



QNU Submission to the Department of Foreign Affairs and Trade on the General Agreement on Trade in Services

30 November 2004

Mr Trevor Peacock
Office of Trade Negotiations
Department of Foreign Affairs and Trade
BARTON ACT 0221

Dear Mr Peacock

RE: Call for Submissions on the General Agreement on Trade in Services

Thank you for the opportunity to provide further written comment on the current round of negotiations on the General Agreement on Trade in Services (GATS).

The Queensland Nurses' Union (QNU) has made a number of submissions to the Department of Foreign Affairs and Trade (DFAT) and Senate Inquiries on trade matters where we have highlighted our key concerns about trade liberalisation and WTO processes and undertakings, especially in the area of services. Rather than revisit these submissions in detail again we will provide a broad summary of our areas of key concern. It is to be expected that many of our issues of concern relate to health or industrial relations matters as these are our particular areas of expertise. However other concerns relate to broader issues of service delivery in general and the role of government in this regard.

Firstly, we would like to place on record our appreciation for the opportunity to meet with you in September in Brisbane and the invitation to meet again in October. We outlined broadly some areas of concern at our September meeting and unfortunately were unable to attend the meeting set down for 25 October. However, these meetings scheduled to discuss GATS and other bilateral trade negotiations that are currently underway highlight some significant resourcing issues for unions and other non-government organisations/ community groups and as well as government.

Given that there is some commonality of threshold issue that need to be discussed across all trade negotiations we strongly urge the Department of Foreign Affairs and Trade (DFAT) to reconsider the structure of community consultations. This is required if we are not to duplicate effort. It just simply is not humanly possible for unions and other Non Government Organisations (NGOs) to attend consultation after consultation on specific Free Trade Agreements (FTA's). If the government is serious about community consultation on trade matters then we recommend a change in approach. It would be more beneficial for all parties if government were to take a step back and freshly look at the manner in which trade negotiations conducted. The first step is to consult with the wider community on the framework and principles and clearly stated and measurable objectives that will underpin all future trade negotiations (bilateral and multi-lateral). After community views on these matters are considered the government should then release its negotiating principles and objectives so that all parties are aware of these and can measure progress/ success of negotiations. These should be subject to debate and a vote in the federal parliament. If this change in process were to occur then there would be clarity on policy issues and we would have a clear and consistent underlying framework. Organisations could then make submissions on specific aspects of agreements in that context and not constantly having to restate our significant concerns about process.

Another key concern to the QNU is the level of understanding about the potential implications of trade liberalisation remains woefully inadequate, not just in the general community, but also amongst our elected representatives (at all levels of government) and most federal, state and local government bureaucrats. It is essential that this knowledge deficit be addressed as a matter of urgency. Although DFAT should be commended for efforts in recent times to improve both their consultation processes and information provided to the community on trade matters, we believe more needs to be done. It is appreciated that the responsibility of raising awareness on trade matters also lies with unions, NGOs and business

organisations, we believe further thought needs to be given to the issue of wider community education (including improving education of politicians and government bureaucrats who are not familiar with trade issues). As part of this consideration should be given to providing government funding to NGOs to support their community based activities around trade issues.

Apart from these threshold issues of process and knowledge deficit, the QNU's broad areas of concern can be best categorised as falling under the headings of lack of openness and transparency, lack of accountability, the maintenance of standards, distributional issues, the ideology underpinning free-trade and the weakening of the role of government and self-determination.

Firstly however we will provide some relevant background information on our organisation.

About the QNU

The QNU is a registered industrial organisation in the state of Queensland. We have in excess of 32,500 members (and growing) and our membership is largely employed in the public, for-profit and not-for profit health sectors. A number are also employed in non-health environments. We cover registered nurses, enrolled nurses and assistants in nursing. The QNU is a member of the national nursing union, the Australian Nursing Federation (ANF), and through the ANF is represented on the Australian Council of Trade Unions (ACTU).

