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JOINT STANDING COMMITTEE ON TREATIES

Reference: Treaty tabled on 16 March 2009

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**JOINT STANDING
COMMITTEE ON TREATIES**

Friday, 29 May 2009

Members: Mr Kelvin Thomson (*Chair*), Senator McGauran (*Deputy Chair*), Senators Birmingham, Cash, Farrell, Ludlam, Pratt and Wortley and Mr Briggs, Mr Forrest, Ms Hall, Mr Murphy, Ms Neal, Ms Parke, Mr Simpkins and Ms Vamvakinou

Members in attendance: Senators Birmingham, Cash, Pratt and Wortley and Mr Briggs, Mr Forrest, Ms Hall, Ms Neal, Ms Parke and Mr Kelvin Thomson

Terms of reference for the inquiry:

To inquire into and report on:

Treaty tabled on 16 March 2009

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Committee met at 9.00 am

BORTHWICK, Ms Octavia, Assistant Director General, AusAID

FORD, Mrs Christine Lorraine, ASEAN Program Officer, East Asia Regional Section, AusAID

MOLGNARD, Mr Michael Stanley, General Manager, Government and Communications, Austrade

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HINGEE, Ms Louise Ann Mary, Executive Officer, Goods and Government Procurement Team, Department of Foreign Affairs and Trade

LARKIN, Mr John Terence, Deputy Head, Asia Trade Task Force, Department of Foreign Affairs and Trade

MUGLISTON, Mr Michael, Head, Asia Trade Task Force, Department of Foreign Affairs and Trade

CHAIR (Mr Kelvin Thomson)—I now declare open this public hearing for the Joint Standing Committee on Treaties ongoing review of Australia's international treaty obligations. The committee will take evidence on the agreement establishing the ASEAN-Australian-New Zealand Free Trade Area, which was tabled in the parliament on 16 March 2009. Today we will hear from the Department of Foreign Affairs and Trade, the Minerals Council of Australia and Horticulture Australia. I thank witnesses for being available for this hearing.

Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and warrants the same respect as proceedings of the House and the Senate. The giving of false and misleading evidence is a serious matter and may be regarded as a contempt of the parliament. If you nominate to take any questions on notice, could you please ensure that your written response to questions reaches the committee secretariat within seven working days of your receipt of the transcript of today's proceedings. I invite you to make introductory remarks before we proceed to questions.

Mr Mugliston—Thank you. I would like to make a brief opening statement if that is agreeable to the committee. On 27 February 2009 in Thailand Mr Crean, along with his counterparts from the 10 members of ASEAN and New Zealand, signed the agreement establishing the ASEAN-Australia-New Zealand Free Trade Area, AANZFTA. AANZFTA, as you, Chair, have already noted, was tabled in parliament on 16 March along with a national interest analysis and regulation impact statement. The full text of the AANZFTA package,

including the text and schedules of the agreement plus the associated documents and letters, is available on the Department of Foreign Affairs and Trade website.

I should bring to this committee's attention the fact that the Department of Foreign Affairs and Trade has appeared three times to discuss AANZFTA before the Foreign Affairs Subcommittee of the Joint Standing Committee on Foreign Affairs Defence and Trade's inquiry into Australia's relationship with ASEAN. Among the issues raised and discussed in the subcommittee were the outcome on automotive tariffs, treatment of non-tariff barriers and the relationship between AANZFTA and bilateral FTAs with individual ASEAN member countries. The most recent appearance was the subcommittee's final public hearing in Canberra on 16 March this year. We have been advised by the subcommittee secretary that the final report is currently under consideration.

ASEAN, Australia and New Zealand have a combined population of some 600 million people, with an estimated GDP of \$3.2 trillion. Our trade with ASEAN exceeds our bilateral trade with Japan, China and the United States. Given the importance of the region, consultation with domestic stakeholders during negotiations was a priority. In addition to the 54 public submissions received prior to the commencement of the AANZFTA negotiations, Department of Foreign Affairs and Trade officials held regular consultations throughout the four years of negotiations. Consultations were held with domestic stakeholders including industry, unions and public interest groups to ensure that their views informed the development of the Australian government's position and negotiating strategy. The government's position was developed on a whole-of-government basis in consultation with other Commonwealth agencies and state and territory governments.

