

Mr Kevin Bracken  
14 May 2004

Mr Brenton Holmes  
Secretary  
Senate Select Committee  
On the Free Trade Agreement  
between Australia & the USA  
Parliament House  
CANBERRA ACT 2600  
Email: [FTA@aph.gov.au](mailto:FTA@aph.gov.au)

Dear Mr Holmes

I refer to the above named committee and to the enquiry constituted there under. In particular I refer to your correspondence to myself of 24 March 2004.

Please find attached herewith in electronic form my submission to the committee for due consideration.

I wish to thank you for extending the closing date for lodgement of my submission.

Yours sincerely

*Kevin Bracken*

**To:** SenateSelect Committee on the Free Trade Agreement between Australia and the United States of America

**From:** Mr Kevin Bracken

**Subject:** An inquiry into the Free Trade Agreement between Australia and the United States of America

**Date:** 14<sup>th</sup> May 2004

---

## **CONTENTS**

|                                       |               |
|---------------------------------------|---------------|
| <b>ECONOMIC IMPACTS</b>               | <b>Page 1</b> |
| <b>FOREIGN INVESTMENT</b>             | <b>Page 1</b> |
| <b>TRADE DIVERSION</b>                | <b>Page 2</b> |
| <b>MANUFACTURING</b>                  | <b>Page 2</b> |
| <b>FURTHER ITEMS OF CONCERN</b>       | <b>Page 3</b> |
| <b>Services</b>                       | <b>Page 3</b> |
| <b>Public Services</b>                | <b>Page 3</b> |
| <b>Dispute Resolution</b>             | <b>Page 3</b> |
| <b>Pharmaceutical Benefits Scheme</b> | <b>Page 4</b> |
| <b>Labour Standards</b>               | <b>Page 4</b> |
| <b>IN CONCLUSION</b>                  | <b>Page 4</b> |

## **AUSTRALIA UNITED STATES FREE TRADE AGREEMENT**

### **SUBMISSION:**

I welcome this opportunity to make a submission to the Joint Standing Committee on Treaties on the US Free Trade Agreement USFTA.

I note the lack of public awareness about the agreement in allowing the US increased influence over laws and policymaking on the current and future governments of Australia. Press releases and statements from DFAT and government figures are painting a glossy outcome for the implementation of the free trade agreement and are ignoring adverse effects and earlier studies commissioned by the government.

### **ECONOMIC IMPACTS:**

The original Centre for International Economic study predicted gains for the economy of US\$2 billion per year after ten years, on the assumption that the United States would remove key barriers to trade in agriculture. However, key areas where Australia enjoys a marked advantage over the US stage are not included or are over such a long time span that in reality will not eventuate due to the conditions attached. To thereafter release a report stating that the benefits to the Australian economy will be A\$6.1 billion after ten years while not including agriculture, where Australia enjoys a clear advantage, seems questionable.

The study by ACIL<sup>1</sup> ("A Bridge Too Far?") states: "Trade diversion effects, the diversion of government resources away from other trade initiatives, and the disaffection of countries that on the whole are more important trading partners, all threaten the worth to Australia of a special trade agreement with the US. Note "special": it is unlikely to be genuinely "free" ". The study goes on to say that "ACIL's modelling has projected that a bilateral deal with the US involving a phase-in of complete free trade over 5 years from 2005 would be slightly detrimental to the Australian economy."

### **FOREIGN INVESTMENT:**

The subsequent CIE report, recently released, states that the largest gains to Australia will be in investments. The level that acquisitions and take-overs, which can be reviewed by the FIRB, have increased significantly from \$50 million to \$800 million. The United States is already the largest source of foreign investment in Australia. To say that the AUSFTA will lead to significant increases in investment could mean that they would not currently meet the national interest test, which is now in place.

---

<sup>1</sup> "A Bridge Too Far?" (report for rural industries research and development companies) pages iv and v, February 2003 by ACIL.

US investment in new businesses will not be reviewed at all. Although the FIRB rejected only 79 of the 4,747 foreign investments reviewed in 2003, it placed specific conditions on 3,566 of the approved applications. Investment comes under the negative list approach which means that any areas not listed now will be unable to be included in the future. Due to the agreement under reciprocal arrangements, does this also apply to Japanese investment?

Australia will not be able to specify using local products (Article 11.9.1) or transfer of technology which have previously been used to stimulate local activity. Under the rules, 86% of companies listed on the ASX could be acquired by the United States (or Japanese?) interests without being scrutinized.

Clearly to lock in this economic model for all future governments is extremely risky and is a serious threat to Australia's sovereignty.

