

Trade for All Agenda

Submission to the Ministry of Foreign Affairs and Trade

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About the New Zealand Nurses Organisation *Tōpūtanga Tapuhi Kaitiaki o Aotearoa*

NZNO is the leading professional nursing association and union for nurses in Aotearoa New Zealand. NZNO represents **53,000** nurses, midwives, students, kaimahi hauora and health workers on professional and employment related matters. NZNO is affiliated to the International Council of Nurses and the New Zealand Council of Trade Unions.

NZNO promotes and advocates for professional excellence in nursing by providing leadership, research and education to inspire and progress the profession of nursing. NZNO represents members on employment and industrial matters and negotiates collective employment agreements.

NZNO embraces te Tiriti o Waitangi and contributes to the improvement of the health status and outcomes of all peoples of Aotearoa New Zealand through influencing health, employment and social policy development enabling quality nursing care provision. NZNO's vision is *Freed to care, Proud to nurse.*

EXECUTIVE SUMMARY

1. The New Zealand Nurses Organisation *Tōpūtanga Tapuhi Kaitiaki o Aotearoa* (NZNO) welcomes the opportunity to comment on the *Trade for All* (TFA) Agenda.
2. This submission is informed by discussion and consultation with members and staff, and more broadly with members of the wider health, social service, and environment and union sectors.
3. NZNO unequivocally supports the Council of Trade Unions *Te Kauae Kaimahi* (CTU) submission, which, in our view, sums up the key problem with the quite superficial nature of the consultation to date, which is that it does not encompass the changed agenda needed for fair trade in the 21st century.
4. Both the substance and context of trade has changed, with information and communications technologies (ICT) driving the extension of trade in 'essential goods' from commodities (and labour) to information and service provision. Power structures have also changed with the development of giant multinational corporations (MNCs) and interstate governance structures such as the European economic community (EEC), the United Nations (UN) and the World Trade Organisation (WTO). Escalating inequity within and between countries and the urgent need to address climate change after almost three decades of inadequate action, signal the need for a substantially different trade agenda.



5. NZNO has taken an active interest in trade policy and agreements that have the potential to adversely affect health and public good. These include delayed access to affordable medicines, loss of sovereignty with respect to environmental and health regulation, and labour movement which is exploitative and undermines working conditions and workforce sustainability.
6. You will be aware of our concerns with respect to the Trans Pacific Partnership Agreement (TTPA) and its subsequent iterations particularly in relation to the intellectual property (IP) and investor state dispute settlement (ISDS) provisions. We have also provided feedback and raised concerns with agreements with Pacific Island countries (PICs), including PACER Plus, in relation to health workers.
7. At the Wellington TFA meeting at the Royal Society of New Zealand, Ministry officials expressed an interest in knowing more about potential and actual areas of international trade in goods and services in the health sector. These mainly leverage digital communications technologies; some examples and potential risks are outlined in the discussion below.
8. These issues mainly pertain to the security and privacy of health information, systemic risks with multinational investment in specific health areas - dentistry, primary healthcare (HC), optometry, aged care for example, and poorly integrated immigration policy.
9. Note that we have not considered health tourism ie New Zealanders travelling to countries to access health care that is cheaper, alternative, or unavailable here, and, more rarely, vice versa. Although nurses do work with patients from overseas in various capacities, we have not investigated this area. Anecdotally, health tourism appears to be a growing 'trade' and there have been some issues, which may have patient and service implications.
10. Whilst we support the key principles of the TFA agenda, ie:
 - the creation of a genuine conversation with the public and key stakeholders around the future direction of New Zealand's trade policy; this will include consultation with Māori, consistent with their role as a Tiriti partner;
 - a focus on creating new and more sustainable economic opportunities for New Zealanders of all incomes and backgrounds;
 - support for the international rules-based system and New Zealand's contribution to its modernisation;
 - support for multilateral negotiations as a first-best option for New Zealand, followed by open plurilateral negotiations;

- enhancing New Zealand's economic integration with the Asia-Pacific region, and economic connections to other regions, including through regional and bilateral FTAs;

the 'devil is in the detail' so to speak, and, frankly, little of that was offered in the explanatory papers, and even less during hidden trade negotiations.

11. In general we suggest the trade agenda needs to be rethought and focused on outcomes that will measurably improve equity within Aotearoa New Zealand and globally, and protect the health, biodiversity and sustainability of the planet.
12. That will require a deeper conversation with New Zealanders, and an agenda that is predicated on addressing the global challenges of sustainability. "Sustainable growth" in this context is an oxymoron, especially if the growth is in tourism and dairying and without the critical accounting of environmental and human costs.
13. In commenting on the UN Intergovernmental Panel on Climate Change (IPCC) released earlier this week, *The Economist* noted that:

*"Of 90 published models purporting to chart the most economically efficient way to achieve this goal [of keeping global warming below 1.5°C] the IPCC considers that just nine stay below the threshold throughout this century."*¹
14. Such models, clearly within the boundaries set by scientific and political consensus, would provide a more realistic and useful base for an informed discussion about trade policy.

