



29 July 2020

Committee Secretary  
Joint Standing Committee on Treaties  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Dear Secretary

**Inquiry on Certain Aspects of the Treaty-Making Process in Australia in respect of trade agreements**

Thank you for the opportunity to respond to the JSCOT inquiry on certain aspects of the treaty-making process in respect of trade agreements.

The Australian Nursing and Midwifery Federation (ANMF) submits this letter in support of the submission by The Australian Fair Trade and Investment Network (AFTINET) and endorses their recommendations summarised as follows:

**Recommendations**

1. Prior to commencing negotiations for bilateral or regional trade agreements, the Government should table in Parliament a document setting out its priorities and objectives. The document should include assessments of the projected costs and benefits of the agreement. Such assessments should consider the economic, regional, health, gender and environmental impacts which are expected to arise.
2. There should be regular public consultation during negotiations, including submissions and meetings with all stakeholders, release of negotiating texts and reports to Parliament.
3. The Australian government should follow the example of WTO multilateral negotiations and the European Union and should release the final text of agreements for public and parliamentary discussion before they are authorised for signing by Cabinet.
4. The current National Impact Assessment process is inadequate. After the text is completed but before it is signed, comprehensive independent studies of the likely economic, regional, health, gender and environmental impacts of the agreement should be undertaken and made public for debate and review by JSCOT.

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**ANMF Journals**

Australian Nursing and  
Midwifery Journal (ANMJ)  
E [anmj@anmf.org.au](mailto:anmj@anmf.org.au)

Australian Journal of  
Advanced Nursing (AJAN)  
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ABN 41 816 898 298



5. There should be a separate subcommittee of JSCOT to deal with review of trade agreements. This subcommittee should review the text of a trade agreement which has been released before signing with the independent assessment of its costs and benefits, and make a recommendation to Parliament.
6. The categorisation of trade agreements should not be changed in a way that would reduce scrutiny of trade agreements.
7. Legal experts agree that the Executive power to enter into treaties is a prerogative power which can be abrogated or controlled by legislation. There is no constitutional barrier to Parliament playing a greater role in the treaty decision-making process. After release of the text, the JSCOT review of the text and the independent assessment of the costs and benefits of the agreement, Parliament should then decide whether the Executive should approve the agreement for signing.
8. If the agreement is approved by Parliament, and following approval of signing by the Executive, Parliament should then vote on the implementing legislation before ratification.
9. There should be public reviews of trade agreement outcomes 5 years after entry into force with independent assessments of economic, regional, health, gender and environmental costs and benefits.

AFTINET's submission raises a number of important issues and shortcomings in the process for negotiating trade agreements which not only deal with tariffs and trade in agricultural products but impact on a range of other matters of public interest including health, environment and industry policy to highlight a few.

The long standing concerns around the secrecy, lack of transparency and absence of public scrutiny in the trade agreement process as detailed in AFTINET'S submission have been further amplified in the current environment as governments respond to the health and economic impact of the Covid-19 pandemic.

The capacity to respond effectively to this pandemic and plan for similar crisis in the future relies in part on the following:

- Ready access to a reliable supply of a range of Personal Protective Equipment (PPE) including masks, goggles, face shields, gowns, gloves and respirators manufactured in accordance with relevant standards. The availability of essential PPE should not be dependent on or vulnerable to global production/supply chains;
- Similarly, the ability to manufacture and supply essential equipment needs such as ventilators in a timely fashion;
- Access to medicines and vaccines at a reasonable cost without the constraints imposed by patent monopolies that benefit large pharmaceutical companies at the expense of public health;

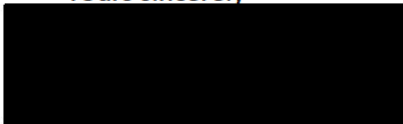


- Collaboration between federal and state governments to expand the capacity of the health system by reaching a partnership agreement with the private hospital sector to provide beds and staffing resources for pandemic and other health care purposes. Trade agreements containing Investor-State Dispute Settlement (ISDS) provisions expose governments (making these types of arrangements essential to public health) to legal action by global companies on the basis that it reduces their profitability. Similarly, government imposed bans on elective surgery across the public and private systems, a necessary measure in response to the pandemic, could be subject to the same action by foreign investors.

The above examples demonstrate why the detail of trade agreements should be open to public scrutiny and debate, and subject to the usual parliamentary processes.

The ANMF urges members of the JSCOT to support the recommendations outlined in the AFTINET submission.

Yours sincerely



Annie Butler  
Federal Secretary