



Edmund Rice Centre

Awareness  Advocacy  Action

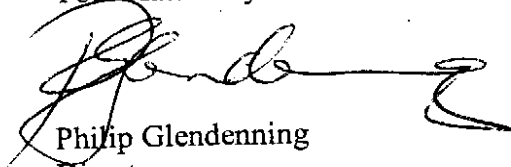
The Secretary
Senate Select committee on the Free Trade Agreement
Between Australia and the United States of America
Suite S1.30.1
The Senate
Parliament House
Canberra ACT 2600
Email: FTA@aph.gov.au



Dear Sir

I have attached a copy of a submission, on behalf of the Edmund Rice Centre for Justice and Community Education, to the Senate Inquiry on the Free Trade Agreement between Australia and the United States of America. I would be grateful if you would present the submission to the Committee.

Yours faithfully



Philip Glendenning
Director
28th April, 2004.

Submission to the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America

The Edmund Rice Centre for Justice and Community Education has promoted issues of human rights and social justice since its foundation in 1996. The Centre works in education, advocacy and social action to promote social change and a more equitable society, locally and internationally.

The Centre is concerned by a number of aspects of the proposed Free Trade Agreement (FTA) between Australia and the United States, in particular

- the implications for limiting democratic decision making,
- increasing the relative power of corporations and
- the move away from multi-lateralism in favour of bi-lateral agreements.

Each of these points is examined below.

We believe the effect of the FTA will be to further marginalise those members of our community who already have a weakened bargaining position, and thus exaggerate inequality.

For these reasons the Edmund Rice Centre urges the Committee to recommend that the Cabinet does not endorse the Agreement.

Limiting Democratic Decision-making

The FTA would allow a foreign government to challenge legislation properly determined by the Australian Parliament. There is no guarantee that the dispute resolution process would be open to the public. A panel of three agreed trade law experts can then determine that the law be changed or that compensation be paid. Such a provision undermines the ability of the Australian Parliament to make laws for the Australian community, clearly undermining the principle of democratic decision making.

This dispute resolution mechanism explicitly places trade at the centre of government decision making. It places a higher priority on trade law than on principles of social justice or human rights. By allowing laws to be challenged on the basis of their inconsistency with the principles of trade, the FTA places trade at the centre of government decision making. This is inappropriate and denies the importance of other policy goals.

Of particular concern, the FTA creates a *negative list* for services and investment. This acts to significantly extend the reach of the agreement to all areas not explicitly excluded. Thus, the FTA covers any new services that cannot currently be foreseen. Applying an agreement which is difficult to revoke or amend to areas that are currently unforeseen is highly unwise and denies future generations the right to make informed decisions about their needs and desires.

The FTA also includes '*standstill*' provisions in a number of areas (Annex A). This would prevent future Governments and future generations from making different policy decisions based on changed circumstances or changes in national priorities.

Increasing the Power of Corporations

- Makes Trade more important than social policy priorities
- Allows pharmaceutical companies to challenge the price paid to them under the PBS, and the Medicines Working Group is based on acknowledging the cost associated with developing drugs, rather than social benefits accruing from their use
- Changes to patent laws could delay access to cheaper medicines
- Extension of copyright laws could mean higher costs for higher education and libraries
- Reduces the authority of the Foreign Investments Review Board, making it easier for American corporations to invest in Australia
- Definition of public services is overly narrow and opens the possibility for essential services to be delivered through the market without consideration of social goals
- US companies given access to policy formation processes with regard to quarantine, GE-labelling and the environment

Moving Away from Multi-Lateralism

The FTA is a bi-lateral agreement between Australia and the United States of America. As such any benefits that do accrue will be limited to these two developed economies. Bi-lateral agreements enhance the bargaining power of the small number of powerful developed economies at the expense of the more numerous developing world. By negotiating agreements one at a time, more powerful countries are able to dictate terms, while multi-lateral processes allow coalition building between less powerful nations, such as recently occurred at the Cancun round of trade talks as part of the World Trade Organisation. In this instance, bi-lateralism also acts against Australia's national interest because we have a significantly weaker bargaining position. In general, entering bi-lateral agreements undermines attempts to develop multi-lateral processes.

Bi-lateralism also increases fragmentation in economic and political relations. Bi-lateralism encourages the development of trading blocks. Once established trading blocks may undermine global cooperation and reduce engagement between countries. The rise of trading blocks through the development of the European Union, the North American Free Trade Agreement and the Association of South East Asian Nations (to name a few), risks undermining multi-lateral forums. It is important for Australia to defend multi-lateralism to ensure international engagement and common interest.