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## **The government's trade policy statement: a mixed bag, with some victories for AFTINET campaigns on the PBS and investor rights.**

*By Dr Patricia Ranald, AFTINET convener*

As indicated in December, Trade Minister Emerson's review of trade policy released on April 12<sup>th</sup> is based on five principles. These are unilateralism, non-discrimination, separation of trade and foreign policy, and transparency. The full policy is available at <http://www.dfat.gov.au/publications/trade/trading-our-way-to-more-jobs-and-prosperity.html>.

AFTINET released a media statement on the policy which received some media coverage (see [www.aftinet.org.au](http://www.aftinet.org.au)). This article is a more detailed analysis of the policy.

### **Free trade theory and unilateral reduction of tariffs and other trade barriers**

Much of the trade policy statement was devoted to a detailed defence of free trade economic theory based on the theory of comparative advantage (pp 1-9). This theory has many critics, especially those who have studied the historical development of real economies. Basically, the theory argues that each country should specialise in those products which it can produce most efficiently, and should import all other products. In the case of Australia, this could mean an economy based on mining, agriculture, tourism and some service industries. The theory argues that, if every country unilaterally reduces its trade barriers, global trade will increase and economic efficiency will be maximised.

However we advocate that the objective of trade and economic policy is not simply to increase economic growth and volumes of trade, but to improve living standards and the quality of life in the context of human rights, labour rights and the protection of the environment. More generally, Australian Labor Party policy recognises that the achievement of these goals requires not only economic growth but action by governments to correct market failures, ensure that the benefits of economic growth are distributed fairly, and protect the environment.

The application of extreme free trade theory also ignores the lessons of history. Historically, all industrialised countries have used tariffs and other forms of industry policy to develop their industries, but some now seek to "kick away the ladder" of

industry policy for developing countries<sup>1</sup> Studies by the World Bank and others have shown that rapid tariff reductions in developing countries can simply cause unemployment and low economic growth in the absence of other measures to develop employment<sup>2</sup>. This is why even the World Trade Organisation supports special and differential treatment to enable developing countries to have some industry policies.

Extreme free trade theory assumes that those who lose their jobs as a result of unilateral tariff reductions will simply move to jobs in other sectors created by higher economic growth. This is demonstrably false. The impacts of unilateral tariff reductions are not evenly spread, and it is not easy for those unemployed in one sector to move to another. For example, in Australia, employment losses resulting from tariff reductions in manufacturing industry over the last three decades are concentrated in regional areas of high unemployment and on older workers, often from non-English speaking backgrounds, with less education and skill development opportunities. Despite adjustment assistance, many of these workers are not welcomed by service industry employers and remain unemployed. Australia already has very low average tariffs and other trade barriers. The application of an abstract principle of reducing all tariffs to zero without considering the actual impacts on specific industries and communities would not only reduce government revenue but increase social security and other adjustment expenditure, in addition to the human cost.

This is why there was reportedly a division in Cabinet about the policy, and why AFTINET, and its members like the Australian Manufacturing Workers Union have criticised the policy and challenged its application in the real world<sup>3</sup>.

The application of this extreme free trade policy is also of concern to AFTINET members who represent services industries, particularly human services, and those like the finance, building and other services which require government regulation to address market failure and equity issues. The simplistic application of this theory appears to endorse a general reduction in government regulation simply because this might limit the volume of trade. "Invariably government laws and regulations have the effect of reducing the amount of trade between countries ...reducing government imposed restrictions on trade at home has the beneficial effect of exposing local businesses to international competition" (p.2).This clearly contradicts

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<sup>1</sup> Ha-Joon Chang *Kicking Away the Ladder – Development Strategy in Historical Perspective*, Anthem Press, London, 2002.

<sup>2</sup> World Bank, (2005) *Assessing World Bank Support for Trade 1987-2004: An IEG Evaluation*, New York. This study concluded that 'bank advice was too optimistic about the benefits of trade liberalisation for growth in the short run' and that it "underestimated the interaction among growth, trade and distributional outcomes, and the country-specific context" (p xvi).

