

Submission on behalf of the ACTU to the Productivity Commission's Review of Bilateral and Regional Trade Agreements

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Introduction

The Australian Council of Trade Unions (ACTU) is the peak council for organised labour in Australia. Unions affiliated to the ACTU cover all sectors of the economy, across all states and territories, representing more than 1.8 million workers. The ACTU is an affiliate of the International Trade Union Confederation, a body established to promote and defend workers' rights and interests globally through international cooperation.

The ACTU welcomes the opportunity to make this submission to the Productivity Commission's Review of Bilateral and Regional Trade Agreements. The intention of this preliminary submission is to outline 'key principles' when negotiating bilateral and regional free trade agreements. Once the Commission has drafted its interim report, the ACTU will then determine how best to proceed.

Our position reflects our experience supporting workers to attain safe, secure and rewarding employment in Australia and internationally. Our comments reflect the ACTU's aim to create and consolidate a commitment to fairness, equality, safety and up-skilling in the workplace.

Importance of International Trade

The ACTU is committed to promoting sustainable development in Australia and internationally, and strongly believes international trade, based on the principles of fair trade, is first and foremost a tool for raising living standards because it has the capacity to support:

- Employment growth
- Improved social protections
- Implementation of core labour standards
- Sustainable environmental standards
- Adherence to human rights conventions and democratic values

This view is consistent with the position of the World Trade Organisation (WTO), which outlines, in the preamble of the Marrakesh Agreement, a trade agenda that should 'be conducted with a view to raising standards of living, ensuring full employment...in accordance with the objective of sustainable development.'¹

To further sustainable development, an integrated approach to trade and development policy needs to consider the sustainability and impact of any trade liberalisation agreement before it is finalised. Importantly, consideration of the sustainable development impact must extend to all parties in the agreement negotiation, especially developing countries.

Trade liberalisation in all countries, but particularly in developing countries, has a real social, economic and political cost; especially when trade barriers are broken down allowing unfettered access to land, resources and new markets for goods and services. Therefore, the ACTU strongly supports free trade negotiations that maintain the respect and capacity of developing country governments to control their economies and ensure the interests of their people.

¹ World Trade Organisation, *Marrakesh Agreement Establishing the World Trade Organisation*, Marrakesh: WTO, 1994, 1.

This should also extend to the capacity of governments to provide public services. This is reflected in the Australian Labor Party's policy platform which states that bilateral trade initiatives must not impact on the Australian government's capacity to provide public services (such as health, education, water, waste, electricity supply or post).² This position must also inform the negotiating demands made by Australia of other countries, particularly developing countries

For developed and developing countries, an open market has the potential to improve economic growth. However, trade liberalisation alone does not guarantee that the benefits of increased trade will result in tangible benefits for all people because trade liberalisation does not directly manage the redistribution of economic growth to ensure social justice. For example, 'trade liberalisation has significant and different impacts on the lives and status of women and men because of their different access to and control of economic and social resources, decision-making and participation.'³ Yet, policy and agreements are developed as though trade liberalisation is gender-neutral resulting in a failure to address potential gendered outcomes and further marginalise women. This is counter to poverty alleviation aspirations and promotes unsustainable development. **Therefore, fair trade requires policy considerations that also promote equitable labour and social conditions. This does not need to be incompatible with trade liberalisation.**

Multilateral Trade Negotiations

While the ACTU acknowledges that the WTO is in urgent need of comprehensive reform, we nonetheless believe **Australia should pursue its trade objectives through multilateral rather than bilateral agreements.** This position is informed by a number of considerations including:

- A commitment to maintaining the transparency of global trade rules
- The economic benefits of multilateral agreements are available to both developing and developed countries
- The capacity of developing countries to aggregate their bargaining power to negotiate on a more equal basis with larger economies
- The significant risk of trade diversion due to preferential bilateral and regional preferential trade agreements
- The suitability of multilateral agreements to the Australian situation, given Australia's diverse patterns of trade with major export markets across Asia, Europe, North America and the Middle East
- The proliferation of bilateral and regional free trade agreements results in different rules of origin (and the associated complexity) and other costs for exporters

Given the impasse in the Doha round of multilateral trade negotiations, the ACTU recognises there will be a growing emphasis on bilateral and regional agreements by the Australian government. Within this context, there is a pressing need to ensure that the benefits to the Australian economic and Australian workers are balanced in future agreements, alongside

² Australian Labor Party, *National Platform: Chapter Two – Securing Our Future with Responsible Economic Management*, < http://www.alp.org.au/sites/default/files/downloads/chapter_2.pdf> (accessed 23 February 2010), August 2009.

