. and Australian economic activity.

According to this study the industry where the U.S. gets the biggest gains and Australia suffers its biggest loss is the motor vehicle and parts industry²⁵.

Some would argue the impact is small where in net terms Australia loses "just" something less than 1% of production as a result of such an agreement that might equate to a loss of around 400 jobs in net terms.

Such a loss is not small for working families who lose a breadwinner or their local communities. And there are reasons to believe the losses could be far larger. This is because no analysis has been done of how an FTA with the U.S. would impact on Australia's long term plan for the motor vehicle and parts industry, particularly those parts of the plan dealing with tariffs and ACIS. The following points illustrate the uncertainty's that exist about how an FTA would ultimately impact on workers in Australia's motor vehicle and parts industry.

1. There are several companies in the industry that manufacture the same or virtually the same cars and components in both Australia and the United States. This raises the question as to whether closing all or part of their Australian operations to import duty free from the United States would happen.

For example if Toyota decided to export the Camry it makes in its American factory and cease production in Australia the flow on effects would result in thousands of Australian's losing their jobs. No econometric model can tell workers and their families whether the corporate strategy of large global corporations will result in this happening and when.

2. In the case of the U.S. - Chile FTA, trade liberalisation for motor vehicles and components (including the abolition of the sales tax on luxury cars in Chile) was automatic from day one with no phase in arrangements. Would this happen in an Australia - U.S. FTA? Would such an agreement limit the preference Australian Governments give to purchasing Australian made fleet vehicles or ones imported by companies who produce here? This is a significant issue given that 25% of domestic demand for Australian produced vehicle comes from Government.
3. The ACIS scheme provides local producers with credits to import cars and components duty free based on a formula for how much they produce and/or invest in plant, equipment and R&D. To date there is no analysis of how the outcomes from this scheme would be affected by an FTA.

25. Centre for International Economics: Economic Impact of an Australia - United States Free Trade Area June 2001 PP 39 - 41. The study only show's output, trade and price changes from an FTA, not the employment effects.

For example in 2001 nearly \$2.3 billion of vehicle and component imports into Australia came from the United States. What happens when these imports can come into Australia duty free (under an FTA)? Do the extra ACIS credits get used for other imports thus wiping out more manufacturing workers jobs? Who wins and who loses? Are American firms advantaged and Japanese firms disadvantaged by such an arrangement and if so with what consequences? What happens to the market of traded ACIS credits where they are currently yielding 95 to 98 cents in the dollar? Simply put there are too many unanswered questions and too many factors that could undermine the certainty of Australia's long term auto plan.

4. There are also unanswered questions about what other changes the U.S. Government might demand in terms of changes to Australia's Auto Plan or how the investor protection arrangements (typical of NAFTA or as they are recast in the U.S. - Chile FTA under the 2001 Trade Promotion Authority Legislation) could force changes on our Auto Plan.

For example what might happen to the restrictions Australia places on second hand car imports? What challenges might be mounted to access to the ACIS scheme from firms currently excluded? What would happen in the future to environmental, health or safety changes Australia decided it wanted to implement on vehicles operating in this country?

Finally workers and their families will be rightly concerned if Australian trade negotiators try to sweep these issues under the carpet by pretending that the inclusion of long term phase in arrangements solves the problems. Auto workers have been promised a review of the Auto Plan in 2007 - 2008 and that review process is to determine whether or not assistance is to be reduced post 2010. Australia should not be sacrificing its capacity to determine an independent industry policy on the alter of a Free Trade Agreement.

The auto industry is not the only sector of manufacturing where problems arise from an FTA with the United States. For many years now Australian's have argued that the Jones Act (which requires shipping vessels for the U.S. military to be manufactured in the U.S.) was a major constraint to Australian companies like Austal and InCat exporting their wave piercing catamaran fast ferries to the U.S. Thus if an FTA relaxed this constraint, this would be a major benefit for Australian manufacturing.

While this may have been the case a decade ago, it is not the case today. As a result of the Jones Act both InCat and Austal set up joint venture partnerships with American based firms with an ownership structure which effectively meant that the restrictions of the Jones Act were less relevant. In addition the high value expensive imported components from the U.S. such as the engines already come in duty free. Thus, there appears to be little benefit here for Australian manufacturing from an FTA with the U.S.

There is clearly a need to commission more detailed work on individual sectors as suggested in NIEIR's attachment to this submission. For example, the study by the Centre for International Economics suggests that next to sugar the largest gains for Australia will come in the Textiles, Clothing and Footwear Industry. Many of us find this hard to believe. Output in the TCF industries in the year to September 2002 is almost 30% below the levels 4 years earlier and exports of clothing, footwear, textile fabrics and yarns have fallen sharply since 1997-98.

The industry is likely to be downsized further as a result of Government policy following the forthcoming inquiry by the Productivity Commission. As the CIE study is based on out of date data one must assess outcomes against the industry as it is likely to be in 2005 and beyond as well as changes to international trade in TCF products. Like the Auto Industry, no

arrangements should be entered into that disadvantages the industry or disrupt the plan that is likely to be put in place and the review process.

This is not to suggest that an Australia - U.S. FTA could not provide benefits to some firms in some sectors including those discussed above. For example:

- The United States has a 25% tariff on trucks and light commercial vehicles. During the recent inquiry into the Auto Industry by the Productivity Commission Holden suggested that if this 25% tariff was removed (and approval given by GM Head Office) it could export as many as 20,000 utilities a year to the U.S. market.
- In shipbuilding and other defence related industries an FTA with the U.S. could, in the long term, result in the realisation of some manufacturing opportunities that might not otherwise be available.

Those supporting an Australia - U.S. FTA also point to benefits from increased investment and trade, stronger linkages to the world's leading information economy and a range of opportunities in agriculture, services and other industries. It is also suggested that with the U.S. negotiating an FTA with 34 North and South American countries (the Free Trade Area of the Americas) Australia could be disadvantaged in a number of industries when companies in these countries get more favourable access to the U.S. market than Australia.

However on balance, the AMWU believes that there are too many uncertainties and risks for manufacturing workers from an agreement based on free trade rather than fair trade. And the outcomes for manufacturing trade over the last six years of Coalition Government provide no comfort for manufacturing workers about the future. As shown earlier and as reinforced in tables one and two on the following pages:

- Since the Coalition Government came to office Australian manufactured exports in general and exports of Elaborately Transformed Manufactures (ETM's) in particular have collapsed. The annual growth rate of our manufacture exports has fallen from 13.1% (1987-88 to 1995-96) to 6.8% (1995-96 to 2001-2002); and the annual growth rate of our ETM exports has fallen from 16% (1987-88 to 1995-96) to 6.5% (1995-96 to 2001-2002).
- Our trade deficit in manufactures has blown out from \$41.7 billion (1995-96) to \$62.4 billion (2001-2002). Since our exports and imports of STM's (Simply Transformed Manufactures) are roughly in balance the entire deterioration is in our trade in ETM's where the deficit blew out from \$40.8 billion (1995-96) to \$62.9 billion (2001 - 2002).
- The blow out in Australia's trade deficit in manufactures in general and ETM's in particular has nothing to do with our trade with the United States or NAFTA. The entire deterioration is due to a growing imbalance in manufactures trade with Europe and Asia:
 - a) Our ETM trade deficit with the United States stayed constant at around \$13 billion.
 - b) Our ETM trade deficit with East Asia blew out from \$15.6 billion (1995-96) to \$32.6 billion (2001-2002). **This was because over the past six years Australia has had zero growth in exports to East Asia and a 74% increase in imports.** Even where our exports grew we saw the ETM trade deficit with countries like China surge from \$3.2 billion (1995-96) to \$9.2 billion (2001 - 2002).

- c) Our ETM trade deficit with Europe surged from \$13.1 billion (1995-96) to \$18.3 billion (2001-2002).