DISCUSSION

15. International trade has delivered prosperity to some nations at the expense of others, outcomes which are reflected in the legacy persistent and escalating economic, health and social inequity "within between and countries". Addressing that must be the primary goal, and guiding principle, of our trade agenda, as it is of the United Nations Sustainable Development Agenda, which Aotearoa New Zealand, along with every other nation, has committed to.
16. That goal cannot be met with a 'business as usual' approach with minor concessions to, for example, gender and cultural considerations.
17. Inequity must be measurably addressed by trade and 'aid' which positively discriminates in favour of those most disadvantaged, not the

¹ <https://www.economist.com/science-and-technology/2018/10/13/the-latest-report-on-global-warming-makes-grim-reading> retrieved October 12, 2018.



other way around. The unequal balance of trade/aid outcomes with our Pacific neighbours and whānau, not to mention the devastating impact of climate change they have not caused, must be reversed. Principled trade should preclude any transference of responsibility or risk to other countries, for example dumping of unhealthy products, such as mutton flaps, on PICs and other low income nations², (Gewertz, D., & Errington, 2010).

18. Trade policy should be consistent with global good, for example in relation to the use of natural resources, and the promotion of health. Consistent mandatory labelling eg lists of ingredients and warning labels on alcohol, tobacco products etc. should also be pursued.
19. Similarly, the movement of labour between countries needs to be more carefully considered in trade agreements to avoid the current 'race to the bottom' of working conditions; the exploitation and 'ghettoisation' of groups of migrants; inadequate workforce investment and the poaching of professionals from low income countries that can ill afford to lose them. Humans are not commodities to be traded because they, or their countries, have few choices.
20. The astonishingly ignorant suggestion in a recent World Bank report that Pacific labour fill shortfalls in Aotearoa New Zealand's Aged Care sector as a 'solution' to respective labour needs³ unfortunately reflects a not uncommon attitude amongst global 'leaders'. The World Health Organisation's *Global Strategy for Human Resources in Health: Workforce 2030* Committee revealed a similarly discriminatory mindset when it described as a "triple-win" Filipino nurses being uplifted to Germany to train in aged care at a site next to a facility catering for aged German citizens⁴. Neither report considered the potential adverse impact on nursing workforces in the receiving countries, which have a responsibility to invest in and sustain an adequate workforce, much less the ethical and cultural implications of moving highly skilled Filipino nurses from their homes and families to the other side of the world, or why the Philippines is so dependent on their remittances (a large proportion goes to servicing international debt).
21. The trade and policy levers that drive this type of labour movement are not delivering equitable progress or supporting individuals' freedom of

² Gewertz, D., & Errington, F. (2010). Cheap Meat: Flap Food Nations in the Pacific Islands. JSTOR. Retrieved from <http://www.jstor.org/stable/10.1525/j.ctt1pnjgn>

³<https://www.radionz.co.nz/international/programmes/datelinepacific/audio/2018664686/nz-nurses-world-bank-suggestion-of-pacific-labour-insulting>

⁴ NZNO. (2015). Submission to WHO on the Draft Global Strategy for Human Resources in Health : Workforce 2030. Wellington: NZNO. Retrieved from http://www.nzno.org.nz/Portals/0/Files/Documents/Activities/Submissions/1_2015-08_WHO_Draft_Global_Strategy_HRH_NZNO.pdf

choice or movement. They are rather supporting discriminatory neo-colonialism and maintaining global inequity, and the continued disadvantaging of indigenous and other vulnerable people. The TFA agenda needs to address these systemic issues and formulate trade policy that will realistically and measurably progress the UN Sustainable Development Goals (SDGs).

22. NZNO endorses support for international rules-based systems, and recommends the development of international public health, finance, and environmental laws and finance systems that are equally robust and as enforceable as trade law.