³ International Women's Development Agency, 'Submission on behalf of IWDA to DFAT on the Pacific Agreement on Closer Economic Relations (PACER) Plus', < http://www.iwda.org.au/au/wp-content/uploads/2009/08/iwda-gender-and-trade-dfat-submission_final_310709.pdf>, (accessed 23 February 2010), 31 July 2009.

the inclusion of labour rights. This will require a commitment to consultative arrangements which include unions.

The Impact of Bilateral and Regional FTAs on Domestic Political Decision-Making

The ACTU does not support free trade agreements (FTAs) that constrain the government's ability to regulate in the public interest, to pursue legitimate social objectives through responsible procurement policies, and to provide affordable and high quality public services. Agreements directed at the regulation of goods and services should also not dictate immigration policy and the employment rights of Australian workers.

The ACTU also strongly supports the positive list approach with respect to services trade (not the negative list approach promoted by DFAT) as the best way to achieve liberalisation. The positive list approach is the best way to avoid unintended, unforeseen and excessive liberalisation by:

- Preventing the automatic application of liberalisation obligations to services that do not exist nor contemplated at the time the agreement is negotiated
- Preventing inappropriate restrictions on the rights of government to regulate in the public interest
- Not limiting the regulatory options of future governments when, and after, the new services emerge
- Checking unidirectional policy movement (towards comprehensive liberalisation) because variances to the 'negative list' annex cannot be reversed to the status quo once variance to the existing arrangements are made

The Impact of Bilateral and Regional FTAs on Domestic Productivity

The ACTU believes that exporting is commercially rewarding as exporters, on average, earn high profits, are more productive and grow faster than non-exporters. However, **the ACTU is concerned over the potential damaging effect current and future bilateral and regional FTAs may have on a number of sectors of the Australian economy, including industries which are already under intense international pressure.**

For example, analysis undertaken by the National Institute of Economic and Industry Research (commissioned by the AMWU and featured in the AMWU's submission to the Mortimer Trade Review) on the impact of FTAs on Australian industry found that existing FTAs have resulted in net production loss by the Australian manufacturing industry of between \$2.6 billion and \$2.9 billion.⁴

The ACTU has expressed a similar concern in the past, including, in a 2009 submission to the Department of Foreign Affairs and Trade (DFAT) on a proposed FTA between Australia and the Republic of Korea (ROK).⁵ The submission quoted a feasibility study on the proposed FTA

⁴ In the case of the Thailand FTA, in only its first 30 months of operation, the net gains to the Australian automotive sector, with the trade diversion effect included, of the Thai FTA was minus \$1.35 billion. See Australian Manufacturing Workers Union, 'Submission to the Review of Export Policies and Programmes', <http://www.dfat.gov.au/trade/export_review/submissions_received/AustralianMetalWorkersUnion.pdf>, (accessed 17 February 2010), May 2008.

⁵ Australian Council of Trade Unions, *Towards a Possible Australia-Korean FTA: ACTU Comments*, Melbourne: ACTU, 2009.

commissioned by DFAT which observed that ROK 'exporters could be expected to gain from reductions in Australia's tariff on textiles and garments, as well as automobiles and automotive parts where ROK exports are globally competitive.'⁶

This concern is also present in feasibility studies commission by DFAT prior to negotiating and signing FTAs. For example, in 2001, a feasibility study undertaken by Access Economics on the proposed Singapore-Australia FTA (SAFTA) did not confer any quantifiable net gain for Australia.⁷ Since coming into effect in July 2003, bilateral trade between Australia and Singapore has increased from \$9.4 million in 2004 to \$14.5 billion in 2007. Over the same period, however, Australia's deficit more than doubled, rising from \$3 billion in 2004 to \$6.4 billion in 2007.⁸ In the trade of services, the value of two-trade also increased (by 57.6 percent) but with a sevenfold increase in the deficit.⁹

