

Submission to Department of Foreign Affairs and Trade on Australia-United States Free Trade Agreement

15 January 2003

US FTA Task Force
Office of Trade Negotiations
Department of Foreign Affairs and Trade
BARTON ACT 0221

Dear Secretary,

The National Association of Practising Psychiatrists (NAPP) wishes to express its concerns regarding any governmental initiatives to bind Australia into a free trade agreement with the United States (AUS-US FTA).

NAPP's concerns stem from the following aspects of any proposed free trade agreement incorporating services:

- a. that Australia be able to establish and maintain policies that have a normal regulatory function, particularly in regard to public health issues;
- b. that these same policies, particularly as they relate to the vulnerable group of patients with psychiatric illness, be safe from corporate interference from multinational companies whose aims are directed at increasing shareholder value;
- c. that unless safeguards are more rigorously defined, Australia's health system will find itself under increasing threat from US health maintenance organisations (HMO's) which limit available treatment options to maximise investor returns;
- d. the ability of countries to pursue social, environmental, labour, cultural, human rights and indigenous protections and the impacts for each of these sectors resulting from foreign investment regimes;
- e. that there be safeguards for maintaining Australia's right to legislate to protect budget provisions to Australian health care services without having to pay a financial penalty.

NAPP would be alarmed if an AUS-US FTA (perhaps modelled on the North American Free Trade Agreement (NAFTA)) were to be implemented which incorporated health services. Such an agreement, without the proper safeguards, would entail the potential to undermine all public health funding and services.

So that the Task Force might understand NAPP's concerns, we refer you to the following study *NAFTA Investor-to-State Cases: Bankrupting Democracy*. Commenting on this study Public Citizen (a US, non-profit consumer advocacy organisation) states:

"Since NAFTA was implemented in 1994, corporate investors in all three countries have used these new investor rights to challenge a variety of national, state and local policies and decisions."

"The study documents a number of extraordinary attacks on normal government activities that are part of operating the civil justice system or legislative work"

establishing environmental or public health regulation,' said California State Sen. Sheila Kuehl."

It can be seen then that all manner of services which are principally designed to safeguard the interests of the community, or perhaps promote a public interest benefit, are potentially threatened by a managerialist-type motives apparently aimed at freeing up restrictions to investment and trade. Unfortunately, NAPP fears that such unfettered access risks severe community economical and social costs if the only thought to an AUS-US FTA is to implement marketplace ideology.

In a letter from the American Public Health Association, concerns are voiced specifically about the viability of health policies if open to challenge by foreign companies.

"...a wide variety of government measures relating to public health could potentially be challenged under NAFTA and other future trade agreements. These include adverse judicial decisions against foreign drug or medical device manufacturers, health product labelling and restrictions on dangerous pesticides, drugs and alcohol, and occupational safety and health measures.

Regulations that monitor and protect access to health services, including facilities that operate in underserved rural and inner city areas, are also at risk."

In addition, doubts are expressed in regard to how disputes would be resolved under this model and whether taxpayers monies would be needlessly wasted fighting compensation cases.

"International arbitration proceedings are not open to the public and the records of the proceedings are not generally available to the public... There is no more important sovereign responsibility than protecting the health of a nation's people... The pending trade legislation has the potential to create new international legal standards which will interfere with nations' abilities to protect the health of their citizens."

Hence, given past overseas experience, and continuing debate in the US on FTA's, it is, in our view, relatively easy to see the concerns for Australia arising from an AUS-US FTA. NAPP would remind the Task Force that Australia's own Public Health Association effectively acknowledges grave concerns as to potential outcomes of giving up sovereignty over funding health policies.

PHA notes, however, that there are also significant risks associated with current trends in health system restructuring

"12. The pressures to reduce government expenditure arise from dynamics associated with economic globalisation, in particular, the globalisation of world markets and the global mobility of capital. There are no fixed benchmarks with respect to "appropriate" levels of government expenditure to which we might be moving. These pressures, which arise beyond the health system, will continue to drive public sector spending downwards regardless of actual levels of health expenditure. However, there are limits to which reduced health funding can be absorbed by increasing efficiency.