Turning very briefly to the substance of the agreement, AANZFTA is the first plurilateral or multicountry free trade agreement that Australia has signed. AANZFTA is the largest free trade agreement Australia has signed, covering 21 per cent of Australia's trade in goods and services, worth \$103 billion in the 2007-08 financial year. AANZFTA is the most comprehensive trade deal that ASEAN has negotiated. Australian exporters stand to gain from this agreement across many sectors, including industrial goods, agricultural products and services. Through this FTA Australia has achieved significant tariff reduction and elimination over time from the more developed ASEAN member countries and Vietnam, including tariff elimination on between 90 and 100 per cent of tariff lines in each country covering 96 per cent of current Australian exports to the region.

In addition to the reduction and elimination of tariffs over time, AANZFTA immediately binds the 2005 applied tariff rates for all but a few tariff lines. For most tariff lines the WTO, the World Trade Organisation, tariff bindings of ASEAN countries are considerably higher than the applied tariff rates. The immediate binding of the 2005 applied tariff rates for almost all tariff lines affords Australian exporters to ASEAN markets certainty of continued access to these markets and additional opportunities over time as tariffs are reduced and, in most cases, eliminated. Exclusions from tariff commitments have been kept to a minimum and generally do not exceed one per cent of a country's national tariff lines.

Negotiations in certain sectors were tougher than in others. On automotive tariffs, for example, Australia will eliminate tariffs on passenger motor vehicles for all ASEAN member countries but the phase-out arrangements for tariffs on vehicles manufactured in Indonesia,

Malaysia and Thailand will be slower, reflecting the fact that these countries were not prepared to agree to the early tariff elimination requested by Australia. On the other hand, makers of automotive parts will now have greater opportunities to participate in automotive supply chains through AANZFTA's regional rules of origin. Other manufactured products, resource based products and agricultural products will see extensive tariff reductions and elimination. Australia has also secured a good outcome on services, increasing certainty for Australia's services exporters, including through WTO, plus services commitments across a range of sectors such as professional services, education, financial services and telecommunications.

AANZFTA will establish a regime of investment protections that will create greater transparency and certainty for Australian investors in the region. AANZFTA includes useful commitments in other trade related areas such as intellectual property, as well as an economic cooperation component to provide technical assistance and capacity building to developing ASEAN countries to assist in implementation of the free trade agreement. This cooperation is an integral part of the FTA and the Australian government has committed to provide up to \$20 million in funding for worthwhile projects over a five-year period.

In addition to the market access gains from the FTA, AANZFTA provides a platform for Australia's ongoing engagement with ASEAN that will help to ensure that Australia's competitiveness in the region is not undermined. AANZFTA is a forward-looking FTA with built-in agendas and review mechanisms in areas such as non-tariff measures, rules of origin, services and investment which are aimed at expanding and deepening AANZFTA's commitments over time in line with the development of the ASEAN economic community.

My final point, Mr Chairman, is that AANZFTA will enter into force after Australia, New Zealand and at least four ASEAN member countries have notified each other of completion of their internal requirements. Thank you.

CHAIR—Mr Mugliston, can you tell us a bit about the interaction between this treaty and the trade agreements which are already in place with ASEAN members—for example, where there is a difference, which treaty prevails?

Mr Mugliston—You are referring to our existing bilateral free trade agreements with Singapore and Thailand?

CHAIR—Yes.

Mr Mugliston—Those agreements will continue to function and exist as distinct, separate agreements. They will continue, and we now have a separate agreement of the plurilateral nature that I have mentioned. Where this agreement provides additional benefit is really through the regional rules of origin in the goods sector. The basic approach that was taken in this negotiation of AANZFTA was to get as close as we could to ASEAN's own internal liberalisation arrangements. The fact is that they have done a lot more in the goods area than in the non-goods sectors. So that is why the focus here was on achieving the best possible tariff elimination outcome with associated liberal rules of origin that would enable particularly Australia's manufacturing sector and exporters to access the global supply chains. to supply components and whatever and to operate as a regional FTA.

