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

May 2004
Central Australian Aboriginal Congress

Introduction

The Central Australian Aboriginal Congress welcomes this opportunity to put before the Senate our grave reservations regarding the potential impact of the proposed Free Trade Agreement between Australian and the United States on central Australian Aboriginal people's health. Congress has previously made a Submission to the Senate Foreign Affairs, Defence and Trade References Committee on: 'The relevant issues involved in the negotiation of the General Agreement on Trade in Services (GATS) in the Doha Development round of the World Trade Organisation & The proposed Free Trade Agreement (FTA) between Australia and the United States', in April last year. In that submission we outlined what we perceived to be the potential problems for Aboriginal health from Australia's continued participation in these treaty processes. Upon considering the draft of the Australia US Free Trade Agreement (USFTA) we would consider that many of the problems we envisaged then are now likely to be enacted if this agreement goes ahead in its current form.

Background.

Congress has a mandate from the Aboriginal people in central Australia to work towards improving Aboriginal people's health. Congress has operated for over 30 years on advocacy and service delivery to meet this goal. In that time Congress has been instrumental in pressuring governments of various political views and at both a national and territory level to recognise the legitimate and essential role of community-controlled health services and the need for adequate weighted funding to these services to address the massive health disparity between the Aboriginal and non-Aboriginal sectors of the Australian community.

Measures to address this disparity are patchily available and under funded. Despite the improvements to access to Pharmaceuticals through the extension of Section 100 coverage of the Pharmaceutical Benefits Scheme (PBS) to remote clinics, Aboriginal people without access to those clinics cannot benefit from this scheme. Currently there is still a shortfall in Commonwealth funding of around $200 million to provide primary health care services for all Indigenous people in this country. In addition to lack of access to health care services Aboriginal people are also suffering considerable disadvantage in access to employment opportunities and education services. These two factors alone undermine to a considerable extent the sorts of benefits that can be derived from improved access to health services. With an average weekly income of around $200, an Aboriginal resident of Alice Springs in severely marginalised in their buying power for essential goods and services. It is therefore alarming to consider the magnitude of costs increases to the Australian health system (either absorbed through government or passed on through co-payments to consumers) that can be predicated from the impact of the proposed Australia-US Free Trade Agreement. These as will be discussed later are estimated in the billions of dollars. If the current political climate cannot commit to $200 million dollars additional for primary health care services, how will such programs fare when additional $1-2.4 billion dollars is being attempted to be absorbed in the Commonwealth Health budget?

In this paper Congress will concentrate upon two key areas of the draft Australia-US Free Trade Agreement, those pertaining to the Pharmaceutical Benefits Scheme (PBS) and the opening up of the provision of services to US corporations. Congress also recognises that other potential impacts on Aboriginal peoples health are present in the USFTA through the media (impacts upon the ability of local media to defend cultural content) and food regulation (the impacts of Genetically Engineered foods into the food system and quarantine issues) however these are considered beyond the scope of this submission's focus of central Australia, and are well covered in the submissions of groups such as The Australian Fair Trade and Investment Network (AFTINET).

General comments.

Congress in a previous submission to the Senate[1] outlined our concerns regarding the economic philosophy underlying the current rounds of Free Trade negotiations; neo-liberalism, as being at odds with social policy aimed at overcoming social inequalities, particularly those experienced by Aboriginal people within our region. In common with other community sector advocacy bodies we find these neo-liberal principles to be the driving ideology enshrined within the draft USFTA.

We are concerned that the USFTA treats many of the key government regulatory mechanisms in regards to medicines, quarantine and food labelling merely as blocks to trade, not as measures to enhance or improve Australian citizen's quality of life. That the USFTA locks those current levels of regulation to a frozen state, (Annex A & B) severely diminishes future elected Australia governments ability to make laws in the interests of its citizens.