Similarly, five assessments of the potential impact of the Australia-US FTA (AUSFTA) on the Australian economy were undertaken during 2003-04. Four of the five studies (by the IMF, ACIL Tasman, NIEIR and Dr P. Dee of the ANU) indicated that the agreement would have little, no or a negative impact on the economy.¹⁰ In the year following the agreement coming into effect, Australian exports to the US fell while US imports increased. In 2007, two-way trade with the US fell to a record low and Australia recorded its highest trade deficit with any trading partner, when Australia's trade deficit with the US rose to \$13.6 billion.¹¹

The ACTU acknowledges that a variety of factors contribute to changes in two-way trade. This includes shifts in import/export priorities, exchange rates and the relative strength of the Australian dollar, recessions in trading partner countries, and historically weak productivity growth in Australia.

Analysis of (and policy responses to) the underperformance of Australian exports due to historically weak productivity growth is needed so that Australian economy can maximise the benefits arising from FTAs. Such analysis should focus on sustained underinvestment in both hard and soft infrastructure – from rail and port facilities to education and training to support and encouragement of innovation and R&D. Sustained underinvestment has exacerbated export bottlenecks, underpinned capacity constraints, and perpetuated skills shortages and inflation limiting investment; undermining productivity and growth.¹²

In parallel to analysis of the domestic constraints on improved productivity, the ACTU urges the Australian government to conduct comprehensive socio-economic analyses of the potential national, sectoral and regional impacts of all proposed bilateral and regional FTAs.

⁶ ITS Global and the Korea Institute for Economic Policy, *Australia-Republic of Korea Free Trade Agreement Feasibility Study* cited in ACTU, <
http://www.itsglobal.net/docs/ROKAUS_ExecSumm.pdf>, (accessed 23 February 2010), April 2008.

⁷ Access Economics, *The Costs and Benefits of a Free Trade Agreement with Singapore*, Canberra: DFAT, 2001.

⁸ DFAT figures cited in M. Priestly, 'Background Note: Australia's Free Trade Agreements', <
<http://www.aph.gov.au/library/Pubs/BN/2008-09/AustFreeTradeAgreements.htm>>, (accessed 17 February 2010), 2 December 2008.

⁹ Trade in Services 2006-07 statistics cited in Australian Council of Trade Unions, *ACTU Submission to the Review of Export Policies and Programmes*, Melbourne: ACTU, May 2008.

¹⁰ M. Priestly, 'Background Note: Australia's Free Trade Agreements'.

¹¹ Ibid.

¹² The need to complement trade policy with strong industry policy in order to drive productivity gains and achieve higher living standards is also outlined in Australian Council of Trade Unions, *ACTU Submission to the Review of Export Policies and Programmes*.

The modelling should specifically examine the likely effects of the agreement on employment and wages in affected sectors.¹³ Such modelling should not be founded on unrealistic projected gains that are modelled on the basis of a complete and comprehensive liberalisation of trade and investment; which has not and will not occur.¹⁴

Core Labour Standards – An International Consensus

Since the 1990s, a broad international consensus has emerged on the definition of a set of **core labour standards**, reflected in the international community's endorsement of the idea in a number of fora. At the World Summit for Social Development in 1995, a commitment was made to:

Pursue the goal of ensuring quality jobs, and safeguard the basic rights and interests of workers and to this end, freely promote respect for relevant International Labour Organisation conventions, including those on the prohibition of forced and child labour, the freedom of association, the right to organise and bargain collectively, and the principle of non-discrimination.¹⁵

In the same year, the Organisation for Economic Cooperation and Development (OECD) stated that:

In order to raise people's material living standards, countries should seek economic growth, using trade and labour market policies as appropriate means to that end. Labour standards and international trade can be complementary. Such complementarities should be sought by countries and by companies and fostered by the international community.¹⁶

In 1996, the final statement of G7 Ministerial Meeting on Jobs noted 'the importance of enhancing core labour standards worldwide.'¹⁷ Similarly, *The Report on Labour Standards in the Asia-Pacific Region: The Duffy Report* found that:

Promoting core labour standards can therefore work to overcome or counterbalance existing market distortions and improve economic efficiency. Policy responses could include: ensuring freedom of association and collective bargaining to act as a counter-balance to any monopolistic market power of employers...and to provide conditions for enterprise-based efficiency improvements...