13. As government funds are reduced there is increasing pressure on policy makers to target programs as the retention of universal access is judged to be too expensive. The pressures to privatise different elements of health care arise partly from this dynamic. This path leads to two-tiered and three-tiered levels of health care and health protection.

14. In a society which is increasingly polarised with respect to income and wealth, policies of reduced public spending are likely to lead to the increasing differentiation of standards with respect to access and quality of care and adequacy of public health protection."

The threat to our Medicare system will be clear in that governments will be increasingly unable to subsidise public health policy if they are also required to provide similar benefits (or compensation) to for-profit health companies. Public health may then be forced toward increasing privatisation, rationing and restrictions in the pursuit of profit.

The Canadian experience on FTA's (ie NAFTA) is noteworthy:

"The threat to public funding is not confined to education, but is equally problematic in any areas where the private sector provides services which are also provided in the public sector. The main problem is that while subsidies from government to service providers will still be permitted, these subsidies will also have to be available to for-profit institutions from foreign nations. Any kind of subsidy to non-profit childcare centres, for example, would be illegal unless it were also extended to cover profit-making centres. This kind of requirement, as stated above, would almost certainly eliminate government funding to non-profit centres.

Medicare is threatened in the same way. When governments are required to provide the same kinds of funding to both local non-profit health care providers and huge for-profit medical care firms, the ability to continue public health care will be impossibly expensive."

The strength of contemporary psychiatry lies in its ability to use "the bio-psycho-social" model to deal with patients and their suffering. As the name implies, it takes into account various important aspects of functioning and so is a truly holistic branch of medicine. No other area of medicine is so profoundly affected by poor health policy, given that mental health is in turn affected by a wide variety of social factors.

If an AUS-US FTA does indeed lead to the creation of an increasingly disenfranchised underclass with less and less access to treatment, wealth, and work, then we can expect a commensurate increase in any number of psychiatric and social ills such as those which currently concern us as a community ie ill-health, suicide, substance abuse and violence. Is this penny-wise or pound-foolish? Consider McMurtry's view, from Canada which already is a signatory to NAFTA.

"This loss of a social function leads to a wide variety of pathological outcomes. The probability of an unemployed man succumbing to heart disease or cancer doubles within five years. Adolescent suicide and prostitution rates escalate as future employment prospects darken. Most lethally, ethnic wars, racist attacks, armed violence, urban riots, beatings of women and children, and mass murders seem also to rise in areas of high unemployment."

NAPP cannot emphasise too strongly that the best preventative mental health policies are those policies informed by an expert profession (not politicians only) and which seek to minimise social inequity while maximising feelings in the community of equality, belonging and participation. Sometimes such policies may be at odds with the desires of for-profit companies and their shareholders.

Recent findings of the Coroner of South Australia are of note. He found funding cuts and poor policy direction to be probably directly linked to the suicides of several patients being looked after "in the community" and that the concept of "asylum" was no longer available to vulnerable patients - to their detriment. In addition, poor staff morale exacerbated the issue.

In a specific example, the US list of "barriers to trade" includes the Pharmaceutical Benefits Scheme (PBS). The PBS makes medicines more affordable to most Australians. Its operations and purpose, under an AUS-US FTA may be at risk and patients unable to afford their medications. Our psychiatric patients are a particularly vulnerable group to any reduction in accessibility to their medications.

Hence, NAPP submits its opposition to Australia being a signatory to a US-AUS FTA that would undermine the national sovereignty of Australia, particularly its right to determine health care policies which are in the public interest. The alternative may perhaps risk a social experiment of unknown and dangerous proportions - for the reasons outlined above.

NAPP further requests that it be represented and its view heard in any subsequent public hearings on this matter.

This submission has been prepared for and on behalf of the National Association of Practising Psychiatrists Incorporated by

Dr Gil M Anaf,
President

Mr Glen Ramos
National Co-ordinator

© - National Association of Practising Psychiatrists
Telephone: 02 9556 2534 Fax: 02 9567 4681
Address: PO Box 12 Arncliffe NSW 2205
Internet: <http://www.napp.org.au>