We are also affiliated to Queensland's peak union body, the Queensland Council of Unions (QCU). We support past and present submissions and public statements made by these bodies on the issues of free trade, globalisation and the WTO, especially the concerns expressed by the ACTU regarding the enforcement of international labour standards. We also support submissions made by the Australian Fair Trade and Investment Network (AFTINET) on GATS and trade liberalisation generally.

Concerns of the QNU

As stated earlier, the QNU's broad areas of concern can be best categorised as falling under the following headings:

1. *How can standards be maintained under free trade?*

It is our view that standards that are of particular importance to the trade union movement (such as labour standards, regulation of services, protection of human rights and environmental legislation) are not afforded adequate protection given the objectives of GATS. It is easy for such standards to be portrayed as "barriers to trade" that need to be removed. This is of extreme concern to the QNU.

Further trade liberalisation should cease until such time that it can be demonstrated that adherence to basic human rights, labour and environmental standards are a prerequisite in trade negotiations. Progress of efforts to promote dialogue on an agreed international policy framework to ensure that global trade does not undermine accepted international standards has been slow. For example, the QNU is concerned that a relatively small number of corporations have seen fit to endorse the United Nations' Global Compact. (As at November 2004 total of 1890 participants in the Global Compact, 22 of these were Australian companies.) This compact represents a **minimum standard** for good global corporate citizenship. As DFAT would be aware, given concern expressed in recent years by civil society on the trade liberalisation agenda, the United Nations has been promoting the concept of a Global Compact that would bring corporations together with UN agencies, labour and civil society to advance responsible corporate citizenship. The aim of this compact is to achieve a more sustainable and inclusive global economy through the support of ten principles in the areas of human rights, labour, the environment and anti-corruption. These principles are outlined in the box below (Information obtained from the UN Global Compact website.)

The Global Compact's ten principles in the areas of human rights, labour, the environment and anti-corruption enjoy universal consensus and are derived from:

- [The Universal Declaration of Human Rights](#)
- [The International Labour Organization's Declaration on Fundamental Principles and Rights at Work](#)
- [The Rio Declaration on Environment and Development](#)
- [The United Nations Convention Against Corruption](#)

The Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment, and anti-corruption:

Human Rights

- [Principle 1](#): Businesses should support and respect the protection of internationally proclaimed human rights; and
- [Principle 2](#): make sure that they are not complicit in human rights abuses.

Labour Standards

- [Principle 3](#): Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- [Principle 4](#): the elimination of all forms of forced and compulsory labour;
- [Principle 5](#): the effective abolition of child labour; and
- [Principle 6](#): the elimination of discrimination in respect of employment and occupation.

Environment

- [Principle 7](#): Businesses should support a precautionary approach to environmental challenges;
- [Principle 8](#): undertake initiatives to promote greater environmental responsibility; and
- [Principle 9](#): encourage the development and diffusion of environmentally friendly technologies

Anti-Corruption

- [Principle 10](#): Businesses should work against all forms of corruption, including extortion and bribery.

In our view a firm commitment to these principles must form the minimum standard for all future international trade negotiations and we call upon the Australian government to adopt these principles as part of their consistent underlying policy position for all future trade negotiations. In addition to these principles, the Australian government's standard negotiating position should also include a commitment to ensuring that the right of government to legislate and set policy that is in the best interest of our citizens and that services provided by government will not be compromised as a result of trade agreements entered into.

The QNU is also particularly concerned about the potential consequences for regulatory frameworks in a free trade environment. Regulatory frameworks that govern the practice of health professionals are central to the maintenance of appropriate standards of care in the health sector. We have advised your department in previous submissions, deregulation is occurring under a number of guises domestically in the health and aged care sectors and we are extremely concerned that this will be further facilitated through trade liberalisation. It is of concern, for example, that a number of requests made of Australia in the current round of GATS negotiations relate to the regulation of nursing and midwifery services. (Our understanding is that in the past South Korea has made requests with regards to an "unnecessary" period of educational preparation for nurses and Switzerland has requested relaxation of recognition provisions set by nursing regulatory bodies for Swiss nurses and midwives wanting to work in Australia.) It is appreciated that Australia is under no obligation to accede to such requests. However, it is of concern that full details of these requests and our government's response to them have not been made public. This lack of disclosure undermines confidence that government will protect our interests. Openness and transparency by government are central to the establishment of trust in them by the community and it is essential that trade negotiation processes become more open if community confidence is to be improved. This is especially significant in health care given the protection that is afforded to the community through the regulation of the health professions.