¹³ For example, see the

¹⁴ Furthermore, in regards to the assumptions which underlie the econometric models which have been adopted to determine the benefits of trade liberalisation, the ACTU endorses the position of the AMWU as outlined in paragraphs 14 and 15 of their submission to the same review. AMWU, *Submission to Productivity Commission Inquiry into Review of Bilateral and Regional Trade Agreements*, Melbourne: AMWU, March 2010.

¹⁵ United Nations, *Report of the World Summit for Social Development*, Copenhagen: UN, 6-12 March 1995.

¹⁶ Organisation for Economic Cooperation and Development, *Trade and Labour Standards: A Review of the Issues*, Paris: OECD, 1995.

¹⁷ G-7 cited in B.A. Langille, 'Eight Ways to think about International Labour Standards', *Lecture at the Graduate Institute of International Studies as part of the Project on International organisations and the Social Aspects of Trade Liberalisation*, March 1997, 31.

...regulations on non discrimination in employment aimed at improving freedom of choice and reducing barriers to labour market mobility across occupations and sectors...

...prohibition of forced labour aimed at meeting the freedom of choice condition for market efficiency as well as improving resource mobility...

...prohibition of exploitative forms of child labour aimed at improving freedom of choice and preserving and improving the quality of the workforce, which is likely to depreciate rapidly in an exploitative work environment and which will suffer through lack of education.¹⁸

Importantly, in the same year, the WTO Singapore Ministerial Statement outlined a renewed 'commitment to the observance of internationally recognised core labour standards.'¹⁹

The emerging international consensus of the 1990s is encapsulated in the 1998 *ILO Declaration on Fundamental Principles and Rights at Work*. The ILO Declaration states that all members have an obligation 'to respect, to promote and to realise...the principles concerning the fundamental rights,'²⁰ which are:

- Freedom of association and the effective recognition of the right to collective bargaining
- The elimination of all forms of forced or compulsory labour
- The effective abolition of child labour
- The elimination of discrimination in respect of employment and occupation

Importantly, the Declaration requires all members 'even if they have not ratified the Convention in question' to promote the core labour standards as an 'obligation arising from the very fact of membership in the Organisation.'²¹

In parallel with the emerging international consensus as outlined in the 1998 ILO Declaration, the ACTU believes all FTAs to which Australia is a party must be generally consistent with and not undermine universal human rights standards and core labour principles. At a minimum, therefore, all agreement should include a labour clause requiring both parties of the FTA to commit to the core labour standards outlined in the ILO Declaration.

Inclusion of a Labour Chapter in FTAs

There is a strong precedent for including a labour clause/chapter in bilateral and regional FTAs, with models promoted by the US, Canada, the European Union (EU), Chile and New Zealand (NZ). The Canadian model contains commitments on the fulfilment and regulation of local labour laws as well as a system of financial compensation to ensure that labour

¹⁸ Tripartite Working Party on Labour Standards, *Report on the Labour Standards in the Asia-Pacific Region: The Duffy Report*, Canberra: Commonwealth of Australia, 1995.

¹⁹ World Trade Organisation, *Singapore Ministerial Declaration*, <http://www.wto.org/english/thewto_e/minist_e/min96_e/wtodec_e.htm>, (accessed 1 March 2010), December 1996.

²⁰ International Labour Organisation, *ILO Declaration on Fundamental Principles and Rights at Work*, Geneva: ILO, 1996.

