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2003

# AUSFTA: Linking War, Free Trade and the Environment

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## Publication Details

This article was originally published as Andrew, J, AUSFTA: Linking War, Free Trade and the Environment, *News Journal of the Asia Pacific Centre for Environmental Accountability*, 9(2), 2003, 5-9. Original journal available [here](#).

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# AUSFTA: Linking War, Free Trade and the Environment

## **Abstract**

Trade agreements should always be treated with caution, especially when they are negotiated behind closed doors. If there is anything positive to be gained in dollar terms from a FTA, this should not be the result of environmental degradation, erosion of environmental standards, and limitations to a sovereign nations ability to build towards a sustainable future. This paper considers the possible impact of the new AUSFTA on the Australian environment.

## **Keywords**

AUSFTA, free trade agreements, environmental standards.

## **Disciplines**

Business | Social and Behavioral Sciences

## **Publication Details**

This article was originally published as Andrew, J, AUSFTA: Linking War, Free Trade and the Environment, News Journal of the Asia Pacific Centre for Environmental Accountability, 9(2), 2003, 5-9. Original journal available [here](#).

## **AUSFTA: Linking War, Free Trade and the Environment.**

### **Jane Andrew**

*“Open trade is not just an economic opportunity, it is a moral imperative” - President George W. Bush*

The proposed Australian/US free trade agreement (AUSFTA) has been shrouded in. Although the AUSFTA negotiations are now underway, the idea is not new. In April 2001, The 7.30 Report discussed Trade Minister Mark Vaillie’s meeting in Washington with America’s trade representative Bob Zoellick. At the time a FTA was characterised by the US as “a great idea but it’s not real high on the agenda” (9/4/2001, [www.abc.net.au/7.30/s274614.htm](http://www.abc.net.au/7.30/s274614.htm))

and Peter Gallagher a ‘trade consultant’ said in the same report that “Free trade agreements are rarely about trade...they’re usually about foreign policy objectives and strategic objectives and expressing a relationship between the two countries”. Considering the events that followed, this appears to have been a very accurate depiction of the situation.

In August 2002, the US Trade Act 2002 was signed into law, allowing for a ‘trade promotion authority’ that gives the US President the ability to negotiate trade deals quickly. Under the authority Congress agreed to implement the trade agreements under a procedure with mandatory deadlines, no amendments and limited debate. Upon the signing of this Act into Law, President Bush clearly stated his priorities “to build free trade relationships with individual nations, such as Chile and Singapore and Morocco” and “*explore* free trade relationships with others, such as

Australia” (President Bush, 6/8/02, <http://www.tpa.gov/>). At the time, US trade negotiators saw Australia as a place of secondary importance regarding FTA’s. However, after Iraq had been ‘liberated’ with the aid of 2000 Australian personnel, George Bush’s priorities were focused sharply on the AUSFTA.

There are many international precedents for such an arrangement, NAFTA, [Australia New Zealand Closer Economic Relations](#), [Australia-Thailand Closer Economic Relations Agreement](#) and the [Singapore-Australia Free Trade Agreement](#) but the timing of these discussions has brought with it inevitable scepticism. In early May 2003, when Prime Minister John Howard spent the night at George Bush’s ranch, President Bush stated publicly that they would work hard to ‘get it done’ by the end of the year and have it before Congress in 2004. This is perfect timing for elections in both countries and comes straight after Australia stood apart from the world community to support the US’s invasion of Iraq. Predictably, many wonder whether this was the payoff for Australia’s contribution to the ‘coalition of the willing’ in Iraq. To many, it was another sign that US/Australian relations are increasingly in sync militarily, strategically and economically. This was a point not lost on mainstream media outlets - “despite claims from both nations that the trade talks had nothing to do with Australia’s strong support of US military and security strategy, Congress was told a trade deal with Australia would “strengthen the foundation of our security alliance””(15/11/02, Sydney Morning

Herald,  
<http://www.thecampaign.org/News/nov02u.htm>).

Perhaps the inner workings of current world events will never be known, nor will the economic motivations and deals associated with the FTA, but it is obvious that the community perception of Australia's association with US in these regards is mixed, at best. Certainly the news that Australian wheat growers are going to lose lucrative contracts to the US in post Saddam Iraq was received with considerable dismay.

Soon after this, it was revealed that only US companies would be able to bid for 'reconstruction' contracts in Iraq, and that 50% of the work could be subcontracted to foreign companies, without any specific bias towards UK or Australian firms. Of course, it is somewhat distasteful to complain that the war hasn't seemed to benefit Australia economically and perhaps it is too early to tell, but most people would have assumed that there would be some 'loot' in it for Australia.

And perhaps there is – in the form of an AUSFTA. According to reports, the AUSFTA could boost Australian GDP by \$4 billion annually, particularly in the areas of wheat, dairy and red meats. Considering wheat contracts will all but evaporate and reconstruction contracts are a competitive sport, could the answer lie in the FTA currently being negotiated?

If this is to be our 'loot' what will its environmental consequences look like? All FTA's have environmental consequences and although some of these have been highlighted in the current debate, they have rarely been addressed within the mainstream media. No one doubts that trade is the

essence of economic activity, but there has been little attention paid to the possibilities that a FTA create in reviewing current trade practices and their affect on natural environments.