In our view there has been a failure by government at all levels to monitor and analyse the impact of trade liberalisation generally but especially with regards to the maintenance of standards both in general and specific terms. As such we believe government is in our view at serious risk of foregoing their sovereignty in the setting of domestic standards. Given that the liberalisation of the trade in services in particular represents "uncharted territory", governments are at risk of giving commitments in the services area without full knowledge of the potential ramifications.

2. Lack of transparency of free trade processes

As we have stated in our past submissions, we remain extremely concerned about the lack of transpar-

ency of free trade processes. Despite some improvements in recent years in this regard, including improvements to DFAT consultation processes, significant work is still required.

It is also the case that the consultation process must be and be seen to be a genuine one. (For there to be faith in consultation processes it must be evident that views expressed by the community have been adequately considered and responded to/acted upon.) As stated above, greater openness is required as is demonstrating respect and proper consideration of alternate points of view.

Generally speaking, we believe the Australian government is reluctant to ensure adequate openness and transparency in relation to trade negotiations. It is of course appreciated that in any negotiation process there are times when it is not appropriate or desirable for details to be made publicly available. However, in relation to the commitments being sought of and by Australia in any trade liberalisation negotiations, there comes a time when the community must be fully informed of these commitments and the potential implications of these to facilitate an informed government decision through debate and a vote in federal parliament. Surely this is the hallmark of open, responsive and accountable government?

Our advice to government with regard to disclosure of information on trade liberalisation negotiations is to favour maximum disclosure possible. Even when the government makes a decision that trade liberalisation in certain areas is not in the best interests of Australia, it is important that the community be advised of this and the rationale for the decision. The community would have more faith in government decision making in relation to trade if the government were more open in this way, that is, advising us in detail of instances where the Australian government is protecting our interests.

When criticisms are made about lack of transparency in trade processes it is often the case that government and departmental officials respond that all information that is able to be publicly released is available from the DFAT website (or WTO website in the case of GATS). Volumes of information may be available but how much of this is meaningful? (Indeed the volume of information available from the WTO, the complexity of issues and the dense language used combine to **work against** transparency and openness.) In reality it is only so called "elites" or those few with a particular interest in the free trade agenda who are in any way engaged in the examination of the critically important issues at hand. Is it any wonder that the wider community has by and large not been engaged with the free trade debate so far? The inability (or unwillingness) of government to "translate" the complex issues inherent in trade liberalisation to facilitate a meaningful two-way dialogue with the community represents a significant failure of the democratic process in our view.

The QNU believes that this lack of transparency and engagement is a significant threshold issue of concern that must be addressed before any further negotiations take place on further trade liberalisation.

3. *Lack of accountability for decisions taken*

In our view adequate mechanisms do not currently exist to ensure appropriate accountability for decisions that are taken in the area of trade liberalisation.

Although welcomed, the public consultations held by the Australian government in recent times on trade matters (such as this call for submissions) have in our view been inadequate. Time frames for comment are often short and most importantly (as stated above) the current processes are repetitive and lacking in a logical structure where each new round of negotiations based on a clear and unambiguous policy position by government.

Our past submissions to DFAT on this issue covered our concerns about lack of accountability in some depth and we refer you to them for further details. Two particular area of concern is the vagueness of the feedback provided to the Australian public on negotiation outcomes and the failure to establish a process for monitoring the costs and benefits of trade liberalisation. (That is, testing the claims that are made in modelling on agreements and monitoring whether these are actually delivered.)

4. *The ideology underpinning the WTO/free trade agenda*

As we have stated above and in our past submission to you on trade matters, the QNU believes that the WTO/free trade agenda is driven by a flawed neo-liberal economic ideology. This ideology is largely accepted uncritically by government and opposition politicians and government bureaucrats alike. Narrow economic values have assumed dominance at the expense of other values.