We are concerned that disputes arising from the interpretation of, or claims for compensation for foregone profit because of, Australian government policy by US industry and their trade representatives will be referred to an in camera panel of three experts to resolve. (Article 21.2) These hearings may or may not call for NGO submissions, will be empowered to order a domestic law be changed or demand compensation payments and the panel's findings may not be made public. (Article 21.5-21.11) We believe that this process undermines basic tenants of democratic decision-making within the Australian jurisdiction and puts domestic policy formulation outside of the elected parliamentary system.

Pharmaceuticals.

Australians enjoy one of the best levels of access to affordable essential medicines of any of the OECD countries. The price-referencing scheme practised in Australia is internationally recognised as being a best practice model, currently being exported to other countries and even now being actively promoted within the United States[2].

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[1] Congress has previously made a Submission to the Senate Foreign Affairs, Defence and Trade References Committee on: 'The relevant issues involved in the negotiation of the General Agreement on Trade in Services (GATS) in the Doha Development round of the World Trade Organisation & The proposed Free Trade Agreement (FTA) between Australia and the United States' April 2003

[2] Congress would draw the attention of the Committee to the transcript of evidence given by Gerard Anderson Professor of the Bloomburg School of Public Health and Professor of Medicine in the School of

Unfortunately this scheme has come under repeated attack by the US pharmaceutical industry, including being specifically targeted in the negotiations to develop the USFTA.

The overall focus of the USFTA when dealing with pharmaceuticals, is on the right of the industry to maximise their economic returns at the expense of the right of consumers to have access to affordable medicines. In this context the agreement ignores the principle of the Doha Declaration on TRIPS and Public Health adopted by the WTO in 2001 that trade agreements should be enacted in a manner consistent with protecting public health and to promote access to medicines for all.

To put the advantages of the current PBS into the context within which we work may illustrate to the Committee the danger in undermining its value in regulating the price and hence availability of essential medicines to our clients.

Pharmaceutical Benefits Scheme Section 100 coverage was extended to remote Aboriginal Health Services in 1997, improving access for Aboriginal clients of these services. Nationally Aboriginal people were only accessing the PBS at a rate of 22 cents in the dollar compared to non-Aboriginal Australians prior to this change, afterwards this changed to 33 cents in the dollar[3].

In a report reviewing the Section 100 for the Commonwealth government it was noted that: "The implementation of Section 100 medications for remote area Aboriginal Health services has completely revolutionised medicines access and has been one of the most substantial, positive developments in remote Aboriginal health service delivery for many years. Already evidence is emerging regarding the health outcomes for Aboriginal people"[4].

Review of decisions of the Pharmaceutical Benefits Advisory Committee

Despite assurances otherwise by Australian Trade negotiators, as has been noted by many Australian commentators and US Trade Representative Robert Zoellick, the overall impact of the review process of the Pharmaceutical Benefits Advisory Committee's decisions will be to tend to drive up the price of pharmaceuticals in the Australian market.

Various estimates have been placed upon the amount that this increase could be. The pharmaceutical industry claims the PBS reduces the total amount paid for pharmaceuticals in Australia by around $1 billion. The Productivity Commission

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Medicine at John Hopkins University to the US Senate Finance Committee that not only upholds the value of the Australian scheme against the market based approach of the USA, but also undermines many of the arguments that have been advanced by the US pharmaceutical industry about the current unfair practices of other states in having developed price referencing systems. For this reason we attached the transcript of his evidence to this submission which can be sited at < http://finance.senate.gov/hearings/testimony/2004test/042704gantest.pdf>

[3] Deeble et al 1998 Expenditures on Health Services for Aboriginal & Torres Strait Islander People AIHW & NCEPH, and AIHW 2001 Expenditures on Health Services for Aboriginal & Torres Strait Islander People 1998-99 AIHW & Dept Health & Aged Care.

[4] Loller, H. 2003 Final Report Section 100 Support Project Commonwealth Government Australia.

suggests that the impact of current price controls could be as much as $2.4 billion per year[5].

