

Defend our Jobs and Living Standards Against Attacks

25. TRADE

1. Australia's approach to trade is broken and needs to change. The single most important objective of trade policy should be to deliver benefits to the Australian economy, communities and working people by increasing opportunities for local businesses and creating local jobs. This should not be at the expense of workers in developing countries.
2. Politicians seem to have lost sight of this. Instead, trade policy has become ideologically driven, with a focus on pursuing and signing 'trophy' trade agreements which provide little, if any, benefits to Australian communities and in many cases, decimate local industries and local jobs. The current agreement-making process undermines our democracy, and our politicians are not listening to the concerns of unions and the broader public.
3. Over recent decades, politics and policy making have been dominated by the neoliberal idea that what is best for big business is best for Australian communities and workers, based on its tenets of free markets without government intervention, private ownership of public services, individual rather than shared responsibility, and placing a primacy on the maximization of company and shareholder wealth. Neoliberalism is based on the false belief that if we design policy to increase the profits of big business, the benefits will trickle down and improve wages and conditions for Australians. Current Australian trade policy approaches are a prime example the failure of this belief.
4. But the reality is the benefits are not trickling down, they are trickling up to multinational conglomerates who are reaping the profits. Average Australians are not benefiting from our Free Trade Agreements (FTAs). Australia, like many other countries, is finding that large sections of our society are losing out. Even in sectors where we were supposed to be reaping the benefits, such as agriculture, profits are going to large businesses which minimise their taxes by shifting profits off-shore, while agricultural workers and farmers are left in some of the most exploited and least safe conditions in the country.
5. We are seeing the consequences of our trade agreements, with manufacturing jobs being shed by the tens of thousands and communities being decimated. The Coalition Government's explicit approach of ending industry assistance simply to sign free trade agreements with Korea, Japan and China has destroyed local industry – particularly the automotive industry. The automotive industry had been one of Australia's largest industries, employing 200,000 people in generally well-paid secure jobs. By contrast, the Government's own modelling three contemporary trade agreements purported to result in just 5434 additional jobs by 2035.
6. In the 1980s and 90s, trade liberalisation and tariff reduction was accompanied by industry plans and assistance to lessen the negative impact on those workers made worse

off. Recent trade policy has failed to provide support or protection for the losers of free trade. Workers, families, communities and their industries have effectively been left behind.

7. The benefits to exporters, who are supposed to be the winners of free trade, have also not been as high as claimed. While Australia generally reduces its tariffs to zero quickly, Australian producers are still subject to stubbornly high and slowly reducing tariffs. Non-tariff barriers to trade and other behind the border measures designed to unfairly keep Australian exports out are also hurting our industries. Only 19% of local exporters utilise any FTA provisions, highlighting how little economic benefit these deals actually generate.
8. While our trading partners exploit non-tariff barriers, Australia fails to implement measures to support legitimate barriers to trade, such as barriers to dangerous imports, or barriers that support objectives such as national security, the prevention of deceptive practices, animal or plant life, health and the environment. This has not only negatively impacted local industry but has also resulted in the import of products containing asbestos, sub-standard building products and the outbreak of white eyed prawn which has devastated Australia's domestic prawn industry.
9. Trade agreements are increasingly being carried out in secret, with little or no socio-economic impact testing, in order to provide private profit and more power for big business at the expense of workers and their families. Elements of social and economic policy and legislation are being incorporated into trade agreements without due democratic processes or proper consultation. Examples include migration, VET, pharmaceutical benefits scheme and advisory board, OH&S, industrial, and labour market policies. The ACTU condemns the secrecy with which the DFAT negotiates trade agreements; with negotiation parameters and the final text being withheld from public scrutiny until after Cabinet makes the decision to sign them, after which they cannot be changed.
10. The Australian government is currently negotiating 14 bi-lateral, multilateral or plurilateral trade agreements. Whether or not these trade agreements are in the national interest requires urgent analysis. The largest deals, and the most likely to be concluded (without intervention) soon are the Trans Pacific Partnership (without the US) and the Regional Cooperation Economic Partnership agreements. Both take in a range of Asian countries and are considered to be some of the largest plurilateral deals in history. All of them contain labour mobility provisions of one kind or another. The current Government is allowing these provisions to undermine local jobs by making it easy for companies to bring exploited, underpaid workers into Australia.
11. The CHAFTA MOU on Investment Facilitation Arrangements allows companies who invest \$150 million in projects in Australia to bring in their own workforce. The CHAFTA side letter on removal of mandatory skills assessment in 457 trades allows workers without relevant and sometimes fraudulent qualifications to be brought into Australia. The broad definition of "contractual service providers" in labour mobility chapters are not designed to facilitate genuine trade in services, but to undermine local wages and conditions by providing greater freedom for employers to import labour on less favourable conditions, without the need to undertake Labour Market Testing. These elements threaten local jobs and could be extended in all other bilateral FTAs due to the Most Favoured Nation clause which under the WTO rules demands that all countries are offered the same concessions. The increase

