

Submission to the Joint Standing Committee on Treaties - The Australian US Free Trade Agreement (USFTA)

I call it "Trading Australia Away" because if we sign this legally binding document with the US, it means Australians will have to pay higher prices for medicines, would have to change our food labelling laws (including labelling of GE food) and would have restrictions on future regulation of Australian content requirements in new media.

Studies have shown that this agreement would bring no economic benefits to Australia and could actually mean slight losses to the Australian economy, in part because of trade lost to Asia Pacific countries, which currently take 55% of our exports.

Australia has certain social policies that makes Australia a more equitable society than the US. We have a distinctive culture.

If the USFTA is signed, the US government and US corporations have made it clear that they see our policies as barriers to trade and therefore want these policies abolished or changed. The series of committees, established by the USFTA, would give the USA increased influence over Australian law and policy making and these committees will give priority to US concerns about trade issues and not to Australian health or environmental policy.

Once we sign this Agreement, if we get in the way of US investment interests they can sue Governments for compensation. For example, they have a Free Trade Agreement with Canada. The US company United Parcel Service has already sued the publicly owned Canada Post (like our Australia Post), arguing that Canada's Post has a monopoly on standard letter delivery and that is a violation on competition policy. However, this public postal service enables a Canadians access to affordable postal services.

Another example is a US Corporation (US Metalclad) which sued and was awarded US\$15.6 million because it was refused permission by a Mexican local municipality to build a hazardous waste facility on land already contaminated by toxic wastes which created a danger to the local water.

There are more examples of other US companies suing countries who for very good reasons tried to protect themselves from investments which would have a bad impact on the health of their community or simply because they wish to prevent price rises.

This is how a USFTA would adversely effect Australians:

Negative list for services and investment The USFTA has a negative list structure for both services and investment. That means that unless Australian laws and policies are listed as reservations, they can be affected by this agreement. This negative list creates a greater restriction on the rights of our government to regulate services than say a "positive list" agreement, which only applies to those services actually listed (like the WTO multilateral agreement like GATS). I am therefore opposed to this negative list structure.

The **Pharmaceutical Benefits Scheme (PBS)** makes medicines more affordable to most Australians by using bulk purchasing of medicines to achieve this as well as regulating the prices paid to these companies for drugs. US pharmaceutical companies want changes to the scheme to get higher prices for their products. They have consistently argued that Australia's price control system through the PBS, is an unfair barrier to trade. The comparison between wholesale prices in the US and Australia for popular brands in 5 therapeutic groups show that these medicines will rise significantly if the US is successful. The difference in prices - increases of between 200% to 1146%, is shocking. The changes to **Patent Laws** could also delay access to cheaper medicines. It would make it easier for drug companies to raise legal objections and delay the production of generic drugs.

In health, education, water, postal, energy and environmental services (public services), US corporations want to invest in these services. Water has not been excluded through any reservations, so any Commonwealth regulation of water services will have to comply with the USFTA. At the moment public regulation and public provision of these services required to ensure that there is equitable access to high quality essential services. However, this will change if the US challenges them, particularly as many services are already delivered on a commercial basis. Therefore the text stating that the "Services" chapter does not apply to public services, is flawed and does not afford Australians any protection.

Extension of Copyright means higher costs for libraries and education bodies. This will happen because the USFTA extends the period for which copyright payments must be made, from 50 years after the death of the author, to 70 years in line with US law.

Australian content in film, television and music is not safeguarded as the government is claiming. There are strict limits on future governments' ability to ensure that Australian voices continue to be heard. Under the USFTA not only

is Australia's existing local content "bound", but if they are reduced in the future, they cannot later be restored to existing levels. Further, future Australian governments are limited in the laws they can introduce for new media.

Public Broadcasting is not listed in either of the Annexes and is therefore not excluded from the agreement. The funding of public broadcasting is protected by the general exclusion of subsidies and grants. However, again the regulation of public broadcasting could be affected by the agreement because the definition of public services excludes services provided on a commercial basis or in competition with other service providers. Therefore SBS advertising or ABC product marketing may not be excluded by this definition and could also allow the US to challenge some regulation of public broadcasting, claiming it is inconsistent with the USFTA.

Labelling and regulation of genetically modified food is non-existent in the USA where there are no rules to show GMO content in food.

Australia has labelling requirements and regulates GMO crops because consumers want to know whether food contains GMO's so that they can make an informed choice. That will go if we sign the Agreement. The US has already challenged EU labelling laws through the WTO and identified Australian labelling laws as a barrier to trade.

Australia's quarantine standards which the US claims are used as a "means of restricting trade" will be removed. Australia's relatively high standards exist because we are an island and therefore disease-free in some areas. The impact of such diseases would be devastating. The promotion of trade and quarantine protection of Australia's environment, crops and livestock are separate roles which should not be combined.

Tariff cuts and Manufacturing Jobs – Australia's remaining tariffs are on textiles, clothing and footwear (15-25%) and on motor vehicles and parts (5-15%). Both of these industries employ thousands of workers of non-English speaking background in regional areas of high unemployment. Tariffs on motor vehicle parts will fall from 15% to zero if the USFTA comes into force, which will mean immediate job losses. Tariffs on assembled motor vehicles will be phased out by 2010 and on clothing by 2015. Both the textile, clothing and footwear as well as the car industry employ a total of 132,000 people and it is therefore essential to carry out regional studies to assess the employment impact of these changes before any change is made.

Investment US Investment in Australia must be treated in the same way as local investment and US investors cannot be required to use local products, transfer technology or contribute to exports. Existing limits on foreign investment are retained for newspapers and broadcasting, Telstra, Qantas, Commonwealth Serum Laboratories, urban leased airports and coastal shipping. However, these limits are subject to "standstill" and cannot be increased. The Foreign Investment Review Board (FIRB) retains the power to review investments of over \$50 million dollars in these areas, and in military equipment, and security systems, the uranium and nuclear industries. Regulation of foreign investment can only be increased for urban residential land, maritime transport, airports, media co-production, tobacco, alcohol and firearms.

However, the threshold for FIRB review of all other investment in existing business has been lifted from \$50 million to \$800 million. US investment in new business in areas not listed as reservations will not be reviewed at all. The Australian government is also proposing to extend these changes to investors from other countries. This is a massive reduction in review powers.

The Australian government claims this USFTA is good because it wants to gain access to US agricultural markets. But US farmers are a powerful lobby group and the US Congress recently passed legislation which increased subsidies paid to individual farmers. The US farmers will resist any investment from Australia and as our economy is only 4% of the size of the US economy, we are in a very weak bargaining position.

The Australian Government argues that integration with the US economy, the largest in the world, would be beneficial but the US has far fewer social safety nets than Australia. For example, the US has a privatised health system which leaves many people uninsured and without access to health care.

The Australian Government also argues that the influence of US business culture would bring benefits to Australia but it ignores the negative aspects of US business culture, as illustrated by the collapse of Enron, WorldCom and others.

I believe the price Australia will pay for a USFTA is far too high and weakens governments' right to regulate and commit Australia towards US style policies without debate or decision. For all the aforementioned reasons, I strongly oppose the introduction of the USFTA and recommend that this agreement not be endorsed by Cabinet and not come into force as it is against the national interest.

Nizza Siano
16 Holland Road Bellevue Hill NSW 2023