The collapse in ETM exports in the last 6 years is broadly based. In DFAT's classification system there are 80 product groups making up ETM's. Only 16 of the 80 ETM product groups averaged 10% per annum export growth or more over the last 6 years. Within ETM's the Engineering sector accounts for 30 product groups of which only 6 recorded annual export growth of 10% or more over the last 6 years.

This collapse in Australia's manufacturing trade performance is in many respects the direct result of the Coalition Government having no strategic plan for manufacturing and dismantling much of the industry policy mechanisms that existed in the mid 1990's. For example:

- a) The R&D tax concession has been slashed and investment by manufacturers in R&D fallen.
- b) There is no strategy or action plan to attract new greenfield investment in high value manufacturing, particularly foreign direct investment. Not surprisingly, Australia ranks near the bottom of OECD countries in attracting such investments.
- c) The Export Market Development Grants Scheme has been emasculated and is capped at an unrealistic level and additional requests for funding for the ISO network ignored.
- d) None of the initiatives to promote venture capital have resulted in significantly lifting new investment in start up manufacturing firms.
- e) After finally committing to doubling the number of exporters, follow up action has not progressed past "Memorandums of Understanding" and Ministerial Speeches.

Simply put none of the things that were required to underpin the 1985-95 manufactures export surge have been done and we've watched imports flood the country.

All of this suggests that manufacturing's future, and that of Australia's manufacturing workers, their families and communities would be better served within a different policy framework than the one being promoted via an FTA with the United States or current policy.

The AMWU is part of a Coalition of NGO's examining this issue, and in the interim has asked the National Institute of Economic and Industry Research to provide a preliminary assessment of the key issues that need to be addressed - a copy of that interim report is attached to this submission. Based on this and other issues we have raised in this paper the AMWU may well seek to make further representations about the deficiencies of an Australian - U.S. FTA for Australian manufacturing and the preferred alternative approach in a supplementary subsequent submission to the Senate inquiry.

TABLE ONE

AUSTRALIA'S TRADE IN MANUFACTURES: 1991-92 TO 2001-2002 \$ BILLION

	1991-92			1995-96			2001-2002		
	E	I	D	E	I	D	E	I	D
World	15.1	43.2	-28.1	25.7	67.4	-41.7	38.1	100.5	-62.4
ASEAN	2.6	2.1	+0.5	5.2	4.7	+0.5	5.1	9.5	-4.4
European Union	1.9	10.7	-8.8	2.9	18.1	-15.2	4.3	24.8	-20.5
NAFTA	1.9	11.3	-9.4	2.4	17.7	-15.3	6.5	21.8	-15.5
East Asia	7.1	16.8	-9.7	12.6	24.5	-11.9	14.3	42.9	-28.6
North Asia	4.5	14.7	-10.2	7.4	19.9	-12.5	9.2	33.5	-24.3
United States	1.8	10.6	-8.8	2.1	16.2	-14.1	6.0	20.0	-14.0
New Zealand	2.1	1.4	+0.8	4.3	2.2	+2.1	5.0	2.7	+2.3
Japan	1.9	9.0	-7.1	2.3	10.5	-8.2	2.6	14.9	-12.3
Korea	0.8	1.1	-0.3	1.4	2.2	-0.8	2.0	3.6	-1.6
China	0.2	1.9	-1.7	0.7	3.8	-3.1	1.4	10.7	-9.3

*E = Exports**I = Imports**D = Deficit*

Source: DFAT: Exports of Primary and Manufactured Products: Australia 2001 - 2002.

East Asia = ASEAN + North Asia;

North Asia = China, Hongkong, Japan, Korea's, Macau, Taiwan, Mongolia.

ASEAN = Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, Vietnam

NAFTA = Canada, Mexico, United States, Puerto Rico and U.S. Virgin Islands.

TABLE TWO

**AUSTRALIA'S TRADE IN ELABORATELY
TRANSFORMED MANUFACTURES (ETM'S):
1995-96 to 2001 - 2002: \$ BILLION**

	1995-96			2001-2002		
	Exports	Imports	Deficit	Exports	Imports	Deficit
World	17.9	58.7	-40.8	26.2	89.1	-62.9
ASEAN	3.6	4.2	-0.6	3.3	8.5	-5.2
European Union	2.1	15.2	-13.1	3.4	21.7	-18.3
NAFTA	2.0	15.7	-13.7	5.4	19.6	-14.2
East Asia	7.4	23.0	-15.6	7.5	40.1	-32.6
North Asia	3.8	18.8	-15.5	4.1	31.6	-27.5
United States	1.7	14.5	-12.8	5.0	18.0	-13.0
New Zealand	4.0	1.7	+2.3	4.5	2.1	+2.4
Japan	0.8	9.9	-9.1	0.7	14.2	-13.5
Korea	0.7	2.0	-1.3	1.0	3.4	-2.4
China	0.4	3.6	-3.2	0.8	10.0	-9.2

Source:

DFAT: Exports of Primary and Manufactured Products: Australia 2001 - 2002.
East Asia = ASEAN + North Asia;
North Asia = China, Hongkong, Japan, Korea's, Macau, Taiwan, Mongolia.
ASEAN = Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines,
 Singapore, Thailand, Viet Nam
NAFTA = Canada, Mexico, United States, Puerto Rico and U.S, Virgin Islands.

APPENDIX TO PART I

Comments on the proposed Free Trade Agreement between the United States and Australia

An interim report for
Australian Manufacturing Workers Union

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While the National Institute endeavours to provide reliable forecasts and believes the material is accurate it will not be liable for any claim by any party acting on such information.

Comments on the proposed Free Trade Agreement between the United States and Australia

1. Introduction

A Free Trade Agreement (FTA) between the United States and Australia has been proposed. The details of the Agreement will be finalised by negotiations. However, the intention is to remove as many obstacles to trade across a range of issues. The intention is:

- to remove goods trade barriers, such as tariffs, quotas, government export monopolies, export subsidies, customs barriers, etc;
- remove restrictions to trade in services and allow free access of entrants to, for example, telecommunications, media, etc; and
- removal of foreign investment restrictions by governments and any restrictions in the context of investment once made.

The only major assessment of the proposed FTA has been made by the Centre for International Economics in June 2001. The results are summarised.

Summary of "Economic Impacts of an Australia-US Free Trade Agreement", Centre for International Economics, June 2001

The report by the Centre for International Economics uses two models to forecast the economic impacts of an Australia-US free trade agreement. The APG-Cubed model, is a dynamic model employed to model welfare, GDP, investment, capital flow and current account effects, but at the expense of modelling individual commodities. It assumes the full implementation of the FTA, in which all barriers to trade are removed.

The second model, the GTAP, is a comparative static computable general equilibrium model. It assumes that consumers maximise utility and producers maximise profits, that production exhibits constant returns to scale, and that markets are perfectly competitive. It assumes an instant removal of trade barriers.

Tariffs to be removed

The most significant tariffs to be removed by the US are an 80 per cent on sugar and 23.9 per cent on dairy. Then there is an 8.46 per cent tariff on textiles, clothing and footwear. All other tariffs are between 0-2.5 per cent. On average US tariffs are 2.8 per cent.

The most significant tariffs to be removed by Australia are 11.69 per cent on textiles, clothing and footwear, and 9.3 per cent on motor vehicles and parts. Then there are tariffs between 4-5 per cent on beverages and tobacco, wood and paper products, ferrous metal products and other mineral and metal products. There is a 3 per cent tariff on dairy and on manufacturing other than electrical, transport and those mentioned above. Other tariffs fall between 0-2 per cent, including transport and electrical equipment.

APG-Cubed model

The APG-Cubed Model concludes by 2010 a \$2 billion increase in GDP for Australia and similarly a US\$2.1 billion increase for the US by 2006. This is more significant for Australia, amounting to a 0.4 per cent rise for Australia but only a 0.02 per cent rise for the US. The rise in exports is 0.9 per cent.