in temporary migration through FTAs increases worker vulnerability in general but affects female workers most of all.

12. The current approach to trade treats workers as commodities. This must stop. Labour mobility must not be used as a bargaining chip in trade agreements – these policies should be set by immigration agencies and Ministers in light of broader questions of justice and national interest. They are too important to the future of our jobs and employment to be traded away.
13. Worse yet, the scope of FTAs is becoming wider and much more far-reaching. FTAs are increasingly encompassing even more dangerous provisions; provisions that are much less about delivering freer trade than they are about maximising profits for multinational corporations. For instance, many FTAs contain Investor-State Dispute Settlement (ISDS) clauses (or ISDS-like clauses that function in the same way) which allows foreign investors to bypass national courts and sue governments for millions of dollars in international tribunals if they argue that a change in domestic law or policy at a local, state, or national level will ‘harm’ their investment. This includes law and policy such as minimum wages, occupational health and safety, public health and environmental regulations. These clauses put corporate interests over public interests and prevent Governments from governing in the best interests of citizens.
14. The Trade in Services Agreement (TiSA) is threatening to further deregulate and privatisate public services, ignoring their crucial and proven role in development and in reducing inequity. Privatisation has clearly failed us in the past¹. Public services are designed to meet social needs through affordable, accessible, and often universal programs that serve the public interest, funded by our common wealth. Free trade agreements that are specifically designed to enhance private commercial interests, by opening more services to global market forces, will not benefit Australian communities. TiSA provisions to promote trade in services on a commercial basis would have far-reaching consequences for public services in signatory countries. Women are disproportionately affected by privatisation; they make up a large part of the public-sector workforce whose jobs and income are threatened, and women access public services at a greater level. Australia’s free trade agenda fails to consider the impact on women.
15. TiSA will contain ‘standstill’ and ‘ratchet’ clauses: the standstill clause effectively freezes the degree of regulation in particular sectors meaning that governments are no longer free to implement stricter regulatory provisions, and the ratchet clause means that governments will be unable to reverse privatisations – once a sector is privatised or deregulated, there is no turning back. This means that governments will lose control of services and have no ability to reverse failed privatisations. Considering the privatisation of seven hospitals has failed, the decimation of TAFE and the cost a privatised electricity market, the reduction in skills requirements and the importation of asbestos, this is a recipe for disaster.
16. The health risks of current and future agreements include increasing the cost of medicines and influencing the decisions of the Pharmaceutical Advisory Board and the Pharmaceutical Benefits Scheme (PBS), meaning increased costs flow on to the Australian

¹ Taking Back Control: A Community Response to Privatisation (2017):

https://d3n8a8pro7vhmx.cloudfront.net/cpsu/pages/1573/attachments/original/1508714447/Taking_Back_Control_FINAL.pdf?1508714447

public, or the public healthcare system in terms of increased fees for medicines. Patent extension and data retention exclusivity included in free trade agreements risk lives by delaying access to generic medicines and may lead to restrictions on diagnostic tools and procedures.