<sup>3</sup> See Matthew Franklin and Ben Packham, "Julia Gillard faces union revolt on trade" *the Australian* April 13, 2011, and "Cabinet split on free trade push" Matthew Franklin, *the Australian* April 14, 2011

other aspects of government policy which recognise that government regulation is required to address other policy goals.

AFTINET advocates that trade policies must be based on human rights, labour rights, protection of the environment, and must not undermine the ability of governments to regulate in the public interest to achieve these principles.

However there are other aspects of the policy which are responses to our campaigns and which we have welcomed

The first is the decision that the government will follow the recommendations of the Productivity Commission and will **not** support the inclusion of investor-state dispute procedures which give foreign businesses greater legal rights than domestic investors, including rights to sue governments for damages on issues like cigarette plain packaging legislation. The policy also states that “in the past Australian governments have thought the inclusion of investor state dispute resolution procedures in trade agreements with developing countries at the behest of Australian businesses. The Gillard government will discontinue this practice” (p.20). The welcome ditching of the investor state dispute process is a direct response to our campaigns over many years, since this proposal was defeated in the Australia-US free trade agreement in 2004, and more recently through our submissions to the Productivity Commission and the government's trade review.

Secondly, the government has adopted the recommendation of the Productivity Commission that the government should not include matters in bilateral and regional trade agreements that would “raise costs or effect established social policies” (p.26). In particular, the government will not accept positions that limit its ability to continue the Pharmaceutical Benefits Scheme (p. 20). The Productivity Commission recommendation adopted in the trade policy also recommended that the government should not include increased intellectual property protection in future bilateral or regional trade agreements (p.26). The clear protection of the Pharmaceutical Benefits Scheme and the rejection of increased intellectual property rights are also responses to AFTINET advocacy over many years, including our submissions to the Productivity Commission and to the trade review.

Thirdly, there is an important policy improvement in transparency in trade negotiations. In the past, trade negotiations were ratified in secret by Cabinet and only examined by the Joint Standing Committee on Treaties after the decision had been made. This policy has changed to enable consideration of trade agreements by the Joint Committee before ratification by Cabinet. Again, this is a response to AFTINET campaigns for greater public and Parliamentary debate and accountability for decisions on trade agreements. It is not yet clear how this policy will be implemented. We will advocate for the text of the trade agreement to be made available publicly before ratification, and for a public enquiry by the Joint Standing Committee on Treaties, to enable full public and Parliamentary debate before ratification.

Fourthly, we welcome the fact that the government has for the first time given support in principle to the inclusion of labour and environmental provisions in trade agreements. However the policy does not support clear enforcement provisions, which would ensure implementation. AFTINET will continue to campaign for strong labour and environmental provisions based on internationally agreed standards which should be enforced through the same mechanisms as other aspects of trade agreements, including trade sanctions.

Fifthly, AFTINET supports the principle that there should be a clear separation between trade policy and foreign policy, and that Australia should not endorse trade agreements with which are not in the national interest (p.11). The government appears to be applying this principle to the PACER-Plus negotiations, which were not included in the list of trade priorities in the statement. Previous Ministers have argued that PACER-Plus was not about trade benefits for Australia, but was about development of Pacific Island economies. We hope that the review of PACER-Plus negotiations now confirmed by the Parliamentary Secretary for the Pacific Islands will result in positive policies to assist Pacific Island development, without imposing extreme free trade requirements on small and vulnerable economies.

The test of this new trade policy will be its implementation. The new policy should mean that in the Trans-Pacific trade agreement negotiations between Australia, the US, New Zealand and six other Asia-Pacific countries, the Australian government will not agree to US demands for an investor state dispute process and increased intellectual property rights, and will not ratify an agreement if it contains these provisions. AFTINET will continue our campaigns on the TPPA and PACER-Plus to achieve meaningful implementation of these policies.