Investment is initially worse under the FTA, falling by 0.2 per cent. This is despite increased investment in agriculture and mining. The negative effects are attributed to initial adjustments in manufacturing. By 2006, investment will have risen to 0.6 per cent higher than otherwise. At this point investment in agriculture will be higher by 1.5 per cent.

Durable manufacturing in the US sees a significant increase in exports - 0.12 per cent by 2006.

The above estimates were calculated assuming the complete removal of all identifiable trade barriers. Should only 50 or 25 per cent be removed, the expected gains for GDP are around 50 and 25 per cent compared to that of complete removal. Partial removal still results in the same time profile of variables. Of course, this is partial removal of quantifiable variables, like tariffs.

According to the report, all other countries benefit with GDP increases, even if they are only marginal. This optimistically suggests trade creation will outweigh trade diversion. New Zealand, whose major trading partner is Australia, is the only 3rd party country expected to see a significant benefit. Their real GDP will increase by 0.04 per cent by 2008. These gains are attributed to New Zealand trading more to Asian partners from whom Australian trade was diverted.

GTAP

The GTAP model has increased commodity detail, but considers fewer regions. Unlike the APG-cubed model it doesn't consider investment or does it make dynamic adjustments. 1998-99 GTAP database was used, which means the A\$:US\$ exchange rate of 0.64 underpins the data.

The GTAP estimates a 0.34 per cent rise for Australian GDP, and an 0.02 per cent rise for US GDP under a full liberalisation. It also expects Australia's export volume to increase by 1.35 per cent, more greatly than import volume at 0.67 per cent.

The value of exports from Australia to the US is US\$1,182 million. US\$700 million is a result of sugar and dairy. There is a US\$154 million for textile, clothing and footwear.

The value of US exports to Australia will be US\$1,854 million. The main contributors are: motor vehicles and parts - US\$525 million; textiles, clothing and footwear - US\$249 million; chemicals, rubbers and plastics - US\$181 million; and other manufacturing - US\$604 million. However, significant decreases in imports from other countries mean that the total value of imports to Australia increases by US\$675 million. For instance, the value of motor vehicles and parts from the rest of the world by \$330 million.

The marginal increase in Australia's export prices can be attributed to dairy and sugar. The tariff reductions are so significant, that the subsequent increase in demand for Australian exports results in a rise in the domestic and free-on-board export price. Export prices for other sectors fall.

Domestic output increases for all agricultural sectors. The largest increase is for sugar and sugar cane, which increase output by around 7.7 per cent. The next significant gain is 1 per cent for raw milk and dairy. These are the areas most directly affected by tariff reduction. Other increases vary from around 0.03-0.1 per cent for grains, mining and energy, animal products, forests and fishing, to 0.6 per cent for meat products.

Domestic output for textiles increases by 1.37 per cent. Most other sectors have increases of 0-0.4 per cent. Such manufacturing sectors as electronic equipment and other transport (besides MVP) increased 0.43 per cent and 0.19 per cent respectively. There are reductions in output for wood and paper products of -0.07 per cent, and other manufacturing -0.17 per cent. The only significant change to a US sector output is for sugar which falls by 1.5 per cent. The 2,551 per cent increase in sugar exports to the US is equivalent to US\$442 million. The 57 per cent rise in sugar imports is equivalent to US\$10 million.

In the motor vehicles and parts sector, trade liberalisation produces cheaper production inputs from the US, hence cheaper production costs and an expansion in output. Coupled with the reduction in tariffs to the US, this produces the increase in exports to the US of around 10 per cent. However, the MVP sector has a slight reduction in output, as the loss of market share to increased US imports outweighs the expansion effect.

The results of GTAP are regarded as permanent annual change compared to what otherwise would have occurred, and represent the change only after economy has had time to adjust fully to liberalisation effects. It is a US priority that reasonable adjustment periods be allowed for import sensitive products. In the case of NAFTA, such adjustment periods were up to 10 years in the case of some agricultural products. Hence, the 'full adjustment' might take a long time, at least a significant portion of the time period for which these forecasts are made.

A critique of the CIE report

The model results left out a number of important issues for Australia.

The models do not cover US domestic subsidies to agriculture which, while not in the interests of Australia, would not necessarily be removed by a bilateral agreement. Future US subsidy variation could substantially reduce the benefits.

Quarantine restrictions on many US agricultural products provide another trade barrier if correct scientific risk assessments are not being done. It is a US priority to negotiate for these restrictions to be lifted, or done correctly. The effects of these were not quantifiable, although assumed to be negligible by the report.

The US will also argue for the removal of Australia's export monopoly arrangements for wheat, sugar and barley. These were not considered in the report due to difficulties in isolating the effect of these on individual trading partners.

Rules of origin considerations, especially in the case of manufacturing, were considered to be beyond the scope of the study. This was despite the fact that in some cases the details of these rules and their implementation could have a major impact.

Also, it is a US priority to negotiate for removal of Australia's discrimination against their services market. Specifically, attempting to secure enhanced access of US services firms to telecommunications. These sorts of changes were not quantified in the modelling. These are major uncertainties which, once analysed, could significantly reduce the benefits to Australia.

There may well be a fatal methodological flaw with the modelling. What is being compared here is one country with another country one 20th its size. For the US what is being used is average relativities across all the States. There could well be States which have a significantly higher comparative advantage in agricultural products with capacity to expand, but where the capacity is dormant because of a variety of historical and institutional reasons. In this case free trade for Australia could well give those States opportunities which would cancel benefits to Australia which has been assessed in the modelling. A thorough analysis would require that the modelling be redone using groups of US States to ensure that the benefits assessed are real.

The results achieved is what would be expected where trade is assumed to be driven by revealed comparative advantage. However, the major problem with the CIE analysis is that it misses the big picture. The major drivers of growth for the world economy over the next 20 years will be the so-called knowledge economy. It will be no different for Australia, especially for the States (excluding Western Australia, Queensland and the Northern Territory).

For this type of economy the key drivers of growth are the:

- creation of knowledge;
- the application of knowledge in new innovation which enhances competition over more products and processes; and
- the development of industry clusters to generate synergies between network of firms to sustain the rate of innovation and competitiveness.

The knowledge economy centres around the role of manufacturing. New knowledge to be useful has to be more often than not embedded in new products, that is manufactured products.

The development of industry clusters requires that they be nurtured and protected. This is the current core strategy of almost all governments in Western Europe and East Asia. This protection will require, from time to time:

- (1) subsidies;
- (2) preferential purchasing arrangements; and
- (3) restrictions on foreign investment to prevent cluster destruction and the transfer of the technology to other countries.

The CIS study clearly shows that even on a competitive advantage basis, Australian manufacturing output, on a whole, would not be advantaged by the proposed FTA, with the motor vehicle sector being the most adversely affected due to the increase in exports from the United States. This industry is the only major one in the Australian manufacturing sector which can claim the status of a knowledge intensive industry.

The US is the most competitive world knowledge economy. Given Australia's small knowledge economy base, without assistance Australia is likely to find it near impossible to establish the range of industry clusters that are now driving world growth. Without some type of restrictions, especially against the world's most dominant knowledge economy, either new clusters will not be started or will be eliminated before they become competitive.