In the non-goods areas, the ASEAN countries have made relatively limited progress with their own internal liberalisation in areas such as services, for example, so there is scope there for the bilateral FTAs to go further.

CHAIR—If I understand what you are saying correctly, currently there are no areas of overlap or conflict between the existing ASEAN agreements and this agreement?

Mr Mugliston—No, there is no conflict; essentially they coexist, Mr Chairman.

Ms NEAL—If I might just add to your question, Mr Chairman. If there is a situation where the reduction in tariffs is different under a bilateral agreement than under this multilateral agreement, which reduction rate does the country have to comply with?

Mr Mugliston—That is a real possibility that there is a choice here between a tariff outcome in a bilateral FTA with the associated rule of origin versus what is in the regional FTA. Essentially, that is a commercial decision whereby the trader will have to elect or select whether they are going to operate under the bilateral free trade agreement or the regional agreement. It becomes a commercial decision where they would need to look at the tariff outcome and the associated rule of origin.

Ms NEAL—Do they make the selection forever or for that one particular transaction or per year?

Mr Mugliston—It is transaction based.

Senator BIRMINGHAM—Why on earth would the lowest rate not apply?

Mr Mugliston—Senator, I am saying you also have to look at the rule of origin that applies with that associated tariff line. Let us use the example of the automotive sector, and I am very conscious that you have received a submission from a company on this issue. The point is that we actually have this situation at the moment with the Thailand FTA and the AANZFTA, where there is a lower tariff outcome under the bilateral agreement. We have to wait longer for Thailand to come up to the mark in terms of what it is prepared to do bilaterally in the regional FTA; we have to wait to 2020 to get that zero tariff. The point is that the rule of origin in the regional FTA gives greater flexibility to source components from within the region and other suppliers. So you have more flexibility to source. Whereas, in the bilateral FTA you are dependent on either Australian or Thai product in meeting that specific rule of origin. That is why, in terms of looking at the future, this is an important agreement in that it provides for that flexibility and is able to plug in to these global supply chains.

It would be my expectation that if this AANZFTA in fact enters into force and is a living agreement that will evolve over time, it will overtake the bilateral agreement. Your point, Senator, will essentially become redundant at some point in time once you have that same tariff outcome, because an exporter will, inevitably, always go the regional route to have that extra flexibility for the rules of origin.

Senator BIRMINGHAM—Sticking with automotive for a second: if the vehicle is produced solely using Australian and Thai components then would the expectation be that the Thai FTA

would apply and the zero tariff would apply? Or would it still be open for the producer to make a commercial decision, as you said before?

Mr Mugliston—Yes, of course they could make a commercial decision, but I would suggest to you that most commercial decisions would result in operating under the TAFTA—the Thailand-Australia FTA—because of the zero tariff, as opposed to the higher tariff. You are going to make more money that way.

Senator BIRMINGHAM—That there is a self-regulatory aspect there, I guess, is the best way to put it. It is not the Thai government saying to the producer, ‘Well, it’s an Australian car coming in and we want to tax that under the AANZFTA, rather than under the Thai bilateral agreement.’ It is the importer essentially saying, ‘Well, it’s coming in from Australia; therefore, it is an Australian-made car. We’ll take the lowest one because that gives us the best deal.’

Mr Mugliston—It will be market driven.

Mr FORREST—My interest is horticulture. I think I am hearing you say that the precedent will be the bilateral. If it is citrus—oranges or mandarins—coming from Australia to Thailand, the existing bilateral will operate; that will have the precedence. According to this treaty, it is another five years before Thailand’s tariffs come to zero. Am I reading what you are saying correctly?

Mr Mugliston—I’ll ask my colleague, Dr Milton Church, to supplement some comments I will make now in responding to your question, Mr Forrest. It is not a question of precedence here that I am putting to you, but rather choice. The conclusion is the same. There is the more liberal outcome in the example that you are citing of mandarin exports to Thailand, in that there is a lower tariff outcome in the bilateral agreement than the regional. In this particular case, you would expect the exporter to want to operate under the bilateral agreement.

Mr FORREST—I just do not want any loopholes, where, having worked so hard to get this agreement—particularly with Thailand—there is an out to revert to a higher tariff.

