

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

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I am compelled to accept the opportunity to submit before you, as even the little I know regarding this "Free Trade Agreement" raises in me a number of serious concerns for Australia and her people.

The Vassalisation of Australia

The Imbalanced Agreements Between Imbalanced Powers

Treaties and Bi-Lateral Agreements of the modern world do not differ distinctly in character from those of the ancient world. In particular, when a Treaty or Bi-Lateral agreement was entered by two nations of substantially differing strengths, almost without exception the "Bi-Lateral" agreement was not equitable in nature. The general result was the vassalisation of the lesser power. It is appropriate to quote "The American Heritage(R) Dictionary of the English Language" on the definition of vassal:

1. A person who held land from a feudal lord and received protection in return for homage and allegiance.
2. A bondman; a slave.
3. A subordinate or dependent.

A vassal became dependent on their lord (or suzerain as they are also referred). Where ever the vassal and the suzerain might disagree, the vassal was required to defer to the suzerain. The vassal's sovereignty ceased to be their own, becoming the property of the suzerain, who granted such parts of it back to the vassal in return for their continued obedience. If the vassal were to rebel, then the full weight of the suzerain's displeasure would be vented upon them.

The proposed Free Trade Agreement between Australia and the United States of America (FTA) is no exception to this model of exercising existing power with the intention of harvesting further power (a process which is usually referred to today as "getting ahead" or being "assertive"). Australia must humour herself if she thinks herself equal to the USA on economic, military or even technological terms. It is only natural for the USA to attempt to exert their proportionate strength over other nations, including Australia, and the text of the FTA reflects this. The USA is not guilty of any crime which we have not ourselves committed, for example our recent treatment of Pacific nations, and therefore I do not deride the USA as being any worse than any other nation. However, if we, as a nation can do no better than to take advantage of our weaker neighbours, we should at least have gained the common sense to not expect those larger than ourselves to behave with a greater degree of nobility.

If Australia becomes the vassal of any nation, she will have accepted the magicians bargain. In return for apparent privileges, she will have sold herself, and the privileges she thought she had bought, will still belong to the one she has sold herself to.

Specific Concerns to the Commonwealth of Australia

Loss of Right to Employ Reverse Engineering and Intellectual Effort to Enable Inter-Operability, Accessibility and Equity

My understanding of the FTA is that it requires Australia to adopt a number of changes to intellectual property laws. Specifically, while it is permissible now for Australians to apply their collective or individual efforts, whether through innovation or reverse engineering to ensure natural justice with regard to freedom of inter-operability. As examples of the importance of this, I cite the follow:

1. The development of the freely available SSLeay Internet Public Key Infrastructure in Australia.
This collection of programs paved the way for the local and global online markets by lowering the barrier to entry, whilst simultaneously providing the trust required. The positive effect of this development is to be measured in at least the tens to hundreds of billions of dollars since its development.
2. The reverse engineering of various proprietary formats to allow inter-operability with, for example MicroSoft Office, electronic book formats.
These developments have enabled those unable to communicate with these traditional products, either because they are employing novel, niche or alternative computing platforms for a variety of reasons including innovation, disabled access and equity. Of note here is the significant social benefit granted to those who exist in niche markets too small for the holders of the technology to consider (or even be able to profitably) service.

Loss of Sovereignty with regard to Intellectual Property and Jurisdiction

I am also led to believe that certain rights will be granted for USA resident entities to take legal action using their laws against entities resident and acting in Australia. This is of grievous concern, partly as it is a blatant vassalisation of Australia, but also because of the increased risk and costs it places upon Australian enterprise if it has to simultaneously adhere to several (possibly contradictory) legal codes. The Australian Parliament is sufficiently vocal from time to time regarding their displeasure with the impositions placed upon Australian enterprise by lower levels of government. A case in point being the measures the federal government took to allow telecommunications providers to install cable against the wishes of local council/shire governments. If such additional layers are such a hindrance that they require the periodic mitigation, then surely introducing an additional peer to the federal government themselves will only cause additional risk, cost, confusion and impediment to innovation and enterprise.

Petition

Therefore, citing the specific economic detriment which would result from the loss of the current freedoms of Australian enterprise to understand and freely develop novel and inter-operable applications and products based on existing technologies, *I call for any clauses of the Free Trade Agreement between Australia and the United States of Australia (FTA) regarding weakening the intellectual rights of academia, enterprise and citizens of Australia be irrevocably and immediately deleted.*

Therefore, citing the right of Australia to govern herself and maintain her own sovereignty, *I call for any clauses of the FTA regarding weakening the sovereignty of the Commonwealth of Australia be irrevocably and immediately deleted.*

Therefore, citing the relative military and economic weakness of Australia compared to the United States of America, the knowledge of human nature and international politics apparent to us all, and the evidence presented generally in this document, *I call for the FTA to be discarded completely and immediately, and not be renegotiated until such time as Australia is in a position to negotiate a equitable agreement with the United States of Australia, or until the United States of America act against their own interests, and offer us a similarly equitable agreement.*