



australian
nursing federation

**Submission to the Australia-Malaysia Joint Trade
Committee on the scoping study regarding a
Free Trade Agreement (FTA) between Australia
and Malaysia**

November 2004

1. Introduction

- 1.1 The ANF is the national union for nurses in Australia with branches in each state and territory. The ANF is also the largest professional nursing organisation in Australia. The ANF's core business is the industrial and professional representation of nurses and nursing in Australia.
- 1.2 The ANF's 140,000 members are employed in a wide range of enterprises in urban, rural and remote locations in the public, private and aged care sectors, including hospitals, health services, schools, universities, the armed forces, statutory authorities, local government, offshore territories and industries.
- 1.3 The ANF participates in the development of policy in nursing, nursing regulation, health, community services, veterans affairs, education, training, occupational health and safety, industrial relations, immigration and law reform.
- 1.4 The ANF recognises that trade is vital to the survival of the Australian economy, it should, however, be kept fair and not disempower governments, nor undermine public and social services; nor should it disadvantage local economies. Economic analysis of the benefits of bilateral free trade agreements has produced mixed results with disagreement on the benefits or otherwise for Australia, Australia's neighbours, and poorer countries whose ability to trade may well be hampered by such agreements and who are often forced into accepting liberalised investment laws.
- 1.5 The ANF supports the Australian Council of Trade Union's submission to this study and its contentions in relation to the Australian economy and the impact on a number of industries and the workers who are reliant upon those industries for their livelihood. This submission will not address all of the terms of reference; rather it will cover the major issues of concern for the ANF, nurses and nursing. These include:
 - The impact of an agreement on the provision and quality of health services;
 - The impact of an agreement on the nursing profession;
 - The relationship between an agreement and labour conditions and human rights; and
 - Regional and demographic impact.

2. The impact of an agreement on the provision and quality of health services.
 - 2.1 The provision of health services is a public good and the responsibility of Government. Consequently, the maintenance of the public health system as a publicly funded, fully accessible service is essential for the social benefit of all Australians. Any trade or investment agreement can potentially leave services currently regulated by the government open to foreign investment and control. These services are not restricted to health and could include other essential services such as education or water management.
 - 2.2 The ANF contends that liberalising investment in public services such as health services, will lead to a range of problems including increased cost of services, decreased access to services, reduced conditions of employment and job security for workers, and in the case of health, decreased quality of care for people requiring care.
 - 2.3 Concerns have been raised through the negotiations on the Australia United States Free Trade Agreement that the Pharmaceutical Benefit Scheme is at risk of being compromised. This is another example of an essential social service that should not be traded away in the name of free trade.

Recommendation

That essential services such as health are excluded and unconditionally protected from any trade agreement.

3. The impact of an agreement on the nursing profession

- 3.1 It is a concern of the ANF that Australia's regulation of professionals, such as nurses, could be seen as a barrier to free trade. The reason that nursing is regulated is to ensure safety and protection of the public since in the provision of nursing services there is the potential to do harm.
- 3.2 There are two levels of regulated nurse in Australia: registered nurses, who undertake a minimum of three years undergraduate preparation in the higher education sector at Bachelor degree level; and enrolled nurses, who generally undertake their education in the vocational education sector at Certificate IV or Diploma level. Of the total number of regulated nurses, 78.7% are registered nurses and 21.3% are enrolled nurses.¹

- 3.3 To work as a nurse in Australia, overseas nurses must meet immigration requirements, pass an English language test, and meet Australian standards of nursing practice. These are the same standards; no more, no less, than those required of nurses educated in Australia. The standards are specified in the National Competency Standards for the Registered and Enrolled Nurse (Australian Nursing and Midwifery Council). They are core competency standards, which all registered and enrolled nurses, local and overseas, must be able to demonstrate. The standards have been developed, and are reviewed and adjusted from time to time by the nursing regulatory authorities in consultation with the nursing profession, and are the foundation of modern nursing practice in Australia, which provides assurance to the public of a consistent, safe and effective standard of nursing practice. These standards are not a barrier to trade, they ensure protection for people requiring and receiving nursing services.
- 3.4 Any relaxation of the regulation governing nursing practice in Australia will inevitably have a negative impact on standards of patient care and will be detrimental to the ability of health services to provide quality care, damaging the delivery of an important public and social service.
- 3.5 There are already adequate, accessible, fair and transparent processes in place in Australia to enable nurses, registered and enrolled overseas, to apply for registration in Australia. The nursing profession in Australia, through the nurse regulatory authorities, has done considerable work to develop and refine these processes, which are under constant evaluation. These processes ensure that common standards apply to nursing services in this country and safeguard the public in the provision of nursing services.