17. They also weaken the ability of Government to regulate and restrict tobacco and alcohol availability and advertising and restrict its capacity to implement new food labelling policies which highlight the health risks of consumables. Considering non-communicable diseases are a leading killer of Australians, this is a clear indication of profit being placed before people.
18. The WTO Government Procurement Agreement is designed to limit Government's ability to support local business by buying ethically, sustainably and from local small and medium enterprises and disadvantaged communities. Rather than trading away exemptions negotiated in existing agreements to support local industry by procuring their products and services we should be fully utilising these exemptions unlike current procurement procedures which largely ignore them.
19. The Environmental Goods Agreement may undermine Australia's ability to deliver local workers and communities a just transition to structural change. Just transition supports R&D and industrial policy in renewable energy development and other innovative processes. The agreement may also stop local manufacturers of renewable energy products from seeking remedy against dumped products or predatory pricing. The ability of governments to address climate change is key to ensuring the health and safety of workers and citizens given the impacts on clean air, safe drinking water, sufficient food and secure shelter.
20. United States-based multinational tech companies now represent five of the seven largest corporations in the world (Google, Facebook, Amazon, Apple and Microsoft). These companies are pushing hard to have the rules of FTAs written in their favour to allow themselves free access to data and transfer the data wherever they want- all under the guise of 'e-commerce'. These companies want TiSA, the TPP, and the WTO negotiations to all include a chapter on e-commerce which restricts the rights of governments to regulate areas such as privacy and consumer protection, and cross-border data transfers. These corporations are also seeking to have the ability to operate and profit within a country without having to maintain any type of physical or legal presence (and without paying tax).
21. The union movement is committed to getting a better deal on trade for all Australians. Trade is extremely important to the economy, accounting for 40% of GDP. Changing trade policy is central to rebalancing economic rules in favour of working people. A good trade deal puts shared prosperity, decent work and sustainable social and economic development at the centre of the agreement. A good trade agreement is not an end in itself, rather it should be a means of creating a fair trade playing field between countries, based on respect for workers' rights, protection of the environment and increased opportunities for business, regardless of their size or power.
22. The primary measure of the success of our trade policies should be measured through quality job creation, rising wages and more engaged and competitive businesses; all measures of broadly shared benefits. It should not be based on higher corporate profits, increased offshoring of Australian jobs and weakening labour market protections, wages,

rules of law and democratic decision-making in Australia or in negotiating partner countries.

23. The ACTU believes that trade policy should be informed by unwavering principles which themselves draw on fundamental Australian values of human dignity, egalitarianism, community, fairness and democracy. These should act as minimum standards upon which we as a country make decisions about whether or not we want to sign on to an agreement. These principles must result in the following priorities being at the forefront of activity resulting from trade policy:
 - a) Incorporation of a labour chapter in trade agreements that includes direct reference to the eight ILO Core Conventions and the work of ILO's Governing Body on the Freedom of Association, with agreed arbitration processes and binding trade or economic sanctions in cases of abuse with provision of capacity building support to strengthen industrial relations regimes;
 - b) Commitment in trade deals to protect workers' rights, raise wages and improve living standards in all signatory countries by defining "acceptable conditions of work" to include a living wage, social protection, OHS, licensing and other regulatory standards;
 - c) Recognition of the right of sovereign governments to implement rules that preserve and protect the place of domestic political, legal and judicial systems including collective bargaining;
 - d) Preservation of the ability of governments at all levels to favour domestic producers in government or government-funded procurement particularly to promote local small and medium enterprise and local defence suppliers. This should include existing exemptions for Australian SMEs to give preference to local businesses where possible and to allow full, fair and reasonable right for domestic producers to participate in government projects and procurement. Governments should actively support Australian businesses by seeking access to the supply chains of overseas investors and participants in the local economy;
 - e) Refrain from making commitments on the temporary movement of people as this is the remit of migration policy;
 - f) If commitments on the temporary movement of people are to be included, or if they exist in current agreements, safeguards must exist to ensure:
 - The maintenance of skills testing requirements for industries and professions. Public interest and recognition of our high worker standards requires stringent skills testing;
 - Workers' rights are protected through ensuring pre-departure and post-arrival briefings regarding workers' rights and entitlements in Australia, including the right to belong to and access support from a union

