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Beware stings in tail of free trade agreements

Corporations have widened the scope of agreements far beyond their original purpose. A push for the free flow of labour could be next.

By **Sharon Beder**

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Libertarians are forever whinging about the "nanny state". But perhaps it's a flood of nannies from overseas we should be more worried about. The Abbott government and its business allies are congratulating themselves for achieving free trade agreements with South Korea and Japan. China's next. But Australians should be looking warily at what these agreements may lead to. They are the latest in an evolving trend that could culminate in the free flow of labour to Australia and with it a mass migration that governments will have little control over.

Early free trade talks were aimed at the removal of trade barriers such as tariffs and export bans. However, during the General Agreement on Trade in Tariffs talks (1986-94), the notion of free trade was expanded to suit the widening agendas of transnational corporations.

Illustration: Jim Pavlidis.

Pharmaceutical company Pfizer primarily drove the expansion of free trade agreements to include intellectual property rights. Pfizer used the GATT negotiations to promote rules about intellectual property, even though intellectual property had little to do with trade, because GATT was a forum where the US could exercise its muscle to overcome opposition from developing countries. The final Trade Related Aspects of Intellectual Property Rights agreement ensured that patents lasted for at least 20 years and copyright for 50 years.

Similarly, American Express drove the expansion of free trade agreements to include services. Its vice-president Harry Freeman promoted the phrase "goods and services" by getting his staff to write to journalists who used the term "goods" to tell them they had missed out the term "services". In the early 1980s, the company sent at least 1600 such letters and succeeded in getting the phrase "goods and services" widely adopted.

Getting acceptance of the phrase "trade in services" was more difficult because it was not immediately apparent what it meant, particularly with respect to banks. Most people do not see the establishment of a foreign bank in a country as trade in the sense of export and import. Nevertheless American Express and its corporate allies ensured a General Agreement on Trade in Services was part of the World Trade Organisation purview. It included financial services and facilitated, as well as locked in, privatisation of public services, such as water and electricity, ensuring that foreign companies could own them.

The next item on the free trade agenda was to free up foreign investment and protect it from national regulations. Negotiation for a multilateral agreement on investment (MAI) was defeated at the OECD level, mainly as a result of concerted campaigning by NGO groups. But the concept then moved to the World Trade Organisation negotiations.

Following the failure of the Doha round of WTO negotiations, investors turned to bilateral and regional agreements, such as the one Australia has signed with South Korea, to protect foreign investments and to create precedents for future WTO agreements. There are currently more than 2800 bilateral investment treaties.

Modern free trade agreements tend to aim at protecting investments as much as freeing up trade. The benefits being negotiated on behalf of foreign investors as part of the Trans-Pacific Partnership, which Australia is a party to, include:

- Rights to acquire land and natural resources without government review.
- Compensation for loss of "expected future profits" as a result of changes to health, labour or environmental laws.
- The right to move capital without limits.

Some of these agreements include provision for corporations to sue governments, using Investor State Dispute Settlement arrangements so that foreign investors can challenge a government's health, environmental, financial stability and other regulations and policies in international tribunals if they interfere with investor expectation of future profits. For example, governments would be limited in the safety requirements they could impose on imported food, and the introduction of food labelling and health warnings on products.

More than 450 investor-state disputes have been launched since 2000 and the numbers are likely to balloon as new agreements are finalised. ISDS provisions have resulted in billions of dollars being paid by governments to corporations, mainly related to oil, mining, gas, and other environmental and natural resource disputes. Another $15 billion in claims are pending, mostly relating to environmental, public health and transport policies.

Free trade negotiations have been kept secret since citizen protests defeated the MAI. The countries involved in the Trans-Pacific Partnership, for example, have agreed not to disclose the text of the agreement until after it has been signed and to keep the negotiating documents secret for a further four years. Elected representatives in each country, including the US, are unable to see the text, yet hundreds of US "trade advisers" from industry groups and corporations such as Walmart and Cargill have full access to the text and are kept up to date with negotiations.

The next item on the free trade agenda of corporations is likely to be the free movement of labour. This is one of the four economic freedoms of the European Union: free movement of goods, services, capital and labour. Outside Europe, some trade agreements already include free movement of specific categories of labour such as service providers, intra-company employees, business visitors and professionals.

No doubt big business in Australia would welcome such a development. Mining companies in the north-west already import labour. The free movement of labour in Europe allows citizens of participating countries to freely migrate within the union. Is Australia facing the same free trade prospect? What impact might such arrangements have when our free trade partners are mostly overcrowded countries?

We should consider carefully whether increased market access for beef, for example, is worth the loss of sovereignty and future working and living conditions, especially when it may be foreign companies owning farms of the future.

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