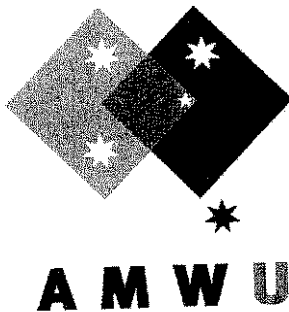
The Canadian experience under NAFTA is of direct relevance to Australia. It is here that the experience sounds warning bells for Australia. In a study by Industry Canada, Duncan P. and S. Murphy, 1999 "The Changing Industry and Skill Mix of Canada's International Trade", Paper No. 4, the authors did note the trade boom that followed NAFTA. The extent of the export boom was that between 1989 and 1997 the direct and indirect employment created by Canada's export industries' share of total Canadian business employment rose from 19.6 per cent to 28.3 per cent. On the other side of the ledger, the job displacing effect of imports rose from 21.1 per cent of total business employment in 1989 to 32.7 per cent in 1997. This meant that between 1989 and 1997 870,700 export jobs were created but during the same period 1,147,100 were destroyed by imports, creating a net employment deficit of 276,000 employment positions. In part the results are due to the manufacturing sector having greater "spill over" impacts on job creation than the agricultural sector. In the early years of NAFTA Canadian manufacturing appeared to be significantly negatively affected.

This aspect has to be set against the risks to the agricultural sector in Australia. Environmental constraints (land/water) are likely to place severe limitations on the growth in the agricultural sector over the next two decades. Some agricultural sectors may not be in a position to take advantage of the benefits generated by the FTA.

The a priori evidence is that there would be large risks for Australia to agree to FTA without a detailed and exhaustive industry by industry evaluation in the context of the knowledge economy drivers. This may well show that once dynamic growth drivers are taken into account the costs would outweigh the benefits. The reality is that the benefits, as announced by the CIS, are small, equal to one to two months of timed growth. This is minute compared to the potential growth drivers Australia could be foregoing. The risks to Australia is that it will end up with an economic structure similar to Iowa and will give up the chance to resemble Silicon Valley.

Part II

Submissions on the General Agreement on Trade In Services



A M W U

RECOMMENDATIONS

1. The Australian Government should be more open with its dealings on GATS. Requests made of Australia should be made public.
2. The Australian Government should continue the recent practice of making Australia's offers under GATS public.
3. DFAT material on GATS should be balanced. DFAT should issue detailed discussion papers on contentious trade issues. These discussion papers should acknowledge and discuss alternative views in a methodical and objective manner.
4. Education, health, water, postal and cultural services should not be included in GATS negotiations. Public services should be clearly excluded from the operation of GATS.
5. GATS commitments should be subject to parliamentary approval.
6. Australia should act in an ethical manner in GATS negotiations, consistent with fair trade principles, and encourage other nations to follow such principles.
7. GATS should not interfere with the provision of public services by government or the legitimate regulation of services.
8. Australia should not go beyond what it has been already offered in its initial offer of 31 March 2003.

INTRODUCTION

AMWU members stand to be directly affected by the outcome of GATS negotiations either through their employment or more generally as members of their local communities. As a body with a long commitment to internationalism, the AMWU is also concerned that the rights of working people in other countries to self-determination and the provision of public services are not adversely affected through the GATS negotiations. For this reason the submission also goes to Australia's conduct in the GATS negotiations more generally.

This part of the AMWU submission is structured in five sections. In the first section of the submission the AMWU discusses general matters concerning GATS, its interpretation and the process of community consultation and provision of information with respect to GATS. This discussion also includes principles that should be used more generally in the GATS negotiations.

In the second section of the submission the AMWU puts forward its position on a number of the requests that the government has reportedly received. The AMWU generally opposes Australia agreeing to most of the types of requests that have been briefly outlined in DFAT's Office of Trade Negotiations "Discussion Paper on the General Agreement on Trade in Services" and welcomes the limited nature of the offers made on 31 March 2003.⁴¹

The third section of the submission makes a number of comments in relation to the Australian negotiating proposals that have been presented to the WTO Council for Trade in Service.

The fourth section of the submission comments on the GATS issues of "subsidies", "least trade restrictive" and "necessity test".

The fifth section of the submission comments on the government's initial offers under the current GATS round which would be made on 31 March 2003.

⁴¹The paper can be downloaded at <http://www.dfat.gov.au/trade/negotiations/services/>.

A. GENERAL GATS ISSUES: PROCESS, INTERPRETATION, NEGOTIATING PRINCIPLES

1. The need for objectivity and openness

The AMWU welcomes the discussion of issues outlined in the paper prepared by the Senate Foreign Affairs, Defence and Trade References Committee "General Agreement on Trade in Services: What is it?; What's the fuss?". The paper is particularly welcome as it attempts to briefly give an account of *both sides* of the GATS debate.

Such an approach contrasts to much of the DFAT material on GATS which tends to give only the most superficial details of criticisms of GAT and then a strong focus on the Governments view of the beneficial effect of GATS. See for example the "GATS Factsheet" on the DFAT website,⁴² where the "facts" are expressed as though the writer is answering criticisms - the criticisms themselves being entirely absent. Criticisms are similarly dealt with in a shallow way (or not at all) in the discussion of issues in the Office of Trade Negotiations' "Discussion Paper on the General Agreement on Trade in Services".⁴³

This tendency to repeat the standard WTO material on GATS rather actually engaging in debate or discussion has not merely been limited to written publications. The AMWU was told on one recent occasion by a DFAT official during a verbal consultation that there was absolutely no question regarding the interpretation of a "service supplied in the exercise of government authority".⁴⁴ Unfortunately some issues are not black and white, treating them as such only breeds further mistrust and confusion.

The AMWU submits that the Senate Inquiry should recommend that in the future the Department provides regular and systematic discussion papers of current issues surrounding all international trade negotiations, particularly where those issues are controversial. While the Department may obviously hold a certain view as to the merits of particular arguments, the discussion papers should acknowledge and discuss alternative views in a methodical and objective manner.

If there is genuine uncertainty in an area, the Department's approach to the public should be open enough to acknowledge that uncertainty, including in written material.

Such a recommendation is not asking the Department to engage in an unduly burdensome task - the References Committee has managed to outline a whole series of community concerns that have hitherto now been glossed over by the Department as well as an outline the alternative "pro-GATS" arguments *and* gave a succinct account of the GATS in only 13 pages (see the "General Agreement

⁴²http://www.dfat.gov.au/trade/negotiations/gats_factsheet.html

⁴³ For example, the paper gives the contentious issue of the relationship of public services and services that are an "exercise of government authority" issue only one and a third paragraphs (page 6 of the paper).

⁴⁴ Subsequent consultations have suggested that this view is not held as stridently by other officials at DFAT.

on Trade in Services: What is it?; What's the fuss?"). There is no reason why an independent DFAT could not cover similar issues - in even greater detail - in the discussion papers it releases.

The AMWU notes the very recently released material surrounding the publication of the GATS offers. This material appears to be an improvement on some of the previous DFAT material. The AMWU welcomes this step forward.

2. DFAT's view of GATS and Public Services

In the Office of Trade Negotiations (OTN) recent "Discussion Paper on the General Agreement on Trade in Services",⁴⁵ DFAT appears to be of the view that public services are not covered by GATS. However, DFAT provides little reasoning to support such a position.

In this regard the AMWU submits that the Australian government should be extremely cautious in relation to the "government authority exception" upon which DFAT relies. Article I.3(c) of GATS deals with the provision of services by a governmental authority. It provides:

"a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers."

The AMWU does not agree with DFAT's assessment that such a definition necessarily excludes public services. How can civil society be certain that public services are not covered by GATS when the agreement itself states that if a service is provided either on a commercial basis or in competition with one or more service suppliers it *is* covered by GATS? The DFAT discussion paper appears to suggest that as public services are often delivered for a mix of social policy reasons this means they cannot be supplied "on a commercial basis" or in "competition with one or more service providers". But what of partial privatisation of an industry, corporatisation or competitive tendering situations? Must the "commercial basis" be the only basis, the dominant basis or simply part of a mix of reasons? Is the fact that a service is provided for a "mix of socially policy reasons" even relevant to whether or not a government provided service is in "competition" with another service supplier?