Recommendation

That nursing remains a regulated profession and that in order to maintain standards and provide protection for the public, all nurses in Australia and all overseas nurses seeking to work in Australia are required to meet the Australian Nursing and Midwifery Council's National Competency Standards for the Registered and Enrolled Nurse.

4. **The relationship between the agreement and labour conditions and human rights**
 - 4.1 Any free trade agreement must not allow for weakening of internationally accepted labour laws and indeed should include conditions which raise standards to meet ILO conventions. There should be analysis of the current state of compliance by both Australia and Malaysia with human rights, labour and environment standards, including the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work. This should include analysis of how the trade agreement would impact on the ability of Australia and Malaysia to ensure compliance with human rights, and labour standards by investors, including effective monitoring mechanisms.

- 4.2 The right to organise and to effectively bargain collectively is not universal in Malaysia. Legislation providing for a minimum wage does not exist. In this context, the Australian government should at the very least conduct a thorough and public study into the effect of a trade agreement on the conditions of low-income workers in both Australia and Malaysia.

Recommendations

That the feasibility study should examine the compliance of both Australia and Malaysia with human rights and labour standards, including the core right of freedom of association and ensure that they currently comply or will be compliant before an agreement is reached.

That the feasibility study examine how recent trade developments have impacted upon environmental conditions in Malaysia and how an FTA with Australia will further impact those conditions.

5. Regional and demographic impact

- 5.1 Given the binding nature of trade agreements for both current and future governments it is imperative that a process is established that gives all Australians the confidence that there has been proper and thorough public scrutiny, including a multi-disciplinary analysis of the socio-economic impact. It is essential that the Australian Parliament and the Australian people are confident that the agreement is in the public interest prior to any ratification processes. The public interest test must be broad, going well beyond the narrow trade costs and benefits. Therefore, the feasibility study for a Malaysia-Australia FTA must include comprehensive and inclusive studies, including input from particular regional and demographic groups that will be affected by the agreement.
- 5.2 Liberalisation arrangements through extensive free trade agreements will ultimately lead to a decrease in accountability and transparency. We have seen such outcomes in the privatisation of public health services. The nature of such agreements can undermine the sovereignty of a democratically elected government, hampering its responsibility for formulating policy that is in the best interests of the people it governs.
- 5.3 Effective community consultation processes must be established from the outset for any negotiations for a Malaysia-Australia FTA. The processes must be transparent, accountable and representative and should include both the Australian and Malaysian communities.

Recommendations

That clear processes be established for effective and inclusive consultation and that reasonable timeframes are set allowing plenty of time for effective input by the public.

That modeling and impact studies are undertaken to ensure the FTA satisfies a broad ranging public interest test.

6. Conclusion

- 6.1 While recognising that trade with Asia is vital for Australia's economy the ANF is not convinced that bilateral trade agreements necessarily provide the expected positive outcomes. Nations need to be able to maintain the capacity to regulate foreign investment to ensure that it delivers development benefits. It is also important that investment gains and trade negotiations are consistent with the development goals of either country entering a trade agreement.
- 6.2 The Australian Government should be able to develop a nation building agenda capable of ensuring that Australia can compete fairly and effectively in the international arena: an agenda based on industry development, job creation, skills and education, research and innovation and that maintains Australia's integrity, social assets and economy.

References

1. Australian Institute of Health and Welfare. Nursing labour force 1999 AIHW Canberra 2001