Mr Mugliston—No, they do not have that; they are still fully committed to their obligations under the bilateral agreement with Australia, the Thailand agreement. That is why the text of the agreement makes it very clear that those existing agreements will continue to function as distinct, separate agreements, legally binding agreements, between Australia and Thailand. This does not in any way override those commitments.

Mr FORREST—So in a commercial world it is the advantage of the importer, so he can compete, to go for the lowest tariff at his disposal? I see what you are saying.

CHAIR—To what extent do you see this agreement as being about maintaining parity with competitors like China and India? Horticulture Australia have suggested to us that the outcome we have got is not as good as the outcome that competitors have got. They have said that under the China-ASEAN FTA the bulk of horticulture exports from China to ASEAN countries will be tariff free by 2010. How do you compare this agreement with competitor free trade agreements?

Mr Mugliston—Perhaps I will go with the macro level first and then we will go into some very specific sectors on your point. Generally speaking, yes, we are very conscious of the fact that ASEAN has already concluded goods agreements with China, Korea and Japan, and that was very much factored into the approach and thinking in the negotiations, as well as the domestic stakeholders being very conscious of those agreements. Our basic approach was, of course, to push and seek to obtain the highest level of tariff elimination commitments possible from the ASEAN countries. What we have is reflected in the table that is submitted in the national interest analysis in paragraph 13, table 1, ‘Percentage of tariff lines with tariff-free treatment’, which shows you the tariff elimination commitments in the year 2010 and then the final tariff elimination. I suggest that it is important to look at the final tariff elimination outcome numbers, where Australia and New Zealand and Singapore have agreed to 100 per cent tariff elimination over time, so by 2020 it will be 100 per cent in the case of Australia and New Zealand and by 2009 for Singapore. For the other countries, you have Thailand at 99 per cent and then Brunei at 98.9 per cent et cetera—it is all in the table. But then, significantly, there is also Malaysia at 96.3 per cent, Indonesia at 93.2 per cent, Vietnam at 90 per cent and then the three least developed countries at slightly lower numbers. So that is a high degree of tariff elimination and goes further, well beyond what is agreed in its other FTAs at the macro level.

We are very conscious, of course, that you then have to go into sectors and look at our particular interest in those sectors. You have mentioned the case of horticulture. I could ask my colleague to comment further on horticulture if you wish.

Mr FORREST—Yes, please.

Dr Church—I am going to supplement those comments. On this general issue, when you look at the tariff commitments and the relationship between what we have done in answer to what ASEAN has done with its other dialogue partners, certainly we can say with confidence that the overall levels of tariff elimination we have got from ASEAN countries are higher than what they have done in any of their FTAs with other dialogue partners. In none of their other FTAs have all the key ASEAN countries committed to the elimination of tariffs on more than 90 per cent of tariff lines. Mr Mugliston has referred to the table in which we are looking at quite high levels of that in our FTA. We can certainly say with confidence that, when you look at what ASEAN has done with its other dialogue partners, the overall outcomes achieve greater levels of liberalisation than what has been done in those other FTAs. Clearly, you may have circumstances where, on an individual product, the degree of liberalisation achieved in a specific FTA with another dialogue partner may be greater—certainly in the example of mandarins and a range of other horticultural products, particularly with China.

Just to give a bit of the history here, as part of the FTA negotiations between China and ASEAN they agreed to what they refer to as an Early Harvest Program, and this covered chapters 1 to 8 of the tariff code, which essentially included basic agricultural products, including horticultural products. What ASEAN and China agreed was essentially they would both liberalise totally all their tariffs in those chapters except for a very small number of lines, so it had a high degree of liberalisation in what was referred to as the Early Harvest Program.

Unfortunately, there was a bit of an adverse reaction in some of these countries to that. We are paying the price. Mandarins are a good example. You saw a significant increase in Indonesians imports of mandarins, and from China, in response to that early harvest program. That is one of

the reasons why you saw the increase in the mandarin tariff in Indonesia from five per cent to 25 per cent in 2004. Because of that situation, Indonesia has been very, very resistant to liberalise on the mandarins, and that has been recited in our FTA.