The Australian community and communities across the world are rejecting a narrow economically driven agenda and demanding that other values be given appropriate consideration by their governments. We accept that global trade is a fact of modern life but we believe that "free trade" is neither inevitable nor desirable. We certainly would support our government pursuing a global "fair trade" agenda that is underpinned by a firm commitment to adherence to internationally recognised minimum human rights, labour and environmental standards. If the WTO and other trade negotiation processes could be reformed to be

an open, accountable and transparent body then it may indeed be possible for it to facilitate global "fair trade".

5. *Distributional issues*

Despite the rhetoric that free trade will benefit developed and developing countries and their citizens alike this has obviously not been the case to date. The benefits of trade liberalisation are not shared equally. In recent years the gap between rich and poor (both within and between countries) has continued to grow. The rhetoric is that we all benefit with the economic growth that results from trade liberalisation but the reality is quite different. To date there have been big winners and big losers in free trade – the bigger you are (comparatively) the better outcome you are likely to achieve.

If we reflect upon the resources available to the WTO member countries in the actual negotiation processes alone (let alone the outcomes of the negotiations) the nature of the distributional issues becomes painfully and clearly apparent. How many trade negotiators and lawyers did the USA have at the Doha meeting and how many did Australia have? What level of resources did countries such as Ghana, Mozambique and Fiji have to support their negotiations? Does this exemplify a level playing field? What levels of resources are allocated to developing countries for day to day management of trade negotiations once the Ministerial meetings are over? We are sure that most of the budget of the foreign affairs department of a developing country would go towards translating documents alone. If Australia's DFAT is struggling with resourcing the free trade negotiation process what hope would developing countries have? Unions have first hand experience at negotiation processes and recognise immediately an unequal bargaining relationship and we see that Australia is in one now with GATS negotiations. Trade liberalisation is predicated on exploiting opportunities that arise from this inequality.

Exploiting such power imbalances as best we can is not good global citizenship and the QNU opposes our government acting in this manner. An example of this is Australian health and aged care corporations seeking trade liberalisation to enhance their activity in the Asia-Pacific region. By supporting the interests of Australian business in this area of trade the result could be to hinder the development of universal health systems in developing countries, an aim that Australia is bound to support through its commitment to World Health Organisation (WHO) processes and objectives. Australia's trade interests must never assume ascendancy over our support of our aid and development objectives and support for universal human rights. Access to health care is a fundamental human right.

It is also of concern that it is predicted that Australia may have to give concessions with respect to Mode IV arrangements in this round of negotiations. Our concern in this regard relates to the potential impact that increased migration of health professionals could have on the standard of health services delivered in developing countries. It is inappropriate to in part solve shortages of nurses and other health professionals in developed nations by denuding developing nations of their needed health professionals. There is currently an international shortage of nurses and addressing the shortage in one country through nurse migration does nothing to address the international shortages and the causes of these shortages in a holistic sense. Again, this is merely an abuse of power – those countries with the resources to "buy" skilled workers from other countries will win out at the expense of those with fewer resources. This again highlights that other issues – such as our overseas aid and development objectives and commitment to World Health Organisation principles and objectives must assume greater prominence in trade negotiations.

Distributional matters and the power relationships inherent in international trade negotiations were at the heart of the declarations made at the end of the WTO Doha meeting. Although these issues have been openly articulated it remains to be seen whether any concrete actions to address power imbalances will follow the words.

It is of great concern to note the lack of progress to date in achieving the Doha objectives. For example, the Director General of the WTO has in the past expressed concern about the failure of member governments "to meet the year-end deadlines for agreement in negotiations on special and differential treatment for developing countries and access to essential medicines for poor countries lacking capacity to manufacture such drugs themselves." It is our understanding that the position of the US government (in supporting the interests of US pharmaceutical companies) greatly contributed to the failure to reach agreement on this matter.

6. *Weakening of the role of government in civil society*

Perhaps the most disturbing aspect of the free trade agenda is the way in which the role and power of democratically elected governments can be undermined through trade liberalisation.

