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Testimony to the Citizen Trade Policy Commission 2/3/2005

What impact would international trade treaties have on a privatized Social Security system?

While some of the implications of these trade agreements are obvious it is their serendipitous or even buried consequences that I feel are important issues for us as citizens, as a state and especially for you the commission to explore.

Let me try to illustrate this point.

There is a crucial debate underway in our country. And as a young person it is one that I'm very concerned about.

That debate is about the future of our Social Security system.

Does it face a fiscal crisis? Or is it sustainable?

Does the system need reform?

Is it going to *be* reformed?

Is the current administration going to implement its plan to partially privatize the plan—that is, allowing people to divert some of their Social Security taxes into private retirement accounts to be invested privately in the stock market?

Would this transform it, as one reform critic put it, from an “insurance program” into “an investment plan”?

The future direction of our Social Security system is obviously fundamental to us all.

But there is a critical dimension that so far has been absent in the current debate.

That critical but so-far-neglected dimension, I believe (and I trust you will agree), should be considered a key part of this Commission's future work.

The issue is this.

Is there an interaction between the Administration's plan to privatize Social Security and United States' commitments under international trade and investment treaties?

Are trade treaty rules and Social Security privatization a dangerous mixture?

Do trade treaties like CAFTA and the North American Free Trade Agreement (NAFTA) and the General Agreement on Trade in Services (the GATS) make Social Security privatization a one-way street?... Could they 'lock-in' even partial privatization forever?

It is important to note that these questions are not a partisan ones. Whether or not one supports the proposed privatization of social security makes little difference in this discussion. What this commission deals with and what makes the commission so important is asking the question, “How might these trade agreements affect us in our day to day lives?” That is something I think we can all get behind.

So why do I raise these questions about social security?

After all, I'm no trade expert.

An acquaintance of mine recently alerted me to some recent research from the Canadian Center for Policy Alternatives on the Canadian health care system. As you know, Canada is fortunate to have a publicly-funded health insurance system that covers every Canadian citizen from birth to death. No one is uninsured.

But many Canadians are worried that their cherished health care system is threatened by trade treaties. Why? **Because of what they call a “dangerous mixture” of trade treaty rules and health care privatization.**

They are concerned—and it’s my understanding that these people have done an extraordinary amount of research in the area—that (let me quote) “[t]rade treaty commitments could make health care commercialization a one-way street, not easily reversible experimentation as often assumed.”

Let me quote from the summary of one of their reports:

“The most serious free-trade threat is that, once entrenched in Canada, foreign health-care insurers and companies can make use of the North American Free Trade Agreement’s tough expropriation-compensation rules. These provisions, which are broader than related Canadian domestic law, apply fully to Canada’s health care sector and are backed up by NAFTA’s notorious investor-to-state dispute settlement process. They risk making experiments with for-profit health care essentially irreversible.”

Let me transpose that language into a question about our Social Security system for the Commission to consider. (Remember, in addition to NAFTA and the proposed CAFTA, the U.S. has apparently negotiated bilateral investment treaties with dozens of other countries and is also committed to the GATS.)

Under these treaties, is it the case that:

Once entrenched in the United States, foreign banks and financial service companies could make use of these treaties’ tough expropriation-compensation rules. These provisions, which are broader than related domestic law in the United States, apply fully to the U.S. Social Security sector and are backed up by the notorious investor-to-state dispute settlement process. They risk making experiments with privatizing Social Security in the United States essentially irreversible???

Now I know that Social Security is not health care. I also know enough about trade treaties to know that they are fiendishly complicated, and that they may treat health care and social security differently.

So I asked my friend about this.

She’s no expert either, but she pointed out the clause in the NAFTA that is supposed to provide some protection for social services from the full force of the treaty. In that protective clause, Annex II-U-5 of the NAFTA, health care and social security appear together. Here’s what it says:

“The United States reserves the right to adopt or maintain any measure with respect to the provision of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose:

- income security or insurance,
- **social security or insurance,**
- social welfare,
- public education,
- public training,
- **health, and child care.”** [bulleting added]

The Canadians point out in their study that this protective clause provides no protection at all against the very risks the Canadian study identifies—expropriation-compensation claims under NAFTA’s investment chapter.

So if the protective clause concerning healthcare does not provide adequate protection and our social security system is “protected” under that same clause, what’s going on?

It sure sounds to me like the dangers the Canadians are worried about in their health care system would also apply to our social security system.

Their study seems to suggest that these treaties may grant foreign investors the ability to bypass domestic laws and courts to bring costly compensation claims against the United States for future changes *to our social security system* that they allege harm their businesses.

In other words, these trade treaties threaten to make privatizing our Social Security system much more difficult and costly to reverse – basically a one-way street.

I'm afraid I don't have the time or expertise to evaluate these concerns.

No ordinary citizen does.

But I urge you to do so, on our collective behalf.

We all deserve to know the potential ramifications of trade treaties on social security privatization before the proposal proceeds any further.

This is just one of the pressing issues that make this debate so much more complicated than the isolationist versus expansionist debate that some would have you believe it is.

Thank you for your attention...

And 'thank you' to all members of the Commission for considering this and other trade treaty issues that are often overlooked but that are so vital to the citizens and future of Maine.

Source: Grieshaber-Otto, J. and Sinclair, S. (2004) *Bad Medicine: Trade treaties, privatization and health care reform in Canada*, Ottawa, Canadian Centre for Policy Alternatives, available online at <http://www.policyalternatives.ca/index.cfm?act=news&do=Article&call=809&pA=BB736455> .