- The establishment of a tri-partite body, modelled on the ILO, to monitor and recommend policy approaches
 - The right for local workers to have preference over local jobs and legitimate cases of skills shortages being primarily met by training and permanent migration rather than employer driven temporary migration.
- g) Preservation of the ability of government to protect Australian industry from illegal anti-competitive behaviour through a properly resourced anti-dumping commission. The commission must assist Australian industry to identify and stamp out this illegal activity. It should also have responsibility for safeguard investigations and assurance that imported goods comply with Australian safety, quality, quarantine and sustainability standards;
- h) Reciprocity in tariff reduction, quotas and market access for Australian exporters in any trade deals currently entered or being contemplated, with exceptions made for appropriate developing nations, and
- i) Ensuring a whole of government approach in conducting a holistic Health Impact Assessment of each trade agreement, with the assessment released to the public, with opportunities for public comment, prior to any agreement being signed and during any review period.
- j) Refuse any extension of temporary monopoly rights to pharmaceutical companies. These rights should never over-ride an individual's or communities right to life and health, nor a sovereign government's right to implement policies to protect and promote the health rights of citizens;
- k) Recognition of sovereign government entitlements to implement rules that preserve rights for national and local choices about the provision, and retention, of public services, both existing and future services, - education and health amongst them;
- l) Incorporate into trade deals an environment chapter with agreed arbitration processes and binding trade or economic sanctions to ensure that agreements don't result in increased environmental degradation;
- m) Assurance that trade policy must also work cohesively with measures to address climate change and inequality in line with our commitments under the Sustainable Development Goals (SDGs);
- n) Recognition of the right of sovereign governments to pursue policy to develop their industrial capacity and create and build economically, socially and environmentally sustainable industries;

- o) Recognition in line with the SDGs that states have the right to seek development through diversification, technological upgrading and innovation, including through a focus on high value added and labour-intensive sectors²;
 - p) Recognition of the right that sovereign governments can impose and enforce financial regulation policy, including flexibility with respect to capital controls and capital transfers designed to address financial volatility;
 - q) Recognition of the right of governments to implement regulations that are based on protecting the privacy and intellectual property of citizens;
 - r) State to state commitments that re-enforce the principle that trade deals are made between sovereign nations who have the right to make choices about how to best promote policies that benefit their citizens;
 - s) Assurance for genuinely independent assessments of the projected costs and benefits of any agreement including the economic, regional, social, gender, cultural, regulatory and environmental impacts which means that the assessments are not to be undertaken by the Productivity Commission but actual independent bodies without a neoliberal ideological agenda;
 - t) If economic benefits are marginal or projected social impacts damaging then the trade deal should not be pursued and should be abandoned, renegotiated or repealed;
 - u) Negotiations must be as transparent as possible with broad social, health and economic consultation. This includes a consideration of relevant matters before negotiations begin, the negotiations themselves, as well as ongoing “dialogues” and “committees” resulting from negotiations. This requires unions and civil society organisations to have formal consultative status with DFAT negotiating teams and for them to release the text before each round of negotiation;
 - v) Assurance of transparency through the public release of proposals and draft texts of trade deals (as occurs in the WTO and is now the practice in some EU negotiations³) with the final text released for public and parliamentary debate;
 - w) Respect for our democracy by enabling a Parliamentary vote on the whole text of agreement, not just implementing legislation.
24. Good trade policy should be transparent and accountable to the public and deliver quality jobs, rising wages and greater equality.

² United Nations Conference on Trade and Development, *Aid4Trade*, 2013, p.243,
https://www.wto.org/english/res_e/booksp_e/aid4trade15_chap9_e.pdf

³ European Union, *EU Negotiating text in TTIP*, February 2015, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1230>