### **TRADE DIVERSION:**

The United States already enjoys a A\$12 billion trade surplus with Australia. Agreements such as the AUSFTA are being referred to as Preferential Trade Agreements. They are not free but in fact highly regulated.

The divergence of trade from other trading partners, due to this bilateral preferential trade agreement, will actually take trade away from more localised trading partners.

The review conducted by the Productivity Commission regarding the effect of trade diversion through preferential trade agreements should be taken into account. The "dynamic" effect, which is used in the later CIE report, depends on the assumption that Australia will benefit from being connected to the largest economy in the world. This is a flawed assumption. When looking at the effects under NAFTA<sup>2</sup> "a PTA such as NAFTA can be beneficial as a whole, but still produce economic welfare losses for a smaller trading partners such as Mexico".

### **MANUFACTURING:**

The United States, due to its large capital base and economies of scale, its underpinning by the huge military industrial complex, hold advantages over our local manufacturing. From date of signing, 99% of manufactured imports will be duty free. Manufactured goods already account for 93% of all imports from the United States.

US manufactures estimate that the export gains to them as a result of the free trade agreement will be US\$2 billion per annum. Logic would suggest that A\$3.4 billion of manufactured goods currently made in Australia could, on signing of the free trade agreement, come from the United States.

---

<sup>2</sup> The Trade and Investment Effects of Preferential Trading Arrangements – old and new evidence – Productivity Commission 2003.

Rules of origin used mean that a substantial portion of the manufactured goods could come from a country with a much lower labour standard (Mexico for example) and receive zero tariff entry into Australia.

The tariff reduction on motor vehicle parts will probably result in immediate job losses. Almost 54,000 people employed in manufacturing in the car industry, which is already in some trouble, could be at risk. Many are employed in regional areas with very little alternative employment.

The textile and clothing industry, already in serious decline, will gain little benefit from the AUSFTA due to the yarn forward rules of origin. Have these factors been taken into account in the latest CIE report?

## **FURTHER ITEMS OF CONCERN:**

### **Services:**

By using the negative list approach we have included additional commitments in construction, Commission agents and wholesale trade in services, repair services of personal and household goods, transport services, post and telecommunications, legal services, financial services, real estate services, leasing services, computer-related services, research and development services, taxation, architecture and accounting services, other business services, engineering, planning, agriculture, mining and manufacturing services, education, sewage and refuse disposal, sanitation and other environmental services, recreational, cultural and sporting services, and energy and water supply. Have the relevant people being notified of this?

### **Public Services:**

Public services are not meant to be included in Article 10.1, but because they come under the same flawed definition as the WTO GATS agreement, i.e., services not supplied “on a commercial basis, nor in competition with one or more service suppliers”; most public services will be covered by the agreement.

### **Dispute Resolution:**

The NAFTA Chapter 11 “Investment to State” has not been included however; “Article 11.16 provides that the Parties may consider establishing such a procedure to hear a claim by an investor, if there is a change in these circumstances regarding the Parties’ economic and legal environments.”

In such a case the relevant government is obligated to “promptly enter consultation with a view towards allowing such a claim and establishing such procedures.” (Article 11.16.1)

The 1st Senate committee report recommended that no investor State provision be included.

### **Pharmaceutical Benefits Scheme:**

Changes to PBS allowing pharmaceutical companies more opportunities to influence the PB Advisory Committee before its decision will more than likely result in higher prices for prescriptions to people who are sick. As Robert Zoellick stated<sup>3</sup> “Drug costs will rise with deal: US official”.

### **Labour Standards:**

I congratulate the inclusion of labour standards in the Agreement; however the AUSFTA does not bind the countries to uphold ILO core labour standards. The only area under dispute settlement is failure to “enforce domestic labour standards, in a matter that affects trade between the two parties.”

(18.21a, 18.6.5 and 21.2)

### **IN CONCLUSION:**

Australia as an island nation is intricately linked to trade, I congratulate efforts to stimulate trade, but not for the sake of trade itself. Trade should be used to bring about desirable social, economic, and environmental outcomes.

I believe economic studies already conducted showing negative outcomes have been ignored and what we have left is very regulated agreements in goods, and an investment agreement that are both weighted heavily in the US's favour.

If implemented, trade will be diverted from partners in our immediate area, to the US with negative effects for Australia. Manufacturing, still our largest export earner, will diminish.

Polices that have nurtured talent in our cultural sphere will be whittled away. The only enforceable part of the agreement is for commercial interests.

I believe the AUSFTA should be rejected.

*Kevin Bracken*

---

<sup>3</sup> Sydney Morning Herald 11 March 2004