When you look more broadly at horticulture, we are actually achieving very high levels of liberalisation. If you like, I can gather the figures on that. As a general point, when you look at the FTA as a whole or even in broad sectors like horticulture, what we have compares very, very favourably with other FTA partners. Clearly, there are always going to be a few products for which FTAs in individual ASEAN nations may have agreed to higher levels of liberalisation than we have been able to achieve.

CHAIR—I think the Prime Minister would be keen on a reduction in the mandarin tariff.

Ms NEAL—To elaborate on what you just raised, I would be interested to know what the level of tariffs is generally in the countries that we are making agreements with. Obviously, one of the major arguments for the ratification of this agreement is that it prevents a sudden surprise of increases in the future. Firstly, I am interested in the general level of tariffs. I understand they would differ from product to product and line to line. Have there been sudden increases of tariffs against Australian products in recent times?

Dr Church—It is a bit hard to comment on this. Most of these countries actually have about 10,000 or 11,000 tariff lines. If there are particular products you are interested in, we could always give you advice on them, but it is a bit hard to generalise overall. In the fact sheets we have done, we have tried to go through all the major product sectors of key export interest to Australia. We have summarised what each individual country's base tariff rates are. Essentially, the current situation is summarised for those individual product sectors. For example, we have a section on horticulture in which we give the base tariff rates.

Ms NEAL—What I am asking is: compared to most countries in the world, do those countries have particularly high tariffs or average tariffs or low tariffs?

Dr Church—Even within ASEAN, if you look at the situation of, say, Indonesia and Malaysia, both countries are major agricultural markets for Australia and both actually have quite low tariffs on most agricultural products. Many of their agricultural tariffs are zero or in the zero to five per cent range. We have very, very significant trade over those zero to five per cent tariffs.

When you look at Vietnam and the Philippines, the situation is rather different. They tend to have much higher tariffs. In the case of Vietnam, a lot of their agricultural tariffs are in the 40 to 50 per cent range. In the Philippines, they are normally higher than five per cent, a lot are in the five to 15 per cent range, and quite a significant number of their agricultural tariffs are 20 per cent or higher.

When you look at trade flows, we export far less to the Philippines and Vietnam than we do to Indonesia and Malaysia. I am not suggesting that the level of tariffs is the only factor. There is always a whole range of factors which influence why trade takes place. We would expect that one of the reasons why the Philippines and Vietnam are in no sense comparable to Indonesia or Malaysia as significant export markets to us at the moment is the fact that you have an extremely

different tariff structure in those four countries. Two of them have a high degree of tariffs in that zero to five per cent level, and trade tends to take place. The reality is, when you look at the trade figures, most trade takes place on tariffs of five per cent or less. So, once you get above that five per cent, as you do in the Philippines and Vietnam, you tend to have much less trade.

Similarly, with Indonesia, most of our agricultural tariffs are in that zero to five per cent range; when you get into the manufacturing sector, you have quite a few higher tariffs. This is even more so with Malaysia. Malaysia is actually quite significant: very open, in general, on the agricultural side; however, when you get into manufacture, there are a lot of high tariffs in the 30 to 40 per cent or higher range. And that is where you tend to have much less trade. We are not just getting higher levels of tariff elimination in this FTA; even when we are not getting tariff elimination we are actually getting most of those tariffs down to the zero to five per cent range.

Ms NEAL—In what range?

Dr Church—In the zero to five per cent range, because that is where the trade takes place. Mr Mugliston has read out some of those headline figures about the degree of tariff elimination, but that only tells part of the story as to what the agreement delivers. Even when we have not achieved tariff elimination, most of the remaining tariffs are going to be in that zero to five per cent range, so, at least, trade should take place. These tariffs will not be prohibitive.

Ms NEAL—Have we seen occasions where countries have suddenly raised tariffs?

Dr Church—Yes. The mandarins.

Ms NEAL—They were Chinese mandarins.

Dr Church—In Indonesia, it was not only the mandarins; there were a number of other horticultural products on which Indonesia did increase the tariffs overnight. I will just put this into context. We always see as one of the key things in these agreements what we refer to as ‘binding’—that is, in these agreements countries are making an international commitment on the level of their tariff. So, even when they are not eliminating the tariff—that is, the tariff is not going to zero—they do, at least, make a commitment as to what the level of the tariff will be. In the case of mandarins, there will actually be a commitment there from day one of a 25 per cent ceiling on the tariff which Australia will face. That will eventually be reduced to an 18.75 per cent tariff—not until 2025, I think.