Issues with International trade in health services

23. Digital technologies which enable health information to be stored, assessed and transmitted between countries are driving changes in the provision of health services, particularly in terms of information. Many of these are positive, increasing access to health diagnosis and care, saving transport costs, and vastly improving data collection and management to drive better and more efficient healthcare eg District health boards (DHBs) use the international workforce planning and workload management system TrendCare™ to match nursing capacity to care demand.
24. With digital imaging, there has been a substantial growth in the use of overseas experts in radiology. That has raised some concerns with the quality and accountability of the international health practitioner, and the security and privacy of health information.
25. The Health Practitioners Competence Assurance Act 2003 provides for the fitness and competence of health practitioners, who are accountable for their practice.
26. The quality of care and patient rights are effectively protected and enforced by an array of robust mechanisms, which do not extend to international jurisdictions. It is not clear where responsibility begins and ends, who holds the data and who and how international practitioners and suppliers of health ICT could be held accountable for poor quality.
27. Similar concerns have been raised in Canada, for instance in relation to the housing of private information in United States-based centres, "to outsource the administration of government health-care information" where it becomes subject to US laws (such as the US Patriot Act) which may override privacy law and allow access by security services (McGregor, 2017).
28. In his article *How the USMCA falls short on digital trade, data protection*, Geist discusses the following:



- the increasing inclusion of specific digital trade section in negotiations and trade documents, often which will have long lasting impact and restrict privacy safeguards currently in effect;
 - rules to restrict data localisation policies ie to limit the ability to store personal information within the local jurisdiction (a common process currently to ensure local laws still apply) eg Nova Scotia and BC re sensitive health information
 - comparison between the EU and the USMCA trade deals as to privacy laws regarding electronic transfer of information across borders (eg size limits or lack of limits);
 - “as the United States touts high standard intellectual property protections in its trade agreements, it seemingly opts for low standard digital trade protections”
 - Lack of sufficiently strong processes to enforce what frameworks for protection are present eg with the USMCA “buried in a footnote is an acknowledgment that merely enforcing voluntary undertakings of enterprises related to privacy is sufficient to meet the obligation”.
29. Issues of interoperability, national database and consumer input, the use of a single repository for information, and the concept of the ‘digital divide’ in the context of health care are succinctly expressed in a recent Australian consultation document (Australian Digital Health Agency, 2017).
30. Whilst we share, or are transitioning to, many of the same international standards systems for health information, there are significant issues our systems which would make it difficult to assess the impact of trade rules on digital data. For instance:
- The current lack of national, integrated digital storage system for NZ health care system. Multiple different services with different processes which don’t talk to each other, so therefore difficult to address any single overall approach to safeguard these –
 - the lack of a unified approach, even at a generic, concepts level, means the different types of health data are present in different formats, and different data systems, so are not all stored via the

same mechanisms; therefore, the protections need to cross multiple server types, storage and data repositories

- limited progress on a co-ordinated and agreed set of core data, access rights and sharing protocols;
 - lack of clarity as to how linking to other trade databases might be represented, and the opportunity for unintended access to presumed 'private' data granted (Geist 2018);
 - issues with sharing data for research purposes, the need for consumer input, and permissions or recompense as well as potential right of refusal or compensation; and
 - what opportunities there are for expert health involvement/input.
31. These issues need to be considered as part of the engagement process.
32. The purchase of health services in particular fields – optometry, dentistry, aged care for instance, has been raised as an issue, because of the potential risk that changed conditions (eg different regulations, changes in subsidies etc) might prompt a number to leave the market at the same time. We understand that something of this nature occurred in West Australia, when a change of government prompted the closing down of many GP practices, with little warning.
33. Members are also concerned that several MNC health providers and suppliers pay very little tax. Several pharmaceutical companies feature in the New Zealand Herald's article on the negligible tax paid by large MNCs⁵; our mainly Australian MNC-owned aged residential care (ARC) providers are similar according to an Australian report⁶, and the IRDs "Tax Heroes" report indicates that our top three ARC providers pay no tax⁷, despite hefty profits.
34. Mechanisms to minimise tax evasion and avoidance, cost shifting etc. and ensure fair and proportional tax is paid in the country, must be part of the new trade agenda.

⁵ https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11607336

⁶ <http://www.taxjustice.org.au/fpagedcaretaxreport>

⁷ <https://thespinoff.co.nz/society/inland-revenue/28-03-2018/tax-heroes-forget-the-rich-list-who-pays-the-most-tax-in-nz/> v



CONCLUSION

35. In conclusion NZNO **recommends** that you:

- **Note** the need for a broader and more inclusive discussion around trade policy that looks to the future, not the past;
- **Agree** that trade must progress equity within and between countries;
- **Agree** to the non-negotiable exclusion of ISDS provisions in trade agreements;
- **Agree** that trade agreements must positively support action on climate change; and
- **Note** the need to develop international public health, finance, and environmental law and finance systems that as robust and enforceable as trade law.

36. NZNO looks forward to continued engagement with you on the TFA Agenda.

Nāku noa, nā



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