Ultimately it would appear that the issue of the interpretation of Article I.3(c) may well fall to a WTO disputes panel. The AMWU finds such a prospect deeply troubling. The WTO Disputes Panel is made up of trade law experts. It is not democratic and its processes are not open to the public in the way that domestic courts are open to the public.

As well as the "governmental authority" argument, the DFAT discussion paper also refers to paragraph 7 of the Doha Declaration as further evidence of the exclusion of public services. This is similarly unconvincing. The paragraph merely "reaffirms" what has been put earlier:

"7. We reaffirm the right of members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services."

The statement re-affirms what we already know, the GATS does not prohibit regulation per se - it constrains certain types of regulation. The "overall" right to regulation (which is granted in the constitution of most nations and noted in the preamble to GATS) remains intact however, it is *wholly subject* to the GATS agreement.

⁴⁵The paper is also sometimes referred to as the "DFAT discussion paper" in this submission.

The right to regulate services is critical to the ability of people to achieve and maintain self-determination. In this round and in future rounds, the Australian government must therefore use extraordinary caution in GATS negotiations.

When conducting trade negotiations the Australian government should attempt to *ensure* that public services, including health, education, postal, water and cultural are not subject to GATS. Wherever possible, public services such as health, education, postal, water and cultural services should be formally exempted from GATS.

3. The ability to regulate and provide public services must be maintained

A Broad and Substantial Commitment Protected by Parliament

The government has given a commitment that it "will not agree to any diminution of our overall right to regulate that would constrain our ability to pursue legitimate policy objectives in the regulation of services sectors, or compromise the capacity of governments to fund and maintain public services"⁴⁶. This statement must translate to a broad, substantial and ongoing commitment. It would be helpful if in the future the government could put some meat on the bones of such statements and give specific examples of what is meant by "legitimate" policy objectives and "maintain public services". Where exactly are the no go areas for the government under GATS? What about future GATS rounds?

GATS negotiations should not only not restrict current policy objectives but future policy decision must not be compromised for all time by the present government commitments. If a certain type or level of liberalisation does not serve the Australian people well, future Australian governments must be free to regulate, or re-provide public services, without incurring costly obligations for compensation to other nations. The AMWU therefore welcomes the relatively narrow additional commitments outlined in the government's initial offer.

The AMWU is deeply concerned that modern trade treaties, and in particular GATS, fetter future parliaments in a way that most international treaties do not. While human rights based treaties, such as ILO conventions, have no enforceable dispute mechanism - for a nation to legislate or act in a manner inconsistent with GATS carries the risk of substantial economic penalties. This novel feature of trade treaties dramatically increases the importance of the government acting with complete openness. This feature also dictates that GATS commitments should be made sparingly, if at all, and only after extensive community consultation and the oversight. Consistent with what the AMWU has said in relation to the USFTA, GATS negotiations should only take place with the oversight and consent of both houses of parliament.

4. GATS Trade Offs Should Not be Made in the Hope of Obtaining Agricultural Concessions

Australian governments must not make trade offs in the GATS round unless it can show that the extra commitment in GATS will directly bring a benefit to Australia. Commitments in GATS should not be made in the hope of obtaining agricultural sector concessions from the EU and US. Public services are too important to be traded off in the hope of some minor improvement on

⁴⁶ Department of Foreign Affairs and Trade, Office of Trade Negotiations, "Discussion Paper on the General Agreement on Trade in Services (GATS)", at page 10.

agricultural tariffs. The AMWU again notes and welcomes the fact that the Australian government appears to propose relatively few extra commitments under GATS in the initial offers made on 31 March 2003.

5. Ethical and Fair Trade

The AMWU is also concerned that the Australian government should negotiate in an ethical manner, consistent with fair trade principles. This approach should include full disclosure to the Australian public.

The AMWU is particularly concerned that the Australian government should not support a system that allows the regulation and/or provision of services to be adversely affected in nations where the people of that nation have no say in the obligations that are incurred in their name.

The WTO and the Australian government are on shaky ground when they insist on the "democratic" and "free" nature of WTO trade agreements. The AMWU notes for example, the OTN discussion paper's carefully worded claim that "[t]he nature and extent of these commitments are strictly a matter of choice of Member governments" and further that "[t]hey remain entirely free to decide whether or not to open such sectors to outside competition and to make (or not) binding commitments".⁴⁷

This statement repeats the standard neo-liberal argument regarding the regulation of international trade. A simplistic neo-liberal view of world trade may indeed view nations as free to make their own choices in matters of trade commitments. In the same way, a neo-liberal view of society conceives it as made up of individuals who are free to make their own choices. Such views while at times true in a strictly (and narrowly) formal sense, ignore amongst other things, the power relationships which exist between individuals and, at an international level, between countries.

Formal Not Substantive Choice

For some nations the choice to liberalization is made for them. Ravaged by debt, beholden to the dictates of its lenders and the International Monetary Fund, many nations have little real choice but to do as the market, the IMF and their lenders insist. Nations facing desperate (and unfair) debt situations are not in a position to "freely choose" what services are opened up and regulation forgone.

For example the ex-chief economist for the World Bank, Joseph Stiglitz, has observed:

"Today, the emerging markets are not forced open under the threat of the use of military might, but through economic power, through the threat of sanctions or the withholding of needed assistance in a time of crisis. While the World Trade Organisation was the forum within which international trade agreements were negotiated, US trade negotiators and the IMF have often insisted on going further, accelerating the pace of trade liberalization. The IMF insists on this faster pace of liberalization as a condition for assistance - and countries facing a crisis feel they have no choice but to accede to the Fund's demands." ⁴⁸

⁴⁷Department of Foreign Affairs and Trade, Office of Trade Negotiations, "Discussion Paper on the General Agreement on Trade in Services (GATS)", at page 4 and 6.

⁴⁸Stiglitz J., "Globalization and Its Discontents", 2002, Penguin Books Australia Ltd, Camberwell, at page 62.

Even without the IMF and markets looking over their shoulder many poorer countries are at a significant disadvantage in terms of diplomatic resources. This disadvantage is well documented. Many of the least developed countries do not even have the resources to have representation in Geneva, let alone participate in the types of studies and lobbying that developed nations take for granted.

In addition, many developing nations are desperately seeking a fairer deal on other trade issues. In such circumstances, developed nations are clearly in a position to drive a harder bargain on services as a pay off for movement in other areas, for example the on-again-off-again negotiations relating to the availability of imported generic medicines under the TRIPS agreement. Reports from developing country trade diplomats of threats to withdraw tariff preferences are not unheard of in WTO negotiations.⁴⁹

While it may therefore be true in a formal sense to say nations are "free to choose" their GATS commitments, this "choice" is severely circumscribed by the circumstances nations find themselves in and the activities of others in the international trade negotiations system.

The AMWU is concerned that the Australian government, and other more powerful governments do not act in a predatory way in relation to other nations on behalf of large multinationals. In this context the AMWU notes that Australia has made undisclosed GATS requests to a large number of developing and debt burdened nations.

Who's Choice? Who's Freedom?

It is also important to point out that even where nations may be formally "free to choose" what commitments they will give under GATS, in many WTO member nations the people of the nation are not "free to choose" their own government - let alone the trade agreement their governments enter. In such circumstances the "freedom" emphasised by DFAT is the freedom of dictators, despots and those fundamentally against democracy to do as they will.

The example of Zimbabwe is an instructive one. Australia's own "cricket tragic", the Prime Minister, has spoken out against the Cricket World Cup being played in Zimbabwe due to the abuse of human rights in that country:

"I would hope that the ICC would revisit this issue. I'm disappointed they took the decision they did. I know it's hard and I know they tend to look only at the question of player safety. But in the end, there are some broader issues involved here."

"You have a completely, illegitimate, undemocratic, stolen government in Zimbabwe. That was the most rigged election in years and that's been attested to by all manner of international opinion."