The tariff bindings that these countries have entered into in the World Trade Organisation are very high for most tariff lines. Most of them are in the 40 to 50 per cent range. In the case of mandarins, it is a 50 per cent tariff. Yes, we are facing a 25 per cent tariff on mandarins in Indonesia at the moment, but there is nothing to stop Indonesia from increasing that tariff to 50 per cent, tomorrow. At least under AANZFTA, we will have a guarantee it cannot go higher than 25 per cent. Even though that has impacted our exports—as I understand it, our exports today are probably about half of what they were before the increase to the 25 per cent—we still have significant mandarin exports to Indonesia and we are actually still getting them in over the 25 per cent tariff. That might not be the case if Indonesia increased the tariff to 50 per cent. At least AANZFTA will give us that commitment on the 25 per cent tariff.

That 25 per cent is still a pretty high tariff. Obviously, there must be a premium market there which we service, in that the mandarins are still going in over the 25 per cent tariff. At least in cases where we are not getting the tariff elimination, or even when we are not getting it down to zero to five per cent, having that binding gives us a bit of guarantee.

Countries can and they do increase tariffs. And, obviously, there has been a lot of discussion at the moment with the global financial crisis. Certainly, we know that a number of these countries are under pressure from certain domestic interest groups to increase tariffs. We certainly hope that does not take place, but we know there are pressures there to increase. And it does happen. The reality is that these countries have been going in the right direction in recent years. They have been liberalising and they have been moving forward and we very much see this FTA as locking that into place, at least in relation to Australian exports to these countries.

Ms NEAL—If there are any examples of where there has been a sudden increase of tariffs, other than mandarins we would be very interested to know about that, if you could let the committee know.

Dr Churche—Sure.

Mr FORREST—I have just an observation. Apart from the suggestion that the Chinese have been able to negotiate better than us, it will be a favourable outcome for Australian table grapes. That is pretty clear, and I am glad to see that.

Dr Churche—Table grapes are our biggest horticultural export to the region—a very significant trade.

CHAIR—Ms Parke?

Ms PARKE—Has there been any analysis of the implications of this treaty with respect to issues of the environment, human rights and labour standards? I would be concerned if this agreement encouraged trade with Burma without regard to the human rights situation there, or trade in tropical timbers or endangered species without regard to environmental issues. I know that these kinds of issues were included in the Australia-United States Free Trade Agreement, and it certainly came up as an issue in submissions with regard to the Australia-Chile Free Trade Agreement. So I would be very interested to hear about the implications with respect to those issues in this agreement.

Mr Mugliston—This is in terms of environment provisions?

Ms PARKE—Environment, human rights and labour standards.

Mr Mugliston—There are no environment or labour provisions in this agreement, apart from a general reference in the preamble to the sustainable development objective. It was an issue negotiated in the negotiations and the position was taken by ASEAN, Australian and New Zealand ministers in August 2007 that labour and environment issues would not be covered in this FTA. That was the decision taken. There was a lot of debate in the negotiations about the scope of the agreement, how comprehensive it should be, and in the course of negotiations in the early stages New Zealand pushed very strongly to have labour and environment provisions

included in the FTA. ASEAN was opposed to it. Australia, under the former government, was also opposed and did not support the inclusion of labour and environment provisions in this FTA on the basis that those issues were more appropriately and better considered in other relevant fora. The decision was taken in August 2007, in order to move the negotiations forward, that labour and environment provisions would not be included in the FTA. That is the history of the negotiations on labour and environment.

Ms PARKE—To your knowledge, is that the position that has been adopted by the current government or is it simply that the department is proceeding on this basis until instructed to the contrary?

Mr Mugliston—No, it was the point in terms of the negotiations—that the negotiations were moving forward and the issue had been settled in August 2007 that it would not cover those issues. That decision was taken in response to a very firm ASEAN position that it would not agree to the inclusion of those provisions in the FTA. So you moved forward and the assessment made was that, if you reopened that issue, you were not going to conclude this agreement with ASEAN at this particular point in time.