²¹ Ibid.

standards are observed. Like the Canadian model, the EU model includes dispute settlement procedures. It also expands on core labour standards to outline a commitment to the ILO and ECOSOC's work on full employment, outlines strict regulatory commitments, and includes a strong element of civil society participation for monitoring observance of labour standards. The Chile and NZ model includes substantive commitments but concentrate on cooperation and not trade sanctions in the case of non-compliance.²²

The US model began with the North American Free Trade Agreement (NAFTA); concluded in 1993 and entering into enforcement in 1994. It was the first bilateral or regional FTA to introduce provisions on labour standards, in a side agreement on labour cooperation. The North American Agreement on Labour Cooperation (NAALC) outlines labour principles, including internationally recognised labour rights (right of association, the right to organise, the right to collective bargaining, forced labour, child labour, and acceptable conditions of work with minimum wages, working hours, and health and safety at work).

NAFTA is not a recommend model because the agreement, while outlining labour principles, mainly commits parties to enforce their domestic labour laws. It does not explicitly prohibit the weakening of domestic labour laws and there is no enforcement mechanism.

The US-Jordan FTA serves as a stronger example for future labour rights provisions in bilateral and regional FTAs. While it outlines a commitment to the same labour rights included in NAFTA, it also outlines a commitment by parties to respect the 1998 ILO Declaration and establish national legislation that includes such principles and protects them by domestic legislative means. It also introduced a non-derogation clause as well as a commitment to attempt to ensure that labour standards are consistent with internationally-recognised workers' rights. Most importantly, the significant achievement in the US-Jordan FTA is a principle that submits labour matters to the same dispute settlement procedures as those negotiated for trade questions. For example, if a party weakened a labour law protection to attract trade, the agreement would be violated and the party would face possible fines or sanctions.

The commitment to labour standards is strongest, however, in the US-Peru FTA. Both parties are obliged to 'adopt and maintain' in their laws and regulations the core labour standards. This is far stronger than previous agreements which commonly articulate a commitment to 'attempt to ensure' incorporation of labour rights. This stricter obligation is supported by dispute settlement procedures.

In the proposed Trans-Pacific Partnership Agreement, the ACTU would expect a commitment consistent with (and no less) than the standards of the US-Peru FTA, given that the agreement will be negotiated between Australia, Brunei Darussalam, Chile, NZ, Singapore, Vietnam, and the US and Peru.

There is also a precedent within the Australian context, with the AUSFTA which entered into force in January 2005. The Labour Chapter requires each party to:

²² For a detailed comparison of the four models see International Centre for Trade and Sustainable Development, 'Trade Agreements and Their Relations to Labour Standards: The Current Situation', *Issue Paper No.3*, November 2009.

strive to ensure that such labour principles [ILO Declaration] and the internationally recognised labour principles and rights set forth in Article 18.7 [of the agreement] are recognised and protected by its law.²³

The ACTU, however, sees little practical value in clauses of the kind included in the AUSFTA which do not oblige the parties to respect the fundamental rights of workers as established by the ILO or the absence of enforceable provisions preventing countries from waiving or weakening existing labour laws in order to increase trade. Furthermore, the lack of an enforcement mechanism for labour standards (for example, under the dispute resolution provision of the agreement) is inconsistent with internationally recognised labour principles and rights.

Based on cross-country learnings and the criticisms of the AUSFTA, the ACTU recommends a strong and unambiguous reference to the requirement that all parties commit themselves to the effective implementation of core labour standards and other basic decent work components. Consistent with this position, all agreements should:

- Clearly and comprehensively demonstrate that core labour standards are a fundamental and integrated part of agreements (for example, by referencing core labour standards in the preamble, in an operative article at the start of the agreement, and in a chapter on core labour standards in the body of the agreement)
- Provide for this obligation to respecting labour rights be monitored and enforced
- Include procedures for alleged breaches of the core labour standards and settling disputes (and it is recommended that labour matters are submitted to the same dispute settlement procedures as those negotiated for trade questions but should be chaired by a nominee of the ILO)
- Include a non-derogation clause and a commitment by parties to continue striving to improve labour standards, including a commitment to not lower the level of protection provide by domestic legislation in order to enhance trade or foreign direct investment
- Include a commitment by parties to ratify all the core ILO conventions
- Outline the obligations for civil society participation
- Outline a negotiation process that is conducted in an open, democratic and transparent manner (including community consultation at all stages of the agreement-making process)