And, of course, you have appalling human rights abuses occurring in that country,"⁵⁰

At the same time the government continues to participate in a trading system that will let the Zimbabwean government not only "speak" for the people of Zimbabwe, but make commitments in relation to public services that will bind them in the future on the pain economic penalty enforceable in an international body.

⁴⁹Kwa A., "Power Politics in the WTO", 2002, Focus on the Global South, Bangkok, at page 10.

⁵⁰Prime Minister John Howard quoted in the Age Newspaper 30 December 2002.

Although according to the DFAT discussion paper Australia has made no request to Zimbabwe in the latest round of GATS negotiations, the leaked EU documents show that Zimbabwe is still very much part of the GAT process. The Australian government has specifically made GATS requests to a number of countries where democracy either does not exist or is seriously compromised. These nations include:

Brunei

In Brunei the Sultan has ruled by executive decree since 1967 and the Legislative Council has been appointed by the monarch since 1970.⁵¹

There is no democracy in Brunei. The people of Brunei have no ability to affect which trade agreements their government enters. Brunei is nevertheless a WTO member. The Australian government made an undisclosed request to Brunei for the liberation of services under GATS.

China

China is a one party state where dissent continues to be tightly controlled. China has a long record of abuse of human rights. Human Rights Watch has recently called for the release of a number of labour activists who have been wrongly charged with subversion : "The sole purpose of these charges is to discourage other workers from protesting, making contacts with banned democracy groups, or speaking to foreign media," ... The workers were only asking for unemployment benefits already promised to them by the state."⁵²

There is no genuine democracy in China. The people of China have no ability to affect which trade agreements their government enters. China was nevertheless admitted to the WTO. The Australian government made an undisclosed request to China for the liberation of services under GATS.

Pakistan

Pakistan continues to be ruled by General Pervaiz Musharraf since he lead a coup against the elected, if corrupt, government in October 1999. In March 2001 leaders of groups calling for a restoration of democracy were detained.⁵³ Human Rights Watch called the elections in late 2002 "deeply flawed". The Commonwealth observers of the same elections stated that "We have observed an incomplete democratic process". Australia has opposed Pakistan's return to full membership of the Commonwealth due to the lack of democracy in that nation.⁵⁴

Despite the 2002 elections there continues to be no genuine democracy in Pakistan. The people of Pakistan have no ability to affect which trade agreements their government enters. The Pakistan government is nevertheless a WTO member. The Australian government made an undisclosed request to Pakistan for the liberation of services under GATS.

⁵¹SBS World Guide - see www.sbs.com.au

⁵²See www.hrw.org, 13 February 2003

⁵³SBS World Guide

⁵⁴The Guardian, www.guardian.co.uk, 2 November 2002

United Arab Emirates

In the United Arab Emirates overall authority is vested in the Supreme Council of the seven emirate rulers who are absolute monarchs in their own states.⁵⁵

The United Arab Emirates is not a democratic nation. Like Brunei, China and Pakistan, the United Arab Emirates government is nevertheless a WTO member to which the Australian government made an undisclosed request to the United Arab Emirates for the liberation of services under GATS.

Other Nations

Many other nations to which we have made requests also have domestic situations that seriously impact on opposition voices in the country. In Malaysia for example, the government has used its notorious International Security Act to arrest opposition figures without warrant, trial or access to legal counsel.⁵⁶

Nevertheless governments who silence opposition voices are allowed to participate in the "democratic" process of the WTO and are "free to choose" which enforceable GATS commitments their people must adhere to.

Again, Joseph Stiglitz has observed other international agreements with exactly this character:

"Perhaps of greatest concern has been the role of governments, including the American government, in pushing nations to live up to agreements that were vastly unfair to the developing countries, and often signed by corrupt governments in those countries. In Indonesia, at the 1994 meeting of leaders of APEC (Asia-Pacific Economic Co-operation) held at Jakarta, President Clinton encouraged American firms to come into Indonesia. Many did so, and often at highly favourable terms (with suggestions of corruption "greasing" the wheels - to the disadvantage of the people of Indonesia). The World Bank similarly encouraged private power deals there and in other countries, such as Pakistan. These contracts entailed provisions where the government was committed to purchasing large quantities of electricity at very high prices (the so-called take or pay clauses). The private sector got the profits; the government bore the risk. That was bad enough. But when the corrupt governments were overthrown (Mohammed Suharto in Indonesia in 1998, Nawaz Sharif in Pakistan in 1999), the US government put pressure on the governments to fulfil the contract, rather than default or at least renegotiate the terms of the contract. There is, in fact, a long history of "unfair" contracts, which Western governments have used their muscle to enforce."⁵⁷

What kind of an international trading system is it that allows the obligation to provide and regulate public services to be signed away forever by "stolen" or non-democratic governments? Indeed what kind of a system *encourages* the obligation to provide and regulate public services to be signed away forever by "stolen" or non-democratic governments?

Even in nations such as Australia which are comparably free societies, the mechanisms by which ordinary people have input into trade agreements are often problematic. Negotiations are shrouded

⁵⁵SBS World Guide; see also CIA World Fact Book at www.cia.gov

⁵⁶See the Human Rights Watch Report on the Human Rights Watch's website at <http://hrw.org/backgrounder/asia/malaysia-bck-0513.htm>

⁵⁷Stiglitz J., "Globalization and Its Discontents", 2002, Penguin Books Australia Ltd, Camberwell, at page 71.

in secrecy and the executive has power to sign treaties without the treaty being debated or voted on in parliament.

The Australian government should conduct all of its international trade negotiations in an open and ethical manner. International trade should be based on fair trade principles, to advance the economic, social and cultural development of nations. The Australian government should pursue a system that links:

- trade and employment growth;
- trade and advancement of social justice;
- trade and enforcement of core labour standards including those conventions relating to;
 - * freedom of association and protection of the right to organise and collective bargaining (C87 & C98)
 - * the abolition of forced labour (C29 & C105)
 - * equality and anti-discrimination (C100 & C111)
 - * the elimination of child labour (C138 & C182)
- trade and environment protection mandates;
- trade and the advancement of democratic values.

The Australian government and other governments from comparatively wealthy nations should not act as economic mercenaries for international capital in the developing world and non-democratic nations.

It is the AMWU's view that much of what GATS contemplates liberalising is simply not appropriate for international trade agreements however, at the very least Australia should argue for a process within GATS whereby all nations can regularly and systematically review GATS commitments without the threat of WTO imposed penalties.

6. There should be full and timely public disclosure and consultation

The starting point for open and ethical trade negotiations must be public disclosure. In that context, the AMWU notes the release of the current DFAT discussion paper and the release of Australia's initial offer in the current bargaining round. While the AMWU welcomes what appears to be an increasing commitment to openness, more needs to be done.

The DFAT discussion paper - which was released on 15 January 2003 is not an adequate substitute for full and timely disclosure of all requests from and to each country. The AMWU strongly submits that such disclosure should take place. In addition, the effect of agreeing to such requests on the domestic legislation and the provision of public services should be clearly explained.

In this context the AMWU notes the requests made in the leaked EU Commission document with respect to investment and services.⁵⁸ Those requests included:

- Removal of foreign policy guidelines and the Foreign Acquisitions and Takeovers Act 1975 that allow for the rejection of foreign investment on the basis that it is not in the national interest.
- Removal of residency requirements for at least two of the directors of a public company.

⁵⁸The full text of the document can be found at <http://www.gatswatch.org/requests-offers.html>

- Removal of residency requirements for at least one equity partner in firms providing accounting, auditing and bookkeeping services.
- Removal of limits on foreign equity in Telstra.
- Removal of requirement that chairman of Optus and majority of Optus Directors must be Australian citizens.
- Treating postal services akin to traded goods and opening them to competition by private foreign companies. This would appear to potentially threaten the current policy of public ownership of basic postal services to ensure that they remain affordable for all Australians, especially those in rural and regional areas through cross-subsidisation.
- Treating water services akin to traded goods. Such an outcome would threaten state government policies of public ownership and price regulation of water services to ensure they remain accessible and affordable to all Australia.