In fact the Australian Chamber of Commerce and Industry stated in 2001 that:

"The Australian Government's stance, with which commerce and industry agrees, is such issues should not be attached to, or included in, trade agreements. Rather, where there is a genuine desire for international commitments, these issues be dealt with through separate agreements.

That is, have international agreements on human rights, labour standards and environment matters, just do not link them to trade agreements" [http://www.acci.asn.au/text\\_files/issue\\_s\\_papers/Trade/TDE26.pdf](http://www.acci.asn.au/text_files/issue_s_papers/Trade/TDE26.pdf), July 2001).

According the Australian Conservation Foundation (Kerr, Jan 2003), at a fundamental level, the agreement should promote the highest standards of environmental protection; trade in certain products should be prohibited when they represent an environmental threat; trade in products that have been manufactured using poor environmental standards should be prohibited; the agreements should promote environmentally sustainable development; they shouldn't compromise the right or ability for a sovereign nation to enact laws that promote environmental sustainability; and they should allow for the use of trade bans to enforce environmental agreements where appropriate. Based on these kinds of principals and guidelines, a nation may engage in a free trade agreement that remains accountable to its citizens for environmental protection and

preservation rather than to the unrestricted movement of capital between nations.

So although many of the key issues 'on the table' have an environmental component and the overarching affect of trade has important social and environmental implications, both governments would prefer this to be separated from the agreement. This compartmentalizes trade and divorces it from many of its consequences. It also becomes hard to ensure accountability if the issues are considered separately. Disconnecting social and environmental implications from trade may well diminish our ability to analyse the relationship and address trade related social and environmental problems.

In 2001, the US Government held the same view, but it was widely acknowledged that if the government was to pass its proposed Trade Act that an environmental clause would probably be part of the deal. In fact, in 2002 when the Trade Act was passed into law, it did include a clause related to the environment to "Strengthen enforcement of core labor standards and environmental laws; reduce or eliminate government practices or policies that unduly threaten sustainable development; seek market access for US sustainable technologies, goods and services" (Merwhirter and Fullerton, 2002, [http://www.ita.doc.gov/exportamerica/TechnicalAdvice/ta\\_tradeAct2002.pdf](http://www.ita.doc.gov/exportamerica/TechnicalAdvice/ta_tradeAct2002.pdf))

There are a number of areas that the FTA may erode current Australian environmental standards. For instance:

1. Quarantine laws: it has been suggested that the US will be looking to relax Australian quarantine laws and to get Australia to reaffirm its

commitment to the WTO's Sanitary and Phytosanitary Standards (those that seek to ensure food safety and to protect plant and animal health) which seeks to eliminate any 'unjustified' restrictions. According to the US, Australia's laws are too restrictive and exceed the necessary standards. As such, this may be deemed a barrier to trade.

2. Genetically modified food labelling laws: it appears likely that the US will seek to ensure that this is seen to be a 'Technical Barrier to Trade' as defined by the WTO and it seems likely this will lead to a removal or weakening of Australia's current labelling laws. Australia and New Zealand's GM labelling laws are some of the toughest in the world and are designed to ensure consumers are informed. Only about 5% of manufacturers are affected by the labelling laws because most choose conventional products. To remove GM labelling is likely to enable an increase in the use of GM products in the manufacture and sale of foods in Australia. Although the environmental consequences of GM products have yet to be determined, the lack of evidence that GM crops are safe would suggest that a precautionary approach is the most environmentally sound. The removal of these labelling laws may have serious environmental consequences by increasing GM crops grown here and the importation of goods derived from GM crops.

3. Investment V's environmental laws: the idea is that the FTA will seek to ensure that US or Australian investors are treated as favourably as domestic investors. A precedent for such an arrangement has been established in NAFTA and these have been criticised for having unintended consequences for the environment. Namely, the investor

provisions in NAFTA have been used to challenge environmental laws that have negative economic impacts for foreign investors. The provisions have given foreign investors unprecedented rights to challenge host governments on their compliance with the agreement. Clear leadership on these matters needs to be shown, and written into the FTA. At the moment, this approach does not appear to have been adopted by the Australian government's trade negotiators (Kerr, Jan 2003).

It should be noted that the Australian government does not have a formal process for assessing the environmental impacts of the FTA. This is not the case in the US. It has been recommended that in order to ensure that the Australian public understands the consequences of the agreement on the environment, legislation should be introduced to ensure an environmental impact review before finalisation of any FTA. Legislation should also set out the negotiating objectives for free trade agreements, so as to make the agenda more transparent and the government accountable, noting the government's environmental responsibilities.

It is interesting to note that the US has legislation in place that does assess the agreement against stated environmental objectives. The US Trade Act 2002 sets out a number of objectives for FTA negotiations so that US environmental laws are not undermined by trade agreements. It also emphasises the need to support environmental protection through trade, particularly that of environmental technology.

Trade agreements like this one, should always be treated with caution,

especially when they are negotiated behind closed doors. If there is anything positive to be gained in dollar terms from an FTA, this should not be the result of environmental degradation, erosion of environmental standards, and limitations to a sovereign nations ability to build towards a sustainable future. Instead, if we are to have free trade deals, they should encourage environmental sustainability and access to markets based on sound environmental practices. As Australia has no formal way of assessing the environmental impacts of the trade deal, it will be hard for negotiators to prioritise this as an issue.

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