Core Labour Standards and Productivity

The ACTU challenges the blind faith of some traditional economists on the comparative advantage of free trade and the suggestion that labour standards inhibit competitiveness and growth by increasing costs and reducing the flexibility of labour markets. Furthermore, the ACTU rejects the claim that a commitment to core labour standards hurts trade by acting as 'protectionism in the guise of humanitarian concern'²⁴. As stated by the Duffy Report:

Neo-classical economic theory suggests that if labour markets exhibit the conditions of a perfect market the imposition of regulations, including those in the form of core labour standards, will cause inefficiencies. However, given the real world situation of imperfect labour markets, there are

²³ Australia US Free Trade Agreement – Chapter 18: Labour, <http://www.dfat.gov.au/trade/negotiations/us_fta/final-text/chapter_18.html>, (accessed 23 February 2010), January 2005.

²⁴ Krugman cited in Aleo

arguments to support the view that core labour standards could work towards enhancing economic efficiency.²⁵

The ACTU, like the OECD, believes that commitment to and implementation of core labour standard is integral to raising productivity. On the whole, improved labour standards ‘can increase economic efficiency by raising skill levels in the workforce and by creating an environment which encourages innovation and high productivity.’²⁶ In the developing country context, the core labour standards can also contribute to improved social and political stability which is critical to achieving higher levels of foreign direct investment. More specifically, each of the core principles outlined in the ILO Declaration, if observed, can contribute to higher levels of productivity.

The argument that freedom of association and collective bargaining create distortions in the market, with unfavourable consequences for economic efficiency, is linked to the practices of particular trade unions and not to the principle of freedom of association and collective bargaining.²⁷ Broadly, freedom of association and the effective recognition of the right to collective bargaining encourage higher levels of investment because effective markets are characterised by freedom of choice, equality at the bargaining table and availability of information. More specifically, the role of collective bargaining institutions in securing a minimum wage, decent work, workplace health and safety and formal systems of social protection can raise productivity by enhancing labour motivation and cooperation, improving the health of workers and by creating a working environment receptive to innovation. Decent wages also attract better workers, and where there is better quality labour there is higher productivity. Finally, collective bargaining is a tool for better communication between employer and employee and provides a pathway for expressing discontent beyond absenteeism and exiting; improving morale, cooperation and higher productivity.

As stated by the Duffy Report, ‘the practices of forced labour and child exploitation depart from the freedom-of-choice condition of efficient markets.’²⁸ Importantly, the abolition of child labour improves an economy’s long-term productivity prospects because children receive an education and are then qualified for better jobs in adulthood.

Through the elimination of forced labour – and the provision of decent wage and conditions – motivation is boosted and turnover is reduced, each contributing to higher productivity. Similarly, short-sited measures for improving competitiveness – like reducing real wages and benefits, downsizing and increasing the use of casual labour – do not lead to sustained cuts in real unit labour costs because such measures undermines productivity by reducing workers’ motivation and can lead to higher turnover.

The elimination of discrimination improves productivity by eroding artificial barriers to employment (due to sex, class, ethnicity, ability and marginalisation), reducing participation and underutilising productive skills. Discrimination can also create segments in the labour

²⁵ Tripartite Working Party on Labour Standards, *Report on the Labour Standards in the Asia-Pacific Region: The Duffy Report*.

²⁶ OECD cited in M.E. Aleo, ‘Comparative Advantage and Labour Protections in Free Trade Agreements: Making Labour Protections in Trade Agreements Practical and Effective’. *Bepress Legal Series*, Working Paper No.958, 2006.

²⁷ Organisation for Economic Cooperation and Development, *Trade, Employment and Labour Standards: A study of Core Workers’ Rights and International Trade*, Paris: OECD, 1996.

²⁸ Tripartite Working Party on Labour Standards, *Report on the Labour Standards in the Asia-Pacific Region: The Duffy Report*.

market restricting a person's capacity to work in a position better suited to their skills and experience, and where they may be more productive.