This threat to democracy posed by the GATS agenda was summed up in an article by Richard Sanders titled GATS: The End of Democracy? (This was reproduced in part by the Australian Financial Review on 15 June 2001.)

“The GATS is now the spearhead of a highly organised corporate campaign to systematically sweep away government regulations that restrict corporate activities and stand in the way of corporate profits. It will effectively transfer the responsibility for balancing the public interest with commercial considerations from elected governments to appointed tribunals or WTO panels. It will place foreign commercial interests above the public interest. It will intrude into many domestic policy areas including environment, culture, natural resources, health care, education and social services.”

What guarantees to we have that free trade agreements will not undermine democratic and accountable policy making in Australia as well as crucial environmental, labour, food safety and public health and safety laws? The government has failed to undertake and release an analysis of the impact of the trade liberalisation that has occurred to date prior to embarking on further trade liberalisation. In our view they have also failed to adequately engage the community on this important issue. The Australian government should follow the example set by the Canadian government who paid considerable attention to the potential impact of trade liberalisation on public health services during the consultation process of the Canadian Commission on the Future of Health Care in Canada. An entire chapter (11) of the final report of this review was dedicated to this issue. This report titled *Building on Values: The Future of Health Care in Canada* is available online (<http://www.hc-sc.gc.ca/english/care/romanow/index.html>). Various recommendations are contained in the report aim to ensure that Canada's public health system is protected in international trade negotiations. This commission of inquiry even produced specific publications on globalisation and health, one titled *Putting health first – Canadian health care reforms, trade treaties and foreign policy* (which is available online at http://www.hc-sc.gc.ca/english/care/romanow/pdfs/Healthfirst_e.pdf). A detailed background paper was also prepared for this inquiry titled *How will international free trade agreements affect Canadian health care?* This paper deals with the potential negative and positive impacts of agreements such as NAFTA and GATS on the delivery of health services in Canada. (This is available at http://www.hc-sc.gc.ca/english/care/romanow/pdfs/22_e.pdf). The Canadian government has placed much greater emphasis on detailed analysis of the potential impact of trade liberalisation on important government service areas such as health than has the Australian government.

The QNU believes that it would be most beneficial to undertake a review in Australia similar to that conducted in Canada. We are seeking firm commitments from our Commonwealth government that no further trade liberalisation will occur until it can be clearly demonstrated that all trade agreements entered into will not have a negative impact on the integrity of public health services and the right to universal access to free health services. We seek a similar commitment with regard to any other public services provided by government such as education and water services.

As we have stated above, the QNU believes that it is essential that the government develop a clear and consistently applied policy framework that is applied in these GATS and all other future trade negotiations. This policy framework/negotiating position should be subject to full parliamentary debate and a vote in parliament before any commitments are made. In our view this should include a commitment to: those principles outlined in the UN's Global Compact, Australia's development objectives, excluding all public services from GATS and maintaining our sovereign right to regulate and provide services to the community. There should also be full disclosure of Australia's specific requests to other countries as well as the requests made of Australia by other countries.

Like other Australian trade unions the QNU is extremely concerned about the current trade liberalisation agenda of the Australian government. We are not convinced by assurances given to date by Australian Trade Minister Mark Vaile and other government representatives that Australian sovereignty and interests will be protected. The catch all “guarantee” that “services supplied in the exercise of government authority” are somehow protected under GATS does not reassure the QNU. The Canadian examination of the likely implications of trade liberalisation for public health services concluded that safeguards are currently inadequate but can be tightened to ensure national sovereignty regarding the delivery (and even extension) of public health services. The government merely has to choose to show leadership in this regard. Australia can and must do much more to ensure that our public health and human rights and other obligations continue to be met if further trade liberalisation is to occur.

We thank you for the opportunity to provide input into this consultative process.

Should you wish to discuss our submission further please do not hesitate to contact me (or in my absence QNU Project Officer Beth Mohle) by telephoning 07 3840 1444.

Yours sincerely

GAY HAWKSWORTH
Secretary