If the EU document had not been leaked, Australians would have had no idea that such issues had become the target of GATS negotiations. The Australian people, and others around the world should not have to rely on ad-hoc leaks to know what is on the WTO/GATS agenda.

The AMWU notes that Australia's initial offer was made on 31 March 2003. For this reason the AMWU was advised that it was unlikely extensions would be given to the making of submissions on the discussion paper (which were due on 24 February). The quite short time that the community was given to comment on the issues raised in the discussion paper, the lack of detail regarding the requests, the complexity of the issues involved and the enormously broad range of requests constrained the ability of organisations to make a full and informed response to the invitation to make submissions. Notwithstanding the relatively limited increases in our commitments offered by the government on 31 March 2003, the AMWU does not believe that the process in the lead up to 31 March was satisfactory. The AMWU again stresses the need for full and timely disclosure and consultation.

B. REQUESTS RECEIVED BY AUSTRALIA

This section of the AMWU's submissions deals with the requests made to Australia outlined by the DFAT discussion paper. While the AMWU notes that the initial offers made public by the Australian government appear to indicate that Australia will not accede to the majority of the requests in the current round, the AMWU nevertheless seeks to briefly comment on the requests on the basis that:

- The initial offers are not final;
- The issues will almost inevitably be revisited by future Australian governments as GATS currently provides for continuous rounds of liberalisation; and
- Recent international events suggest the Australian government appears to be increasingly willing to put the wishes and priorities of the United States government ahead of those of the Australian public.

Investment

The AMWU opposes the following requests which were identified in the DFAT discussion paper:

- the government agreeing to the requests for the elimination of the requirements that all foreign service providers are subject to the foreign investment policy guidelines and the Foreign Acquisitions and Takeovers Act 1975 in the pre-establishment phase.
- the elimination of foreign investment policy guidelines in the post-establishment phase.
- the reduction of the requirement under the Corporations Act which states that directors of a public company must be ordinarily resident in Australia.

Australia is already a very open society with a long history of welcoming foreign direct investment, Australia's restrictions on foreign investment are valuable policy tools that should not be sacrificed unnecessarily in GATS trade negotiations.

Mode 4

With the exception of the request for quicker administrative procedures and multiple entry visa, the AMWU opposes all of the requests made to Australia and outlined in the discussion paper on page 14. In stating such opposition, the AMWU notes that the effect of acceding to the requests has not been explained by the discussion paper in terms of what changes would be necessary to current legislation and government policy. The AMWU recommends that the consequences of acceding to

certain requests are explained in a meaningful and analytical way in all future departmental literature.

The AMWU particularly notes that labour market testing, the requirement for a labour agreement and qualification requirements would appear to be policy mechanisms that should be available for the present and/or future Australian governments.

Most Favoured Nation (MFN) Exemptions

The AMWU strongly opposes the request that the most favoured nation exemption be removed from the Australian Co-production program which gives preferential co-productions arrangements for film and television productions. Such co-productions have been successful in enriching Australian culture. The ability to engage in this sought of co-production program should not be bargained away in a multilateral free trade agreement.

Professional Services Sector

The AMWU is strongly of the view that Australia will not be well served by agreeing to requests which reduce the ability of Australian governments to regulate profession services, especially legal and accounting services. Without more information the AMWU opposes the provision of full commitments on architectural and engineering services or the extension of "urban planning" to include architectural services".

Research and Development Services

The AMWU opposes the request to expand commitments under research and development to include natural sciences and interdisciplinary R&D. It is the AMWU's view that GATS commitments in this area could well restrict future legitimate government policy in this area.

Real Estate Services

The AMWU opposes the request to remove the commercial presence requirement for real estate services. As the discussion paper notes, a commercial presence in Australia enhances consumer protection. This requirement and ones like it should not be the subject of multinational trade agreements.

Other Business Sectors

The AMWU opposes full commitments on market access and national treatment being given for services incidental to manufacturing; technical testing and analysis services; maintenance and repair of equipment; packaging services; and printing and publishing services. Australia desperately needs a federal government with a visionary plan for the manufacturing industry. Such a plan must include co-ordinated, creative and active industry policy. The Australian government should not impose external limitations on future governments who may well undertake a more pro-active role in industry policy.

The AMWU opposes commitments being made to include arbitration and conciliation under "services related to management consulting". It would seem particularly inappropriate that market access commitments be made to Australia's system of industrial arbitration and conciliation.

Postal and Courier

The AMWU opposes the requests made to make additional commitments to postal services. Australia Post does a great job for Australia. It should not be subject to death by an international free trade agreement.

Telecommunication Services

The AMWU opposes the request made with respect to telecommunications, particularly the elimination of caps on foreign ownership of Telstra.

Audiovisual Services

The AMWU opposes requests made to grant full commitments to National Treatment and Market Access as well as the removal of Australia's MFN exemptions. The AMWU submits that such requests may well result in less domestic control programs. Australia must be free to legislate for whatever local content levels it wishes on Australian television.

Construction and related Engineering Services

The AMWU opposes the cross-border supply of construction and engineering services. The AMWU opposes the making of full commitments on special trade construction work and renting services relating to equipment for construction or demolition of buildings or civil engineering works with operator.

Education Services

The AMWU strongly opposes and additional GATS commitments being made in education services for the reasons given in the AFTINET submission.

Environmental Services

The AMWU does not support the request for a broadening of environmental services to include the types of sub-sectoral activities outlined in the DFAT discussion paper. The AMWU sees no benefit in the liberalization of environmental protection; water and wastewater management; solid/hazardous waste management; protection of ambient air and climate; remediation and clean up of soil and water; noise and vibration abatement; protection of biodiversity and landscape; or other environmental and ancillary services.

Financial Services

The AMWU opposes the elimination of restrictions on insurance branching and the removal of monopoly and licensing provisions. This is a good example of the inappropriate reach of GATS negotiations. Compulsory Third Party Motor Vehicle Accident and Workers Compensation Insurance should not be affected by commitments given in international trade agreements. There are many issues that are relevant to these important areas and our trade obligations should not be a fetter on present or future policy formulation.

The AMWU also opposes the other requests outlined in the discussions paper. Australia already has a very open financial sector. The requests appear likely to reduce rather than improve the accountability of insurers and banks to the community.

Energy Services

The AMWU notes the requests made in relation to energy services are "broad in scope" and that a number of members have indicated they will subsequently "further refine" their requests. The AMWU generally opposes additional commitments being given in this area. The provision and regulation of energy services in a nation should not be restricted by GATS. Market access commitments would seem particularly inappropriate for a variety of economic, social, environmental and strategic reasons.

Health and Social Services

The AMWU strongly opposes further commitments being made on health and social services for the reasons detailed in the AFTINET submission. The issue of trade agreements restricting the provision and/or regulation of health and social services enlivens tremendous concern in the community. The AMWU shares this concern.

Recreational, cultural and sporting services

The AMWU opposes further commitments being made in these areas. Further liberalization of gaming and betting is not in Australia's best interests.

Transport Services

The AMWU opposes additional commitments being given in this area.

C. AUSTRALIAN GOVERNMENT NEGOTIATING PROPOSALS TABLED AT THE WTO

The following discussion relates to Australia's Negotiating Proposals for various Services sectors which are contained in documents from the DFAT website (www.dfat.gov.au/trade/negotiations/services/wtopro0301.html). The documents have been presented by the Australian government as negotiating proposals to the WTO Council for Trade in Services in Geneva.

