



AFTINET Ltd
Level 1, 46-48 York Street
Sydney NSW 2000
Phone: 02 9299 7833
Fax: 02 9299 7855
Email: lsouthalan@piac.asn.au
Website: www.aftinet.org.au
ABN 83 659 681 462
ACN 097 603 131

AFTINET Bulletin 99, 5 August 2004

If you would like to contribute to the Bulletin, please contact Louise Southalan via email at lsouthalan@piac.asn.au or on (02) 9299 7833. Our website is <http://www.aftinet.org.au>.

Contents

- 1. USFTA campaign: Implementing Legislation still stalled in the Senate**
- 2. Joint statement: Mark Latham and Stephen Conroy on USFTA amendments**
- 3. WTO deal drops "new issues", makes some progress on agricultural subsidies but still neglects many needs of developing countries**
- 4. Washington pressures Canberra on China deal**

1. USFTA campaign: Implementing Legislation still stalled in the Senate

On August 2 the Labor Senators on the USFTA Senate Committee released a contradictory report confirming that the USFTA could result in higher medicine prices, less Australian content in the media, higher copyright cost, reductions in quarantine protection and manufacturing job losses, yet recommended support for the implementing legislation. The report also listed a number of legal and policy changes needed to "safeguard" against harmful effects of the agreement. As we have said before, many of these may not be legally effective, as any future legislation or policy that is not consistent with the agreement may be challenged by the US government through the disputes process in the agreement. The document also mentioned possible amendments to the enabling legislation. These can be legally effective only if they are consistent with the agreement.

On August 3 a meeting of the ALP Parliamentary Caucus decided it would support the USFTA implementing legislation only if the government agrees to amendments in two areas: pharmaceutical patents and local content media rules (see statement below).

The amendments seek to prevent pharmaceutical companies from delaying production of generic drugs by vexatious claims for new patents on the same drugs and to enshrine in legislation current

local content requirements for Australian audio visual media. However, they do not address the many other areas of concern.

The government has said it will consider an amendment on media content but has rejected outright the amendment on medicines. If the ALP persists with this amendment, it will be the last chance to defeat the legislation.

If the Government rejects the amendments, the ALP will have to decide whether to vote against the Government's legislation or to let it pass. It is critical that we keep the pressure on the ALP, so that if this situation arises, they will vote against the legislation.

Therefore, despite the limitations of the amendments, AFTINET is encouraging people to contact Mark Latham expressing disappointment at the ALP's support for the USFTA but urging him to stand firm on the amendments.

The patents amendment has put the issue of the impact of the USFTA on the cost of medicines at the centre of the political agenda, and shown the public opposition to any moves that will raise these costs.

At the time of writing, the amendments were still being drafted, and it is not clear whether the government will continue to oppose them or will attempt some compromise on the detail.

Update on the campaign

Thanks to a huge effort by AFTINET members in the past fortnight the ALP has really felt the strength of community feeling about the USFTA. Recent events include:

- The joint statement organised by AFTINET from national community bodies including the ACTU, ACOSS, churches, environment, cultural and software groups calling on the Senate to block the legislation
- We delivered nearly 1500 postcards from people all around Australia to Mark Latham's office, asking him not to implement the legislation
- The excellent Four Corners program of August 2 on the PBS, medicines and drug companies, featuring health experts and to which AFTINET contributed background material
- This coincided with a rally outside his electorate office by a range of community groups, organised by the Combined Pensioners and Superannuants Association
- There has been activity in every state and territory protesting against the agreement and calling on the ALP to take a stand against it. This includes rallies, fairs, billboards, protests, letter-writing stalls, as well as direct lobbying of ALP politicians.
- There have been huge numbers of letters to newspapers querying the USFTA, and calling on the ALP to act
- ALP politicians have received massive numbers of emails, letters, phone calls and faxes on this issue

Thank you to all who are participating in this campaign.

2. Joint statement: Mark Latham and Stephen Conroy, 3 August 2004

Throughout this year, Labor has said that we would judge the Howard Government's trade agreement with the United States on the evidence: is it a net plus or minus for Australia. This is why we referred the matter to a Senate Committee for thorough examination - to consider all the facts and arguments and reach a conclusion in the national interest.

This was the right approach. The Agreement doesn't come into force until next year, and we have a duty to the Australian people to make a considered decision. The Senate Committee process also allowed the Australian people to have their say about the FTA.

Labor has reached the following conclusions:

- * The Howard Government could have achieved a better deal for Australia if it had pushed harder at the negotiating table, especially for our farmers.
- * Despite several flaws in the Agreement, it has net economic benefits for Australia and, on this basis, should be supported.
- * Expert economist, Phillippa Dee, has estimated the benefits at \$53 million a year. Over time, the Agreement will allow Australia to establish closer economic relations and integration with the world's largest economy with increased two-way investment flows. This will be of long term benefit to Australia.
- * Labor's policy preference is for multilateral trade liberalisation via the World Trade Organisation. Nonetheless, this bilateral agreement will increase access to US manufacturing, agricultural, services and government procurement markets.
- * Throughout the examination and debate surrounding the FTA, Labor has raised a number of concerns about its social impact. Some of these matters have been addressed as more information has become available. The FTA is a 'living agreement' and it will continue to develop overtime.
- * Labor Senators on the Senate FTA committee made a number of recommendations to improve the implementation of the Agreement. Drawing on these recommendations, Labor will put forward safeguard amendments to the enabling legislation in the Senate to ensure the FTA does not undermine the Pharmaceutical Benefits Scheme (PBS) and the existing local content rules.