If the current price control mechanisms of the PBS were to be scrapped – as has been foreshadowed by US trade negotiators, these additional costs would have to be met through:

* tax increases
* reductions in expenditure on government services; or
* user pays contributions (co-payments) from individual consumers.

Currently through access to Section 100 our clients are shielded from these impacts. However if governments were to review the degree to which they where prepared to provide PBS Section 100 coverage to Aboriginal people in remote clinics and attempted to recoup costs through including those Aboriginal people in the co-payment category, modeling undertaken by the Australian Institute would suggest a considerable cost burden shift onto this group. The following table illustrates some possible cost recovery scenarios that may be confronted.

Projected consumer cost changes[6]:

	Current average co-payment	Based on $1 billion full cost recovery	Based upon $2.4 billion full cost recovery
Concession card holder	$3.70	$7.50	$12.90
Non-concession	$23.10	$43.84	$72.88

Given that in 2000 the average weekly income for Aboriginal people resident in Alice Springs was only $200, their ability to absorb the costs of medicines becomes questionable under these scenarios. Any reduction in government services would be intolerable when we are already struggling to get adequate full funding of government existing health policy (the Primary Health Care Access Program) and that there is well documented under resourcing of education services and diminished support for targeted employment policies.

Joint US-Australia Medicines Working Group.

Because the principles governing the operations of this working group focus on maximising the economic benefits to the US pharmaceutical industry "the need to recognise the value" of "innovative pharmaceutical products' rather than public health goals, the role of this committee is strongly interpreted as another mechanism for increasing industry control over pharmaceutical pricing policy in this country.

[5] Lokuge, K. & Denniss, R. 2003 Trading in Our Health System? The Australia Institute Discussion Paper No 55.
[6] *ibid*

Changes to Patent Laws.

The foreshadowed changes to patent laws in the USFTA (Article 17.10) would have the effect of delaying the entry on the Australian market of generics that substantially lower the price of available medicines and therefore lower the overall cost of the PBS. One set of modelling by the Australia Institute has estimated a cost blow-out in the billions of dollars. Again we believe that government attempts to absorb or recoup such costs increases to the Australian health budget would through whatever likely means would be detrimental to our clients.

Services.

Due to the ambiguity in the definition of what is defined as public services (Article 10.1) in the USFTA, Congress is very concerned as to the impact the opening up to US investment in public services may have for Aboriginal people in remote areas. Given that there are few purely government supplied public services in either health, education or other environmental health areas (water etc), all these areas may potentially be opened up for US corporate investment and direct service provision.

Congress advocates that it is government's responsibility to all its citizens to ensure access to health, education and other services as a human right. We also believe, and are supported by a large range of inquiries including the RCIADIC, that Aboriginal community-controlled organisations, properly funded are the most appropriate bodies to deliver these services to Aboriginal people. We view with concern any diminishment of government's role in ensuring the delivery of services, through the privatisation of key services such as water, health or education. We do not believe that such services should be opened up to competition from US corporate investment or service providers.

For people in marginalised social positions and remote geographic locations we are sceptical that the private sector would provide culturally appropriate services at affordable rates and believe that Aboriginal people would have little to no leverage upon these institutions to effect policy change on this issue. In turn the downsizing of government offices may lead to a point that could severely limit its capacity to deliver services in remote areas or regions of low income per capita- often seen as economically un-attractive by private enterprise, as government infrastructure (including skilled workforce) may end up being so diminished that there is no real capacity to support service delivery for these sectors.

Recommendation.

Consistent with the terms of reference of the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America, we call upon the Committee to recommend that this agreement not be endorsed by the Senate as it is:

a) not in Australia's national interest- severely undermining national sovereignty; and

b) it will have massive negative impacts on Australia's social policies, particularly regarding health care provision especially for Aboriginal people, but also for all Australians

Attachment.

Transcript of evidence by Professor Gerard Anderson to the US Senate Finance Committee.

(See attached PDF file)