

AFTINET Seminar 4th July 2007

Jubilee Room Parliament House Macquarie Street Sydney

"What Have We (i.e. The Howard Government) Traded Away?"

SUMMARY REPORT by M. Mifsud (MM) AMWU Retired Members Division.

During her introduction to proceedings, Dr Patricia Randal of the Australian Fair Trade and Investment Network (AFTINET) stated that despite all the rosy predictions in support of the U.S./Australia Free Trade Agreement (FTA) Australia's trade deficit has progressively worsened since the signing of the U.S./Australia FTA with the U.S. accruing the lion's share of the benefit of trade.

Despite many promises to the contrary, "reference pricing" of medicines provided through the Pharmaceutical Benefits Scheme (PBS) has already been negatively affected in exactly the way that U.S pharmaceutical companies were demanding during the negotiation period of the U.S/Australia FTA.

Recent amendment of the relevant Act has been passed through the Australian Parliament which limits reference pricing and excludes it from being applied to new medicines - it creates an atmosphere where U.S. pharmaceutical companies (and other internationals) can move in and demand ever increasing prices on new and so-called new medicines.

MM: *"Reference Pricing" is explained in the simplest way as the comparison of all available drug/medicines regarding their efficiency and cost. The most efficient and "cost effective" (the cheapest) being made available through Australia's PRS at an affordable price to Australian citizens and residents.*

Guest speakers were then introduced to the forum and the following are summaries of their contributions:-

Pat Conroy, National Projects Officer of the Australian Manufacturing Workers Union (AMWU) said that the minerals boom which was predicted would come from the Singapore/Australia FTA did not eventuate. What is more, Australia's trade situation with Singapore went from a trade surplus to a considerable trade deficit since the signing of the Singapore/Australia FTA.

Since the signing of the three FTAs, Australia's trade deficit has deteriorated to \$10.9b. This deterioration in Australia's trade balance represents the loss of 26,000 jobs to Australia.

Furthermore, Australian agricultural exports have been particularly hit with the balance of benefit going to the U.S. Also, Government procurement in Australia is also under pressure through the U.S/Australia FTA, putting more pressure on local jobs.

Furthermore, manufacturers are denying that any benefits have accrued to Australia from any of the FTA's with the U.S., Thailand and Singapore - with most if not all the gain flowing away from Australia to these nations who are already wealthy.

Pat Conroy concluded with the gloomy statement that the proposed China/Australia FTA could cost us 200,000 jobs.

Susannah Jefferys, Globalisation and Health Project, College of Law and Medical School, Australian National University, said that Legislative changes to the Pharmaceutical Benefits Services Bill which were pushed through by the federal government in the middle of this year have affected Reference Pricing of PBS medicines.

Comparative pricing, efficiency and affordability concepts which are functions of Reference Pricing are slowly being lost by these changes which have been pursued by the government despite its promises to protect Reference Pricing and the PBS.

Changes in the legislation create two medical groupings namely **Formula 1** medicines comprising brands of medicines which are prescribed by the doctor which are considered non-interchangeable with other brands of medicines and **Formula 2** medicines which comprise those brands of medicines which may be interchanged with other (possibly cheaper) brands. The government has not defined these "Formulas" very well in the amended legislation thus leaving the door open to "open slather" abuse by the more expensive pharmaceuticals producers, particularly the U.S. companies as they already have an inroad through the U.S/Australia FTA.

(M.M. I pose the following question 'Is this a deliberate glitch in the Bill to accommodate the companies?')

One way in which such unscrupulous companies may abuse the system through this legislative failure is to institute minor changes to their medicines and call them "improvements" and therefore non-interchangeable and liable to be declared as Formula 1 medicines - thus all new or allegedly new medicines will become eligible to be declared Formula 1 medicines in growing numbers, thus slowly excluding existing cheaper Formula 2 medicines. This situation is made worse by the lax way in which the different "formulas" are defined in the Amended Bill.

(M.M. A case already exists of one heart medicine, name omitted for legal reasons, having been excluded from reference Pricing by Health Minister Abbott. Thus pharmaceutical companies can already claim that a precedent exists.)

Ms. Jefferys concluded by referring to the steadily increasing so-called "user co-payment" which, if it continues, will create a push to more expensive PBS medicines.

Laura Simes, Executive Officer Australian Digital Alliance commented on copyright laws having played a large part in the U.S./Australia FTA the major change being that copyright law durations were extended from 50 years to 70 years backed by greater legal penalties. Australian laws were changed to comply with the demands made by U.S. FTA negotiators.

Two years on from the signing of the U.S/Australia FTA these tight, enhanced copyright laws have crushed the free flow of information, preservation and innovation. For example public libraries wishing to preserve notable publications and non-profit organisations working in the public interest by copying relevant information have been deterred from this valuable work because of the strident demands of copyright laws, particularly if they include U.S. participants. Similarly innovation in a variety of literary works, including those for children, and the flow of information have been badly retarded and in some cases halted.

The pre-existing Australian copyright laws provided means by which the above mentioned endeavours could be allowed to go forth without affecting the general trend of copyright, however as a result of the U.S. demands during the FTA negotiations, Australia has ended up with more strident and punitive laws for the protection of "copyright" with none of the "saving graces" which existed in the former Australian Laws.

(M.M. having participated in the opposition to the U.S/Australian FTA, I take this opportunity to mention that the increase of "copyright" duration from 50 to 70 years also affects medicines on the PBS. This is due to the fact that Medicines covered under such copyright will keep out "competitors" - namely cheaper drugs - for a further 20 years than was previously possible. Any "new" or "fraudulently new" or "marginally improved" medicine will acquire 70 more years as the clock is restarted for this purpose. This has

been called "evergreening" by the pharmaceutical companies as they feign a marginal as the termination of each 70 year period approaches.)

Dr Patricia Ranald, Australian Fair Trade and Investment Network (AFTINET) told the Seminar that she had some good news to impart relating to blood products provided through the Australian Red Cross for use in Australian hospitals/clinics. The State Government had defied U.S. demands, as generated by the FTA, that Australia's procurement of blood products should be placed on open international tender so that U.S. companies could tender.

The federal government, tied down by its U.S/Australia FTA agreement, was compelled to state that the procurement of blood products for Australia should be placed on open international tender. This constituted the giving away of another of many of Australia's rights by signing of the FTA. The state governments opposed this demand citing the real danger of infected blood products, already identified in overseas blood products, entering the Australian health system.

Despite this comparatively minor but nonetheless important success, the threat continues since the U.S. interests involved still continue to insist on the so called "open market" option as the U.S. pharmaceutical companies did on the Reference Pricing issue.

Dr. Ranald concluded by urging a continued vigilance on the general question of the FTA's to the extent of demanding that Australia withdraw from the damaging FTA's within which it finds itself. The one small saving grace of the U.S./Australia FTA is that the participating countries can withdraw from these FTA's after giving notice to quit.

Dr. Ranald told participants that further activities will be undertaken by AFTINET and to watch out for them and to participate as much as possible.