These legislative amendments will be consistent with the text of the FTA and address concerns that have been raised about the PBS and cultural content rules. Labor will fight for amendments to:

- * Protect the PBS by preventing and penalising drug companies that try to stop cheaper generic drugs coming onto the market by lodging dodgy patent claims. The validity of patent claims would be determined by a court; and
- * Allay concern about any future reductions in local content for free to air television, pay television and radio: an amendment to legislate the current local content standards.

If successful at the next election, Labor will introduce a package of further measures responding to concerns expressed about the FTA. On balance, we believe this approach maximises Australia's national interest: reaping the economic benefits but safeguarding fundamental social policies. This has not been a straightforward or easy decision. Far from it. Judging the evidence in complex areas of public policy takes time and consideration.

We have made a decision in Australia's best interests and also fulfilled our obligations as a responsible Opposition: scrutinising legislation and improving outcomes for this country.

3. WTO deal drops "new issues, " makes some progress on agricultural subsidies but still neglects many needs of developing countries

The framework document for WTO negotiations agreed by the WTO General Council in haste last weekend was cobbled together by key players, lacks detail in many areas and does not appear to address a number of the issues raised by developing countries to redress the inequalities of the

global trading system. The framework is an attempt to salvage the current round of WTO negotiations that collapsed in Cancun last year when developing countries refused to agree to negotiations on investment, competition policy and government procurement and demanded reductions in unfair agricultural subsidies in industrialised countries like the US and the EU.

Developing countries have also criticised domination of the WTO process by the most powerful players and called for a more open and inclusive process. But this occurred again last week in Geneva with the key decisions on the document made by five governments, USA, EU, Brazil, Australia and India.

The document sets a timetable which suits the US election cycle. Further negotiations will not take place until the end of this year and the Hong Kong Ministerial Meeting to finalise negotiations has been postponed until December 2005.

On the positive side, the document confirms that there will be no further negotiations in this round on the "new issues" of investment, competition policy and government procurement. This is a victory for the campaign against WTO agreements on these issues waged by AFTINET and other community organisations around the world, and by many developing country governments.

On trade in services (GATS) there is a commitment to increase the number of countries making first round offers for further liberalisation of trade in services by the end of September. Most developing countries have been reluctant to make such offers, so this puts pressure on them to do so. There is also a timetable for second round offers next year. There is a commitment to proceed with negotiations on restrictions on government regulation of services, and issues like definition of subsidies. Both of these negotiations have the potential to reduce the right of governments to regulate services and to affect the provision and funding of public services. AFTINET will continue to argue against the expansion of the GATS agreement because of its potentially harmful impacts in Australia and in developing countries.

On the key issue of agriculture, there is a commitment to phase out agricultural export subsidies in the EU and the US, which addresses some of the demands of developing countries. But few concrete commitments have been made on addressing their special development needs in areas like food security and industrial development. Many of these areas remain to be thrashed out in the negotiations.

4. Washington pressures Canberra on China deal

The Sydney Morning Herald

John Garnaut

August 3, 2004

The Bush Administration is effectively putting pressure on Australia to abandon a proposed trade deal with its fastest growing market by urging Australia not to recognise China as a market economy.

A Government source confirmed yesterday that the US Trade Representative, Bob Zoellick, has told the Trade Minister, Mark Vaile, on at least two occasions recently that Australia should not recognise China as a market economy.

Such a move would be crucial as China has made it clear that recognition of its market economy status is a prerequisite for Australia beginning negotiations on a trade deal.

The pressure coincides with the Business Council of Australia, which has been the most vociferous supporter of Australia's free trade with the US, significantly cooling its position on the potential for a similar deal with China.

Hugh Morgan, the council's president, heavily qualified his support after strongly backing it previously. "Australia needs to take into account that China, although emerging into a market economy, has yet a number of aspects of its internal administration that might make it difficult to fully engage in an FTA," he said.

However, Mr Morgan said a decision on whether to back the deal should be made after the Federal Government's scoping study into the agreement had taken its course.

The Government source said that Mr Zoellick and Mr Vaile had discussed China's market economy issue on more than one occasion, with Mr Zoellick making it clear that Australia should not set a precedent that other countries might follow. "The US has been very keen for China not to pick countries off one by one on this, and there should be a unified approach," the source said. "If they're going to get market economy status they have to earn it."

A spokesman for Mr Vaile initially said the US had "absolutely not" exerted such pressure.

But he later said: "We couldn't categorically deny that no one had discussed the issue ... You would assume it must have happened at some point somewhere."