Telecommunication Services

The AMWU concerns in relation to this sector include the proposal that limitations be removed on the legal form commercial presence may take. The Australian government specifically identifies limitations such as requiring joint ventures with local partners as barriers to trade. The AMWU submits that such limitation may serve a useful purpose in countries which seek to gain some ownership and control over the expertise and profits that are associated with foreign direct investment. Such limitations would seem to be a useful tool for nation building and one that the Australian government should consider embracing rather than undermining.

The AMWU does not agree with the government that there is nothing "special or unique about telecommunication services that justifies different treatment from other services under the GATS". The AMWU sees telecommunication services as an essential service. There are strong arguments that essential services be government owned and regulated.

The AMWU does not support Australia entering into any international agreement that would mandate further privatisation or less regulation of the sector.

The AMWU also has concerns about the government's position on foreign ownership in relation to this sector. The AMWU supports the monitoring, and where necessary, limiting of foreign ownership of essential services in Australia.

Construction and related engineering services

The AMWU concerns in relation to the stated position of the Australian government in this sector include the identification of limitations on the type of commercial presence which can be established and foreign equity limitations.

The AMWU supports the rights of nations, including Australia, to determine the type of commercial presence which can be established (including foreign equity limitations) so that national governments may maximise the benefits of foreign direct investment for their constituents.

Distribution services

The GATS sectoral services classification list defines the distribution services sector as including commission agents' services, wholesaling services, retailing services and franchising services.

The AMWU again has concerns that the Australian government seeks to remove or relax the following:

- Restrictions on arms, ammunition and explosives
- Restrictions on agricultural raw materials and live animals
- Restrictions on the level/percentage of foreign equity ownership
- Limitations on ownership of specific assets, such as real estate
- Limitations on the type of corporate entity that firms can establish abroad
- Limitations on the scope of operations
- The requirement (or prohibition) to form joint ventures with local suppliers citizenship/residency requirements.

Many of the above types of restrictions would appear to be important or desirable in the national interest for legitimate ethical, environmental, animal welfare, economic and social reasons.

Educational and training services

The Australian Government indicates that "visa requirements regulating the free flow of international students" is an impediment to liberalising the education sector. While the AMWU supports the free flow of international students and academics, the AMWU notes the hypocrisy of a government that appears concerned to eliminate boundaries for students (largely from a relatively wealthy middle-class background) to study in Australia or overseas while at the same time doing all in its power to frustrate the attempts of desperate people fleeing from oppression and war entering Australian waters as refugees.

The AMWU strongly supports the government's position that:

"(b) The education services negotiations should not prevent Member countries from establishing their own education policy objectives, or prevent Member countries from applying regulatory measures necessary to achieve those objectives.

(c) The education services negotiations should not prevent Member countries from providing funds for education to meet domestic policy and regulatory objectives."⁵⁹

The AMWU submits that basic education should be provided free to all people. Public education should be publicly funded and free from corporate control.

⁵⁹Australia's Negotiating Proposal for Education and Training Services document from the DFAT website.

Environmental services

The AMWU notes the OECD's observation that "the environment industry is evolving rapidly beyond its traditional focus on pollution control and remediation / clean up activities to also incorporate a broader range of pollution management, cleaner technology and resource management activities."⁶⁰

The AMWU also notes that the Australia government has listed as an impediment to further liberalisation the limitations on the type of legal entity required. The AMWU does not support the removal of limitations on the type of legal entity required or the requirement to incorporate locally. Multinational enterprises must be accountable to the nations within which they operate. Government's should be able to place limitations on multinational enterprises that maximise the economic and social benefits for the people of the respective nation. Similarly the AMWU would generally not support the removal of other limitations identified by the Australian government such as those relating to limitations on foreign investment and the limitations on the ownership of specific assets such as landfills and sewage systems. The AMWU supports the rights of governments owning and controlling essential services such as landfill and sewage systems to maximise the long term benefits for, and security of, the local population.

The AMWU views with concern the EU request to a WTO committee to explore the enlargement of the definition of services, particularly the request that 'water for human use' which is currently excluded be included under environmental services. While European multinationals may be able to expand their markets in this way (the union notes that EU transnational corporations are already present in South Australia's water infrastructure services) - the AMWU opposes water privatisation in Australia and has serious concerns about the potential effects of privatising water in developing nations.

Financial services

The Australian government appears to suggest that the Australian reforms to the banking sector are a good model for other countries to follow: "Previous reforms by Australia were guided by the principle that less intrusive regulation would make our financial system more efficient and internationally competitive and, most importantly, would deliver improved choice and quality of service for consumers".⁶¹

Given that the Australian banking sector has seen massive job losses, branch closures, fee increases and rises in credit card and household debt at the same time as obscene levels of profits by the banks, the AMWU is somewhat bemused to find out that the Australian government believes that Australians are getting improved choice and quality of service from the banking sector.

The AMWU would oppose any negotiations that further deregulated the Australian banking sector. The AMWU also has concerns that privatising and liberalising financial markets in developing nations may limit those nations ability to control their own development of infrastructure and social welfare programs. In addition, if undertaken too rapidly deregulation could easily lead to the type of instability that occurred in East Asia. The AMWU submits that serious consequences will inevitably flow where nations liberalise their financial sector beyond their level of regulatory

⁶⁰See the Australia's negotiating proposal for environmental services document from the DFAT website.

⁶¹Taken from the Australia's negotiating proposal for financial services document from the DFAT website (accessed on or around 15 May 2002 at www.dfat.gov.au).

capacity. As economies are increasingly integrated, the failure of a financial system in one nation is more and more likely to have knock on effects to other nations. It is therefore in the interests of the global community that financial sectors are adequately regulated and developing countries are not coerced into a radical and rapid deregulation of their financial sectors.

D. OTHER GATS ISSUES

The AMWU has serious concerns over the Australian government's support of the "necessity test" and the "least trade restrictive" criteria. The AMWU would not support any international trade agreement that would have the affect of limiting Australia's ability to regulate essential services in the public interest on the basis of criteria which are important to local communities.

The AMWU opposes proposals to define government funding of public services as subsidies. The AMWU is concerned that such a definition may be used as a lever for the further privatisation or outsourcing of Australia's essential services.

E. THE INITIAL OFFER MADE ON 31 MARCH 2003

The AMWU welcomes both the publication and the limited scope of Australia's initial offer made on 31 March 2003. After attending the community consultations on GATS the AMWU was left with the impression that such a release was at best unlikely. The AMWU hopes that the decision to release the offer heralds a new openness in the government's approach to GATS issues. As the Australian Fair Trade and Investment Network recently noted in relation to the release of the public offer - there is still some way to go:

- The public was only able to know the content of the offer after it had been lodged with the WTO in Geneva. We were seeking public discussion before it was lodged.
- The offer is an initial offer only, subject to change at any time over the next 18 months of further negotiations. There should be a process of community consultation before any changes are made.
- The government has not released its requests to other countries, which we have asked for. We do not know for example whether Australia has made requests about health, education or water to other countries, including developing countries.
- There is still ambiguity in the definition of public services in the GATS. We are asking for all public services to be clearly excluded.⁶²

⁶²The dot points are taken from the AFTINET analysis that can be found at www.aftinet.org.au/campaigns/gatsoffer010403.html

CONCLUSION ON GATS

While the AMWU supports the regulation of international trade under a system of "fair trade", the AMWU is not supportive of the current system conducted through the World Trade Organisation and under agreements such as GATS. The AMWU believes that the current system of world trade is in serious need of reform. A new system needs to be created that is based on full disclosure and fair trade principles.

Notwithstanding this opposition, the AMWU restates its strong desire to be closely consulted by DFAT over proposed GATS commitments before they are made and calls on the government to increase the general level of openness in GATS negotiations.

Because of the nature of trade agreements such as GATS, the AMWU submits that no final commitments should be made without those commitments being approved by both houses of parliament.