Labour Rights are Human Rights

While it is the strong belief of the ACTU that core labour standards can raise productivity, core labour standards are not solely viewed as a labour law or economic matter. Clearly articulated and enforced labour standards are central to realising an individual's inalienable human rights.

Core labour standards significantly overlap with existing international human rights obligations including the:

- United Nations Charter
- International Convention on Economic, Social and Cultural Rights
- International Convention on Civil and Political Rights
- International Convention on the Elimination of all forms of Racial Discrimination
- Convention on the Elimination of all forms of Discrimination against Women

When considering the core labour standards through a human rights lens, it is important to note that freedom of association and collective bargaining are rights to a process, and not to a substantive outcome. This means, both are a 'right to organise and bargain about wages, hours and other terms and conditions of employment.'²⁹ While not a right to any particular result or standard in these areas, it is recognised that the most effective way to achieve substantive labour rights is to protect the process rights.

For a country committed to acting as a 'good international citizen', the inclusion of core labour standards in Australian FTAs is an important tool in promoting human rights. Furthermore, inclusion of core labour standards in FTAs is consistent with Australia government commitments as a result of ratification of these key human rights conventions.

The ACTU encourages the current Federal Government to meet Australia's international convention commitments and live up to its role as a responsible middle power and good international citizen.

In the case of Burma, gross human rights violations are widespread and there is no freedom of association with trade unions effectively prohibited. Despite the ASEAN-Australia-NZ FTA providing preferential access to the goods and services of ASEAN countries, including Burma, **the ACTU supports and encourages a policy of economic and financial sanctions against Burma in order to apply maximum economic and diplomatic pressure on the junta to respect human rights and restore democracy and peace.**

Sustainable Development – an Environment Chapter in all FTAs

The ACTU strongly believes that to reduce poverty, raise living standards, protect and create decent jobs, and provide opportunity for all, the environmental consequences of our energy use, production and consumption patterns must be modified. The same holds true in developing countries. FTAs are a mechanism for promoting sustainable development, including environmental sustainability.

²⁹ B.A. Langille, 'Eight Ways to think about International Labour Standards'.

The first FTA to reference environmental protections was NAFTA, in a side agreement. Since, the EU, Canada and other states have followed. Those which include environmental protection clauses tend to echo the WTO preamble statement which calls for trade liberalisation that promotes sustainable development, including environmental protection.

The ACTU strongly encourages the inclusion of an environment chapter in all FTAs of which Australia is a party. The environment chapter should:

- Outline a strong respect and commitment to international principles and standards (including the 1972 Stockholm Declaration on the Human Environment and the 1992 Rio Declaration on Environment and Development) and multilateral environmental agreements
- Reference international standards as a minimum benchmark for desired domestic environmental behaviour, standards and enforcement
- Include a commitment to not reduce environmental standards to encourage investment or trade
- Outline a mechanism for non-compliance including appropriate and commensurate action for non-compliance with environment obligations

Core Labour Standards, the Environment and State Sovereignty

The ACTU strongly supports the inclusion of core labour standards and environment clauses in trade agreements. Core labour standards and environmentally sustainable development are universal human rights and immutable minimum standards, and as such, are quite distinct from matters such as procurement policies or FIRB threshold review levels.

We recognise that it is the sovereign right of states to establish and regulate higher standards than the minimum, but derogation below recognised minimum standards to gain a competitive advantage in attracting investment or promoting trade is inconsistent with the international consensus and the objective of improving living standards through sustainable development. The same holds true for environmental standards; with the environment likely to become a more complex and challenging issue in coming years.

Conclusion

The ACTU strongly believes that trade is not simply an economic issue. Trade liberalisation has a significant social and political dimension with implications – both positive and negative. It is also essential to not forget that ‘trade is only a tool to elevate the human condition’ and that ‘the ultimate impact of our rules on human beings should always be at the centre of our consideration. We should work first for human beings and for the well-being of our humanity.’³⁰

³⁰ P. Lamy, ‘Humanising Globalization’, <http://www.wto.org/english/news_e/sppl_e/sppl16_e.htm> (accessed 1 March 2009) 30 January 2006.