Ms PARKE—Given that we have included those sorts of matters in the agreement, the Australia-US Free Trade Agreement, what is the department's general position on the inclusion of environmental, human rights and labour standards in free trade agreements?

Mr Mugliston—The position taken is the negotiating mandate given by the government to the department and other officials to prosecute in the negotiations. You have to look at each FTA separately. It is done on a case by case basis, in terms of what are the trade, economic and other interests of your negotiating partner. In the particular case of this FTA, there was a position we had at the outset of the negotiations that was prosecuted, the decision was taken during the course of negotiations and then we moved on to other issues.

Ms PARKE—Thank you.

CHAIR—What mandate do you get now?

Mr Mugliston—We, of course, with a change of government, had to get a mandate to continue negotiations and we got that.

CHAIR—But does it include environmental and labour standards?

Mr Mugliston—No, because that issue had been settled.

CHAIR—Sorry, I mean for the purposes of future agreements, not for the purposes of this one.

Mr Mugliston—We have to get a mandate for each separate negotiation.

Senator PRATT—I want to return to the topic of citrus. You have stated that locking in the 25 per cent at least gives some certainty, but clearly it has had a significant impact on citrus growers' access to that market, as demonstrated by the change in sales figures. I do not know if

you saw that coming or if happened quickly. What can the department do in the future to give this particular issue some more emphasis in the future so that that situation can be rectified?

Mr Mugliston—On this point, it is clearly disappointing that we could not achieve a better outcome with Indonesia in relation to mandarins. But I want to assure you and the committee that every opportunity was taken throughout the AANZFTA negotiation process to strongly push Australia's interests in securing improved market access for citrus and mandarins. If I may just very briefly refer back to Ms Neal's question about tariffs, generally speaking the ASEANs have much higher tariffs than we do. Dr Church has already explained the fact that a lot of our trade takes place with those tariffs in the zero to five per cent range. This is a good example of mandarins, where it was five per cent.

Senator PRATT—Yes, but it is not anymore.

Mr Mugliston—I understand that, but my point is: if you look at that particular case, this has of course had an impact and disrupted the trade, with that decision to go from five to 25 per cent. The point is that only six per cent of Indonesia's 270 horticultural tariff lines are currently tariff free but, when AANZFTA is fully implemented, it will be 90 per cent. That being said, of course, it still does not solve the problem with mandarins.

Senator PRATT—What is the particular motivation in Indonesia in relation to this? Is there a large domestic production of mandarins? I would not necessarily have thought so, or is it simply that they prefer competitors from other countries to have better access, or is it just revenue raising on a desirable line of produce?

Mr Mugliston—It could be. It is not entirely clear, Senator, but to answer your question: the Australian government has made it clear that it will be continuing to take all opportunities to seek agreement from Indonesia to reduce its tariffs on mandarins.

Senator PRATT—It does just seem odd, in relation to the fact that there have been some great outcomes in other areas, that suddenly you would have such a disproportionate reaction. Has Indonesia decided to cut a sweet deal with another country instead, at our expense? It would be important, I think, to try and understand what the underlying factors in that decision are.

Dr Church—Ultimately the Indonesian government itself has to explain why it has done this. It is actually just six tariff lines; it is not only the mandarins. Obviously the mandarins are the ones which have the most trade, but there are a number of other products, such as carrots and non-seed potatoes, where we have a real interest. There are actually six tariff lines where there was an increase in tariffs in 2005 from what had been a five per cent tariff up to a 25 per cent tariff. I guess part of the problem we were up against in these negotiations—it was no surprise to the Indonesians that these were key priorities to us because these had been raised. From the time that the tariff was increased in 2005, this has been a big bilateral issue, so it was no surprise to Indonesia that these lines were of key interest to us.

Senator PRATT—Are those same key lines—and just those lines—of a key interest to another competing nation?

Dr Church—As I say, we are trying to surmise Indonesian intentions here. Certainly on what we know and on looking at the trade, I do not think that is the case here. It is really going back to this point. When you look at the whole of the horticulture sector, Indonesia did open up its market to China through this early harvest program. However, I think we need to be careful here. I would not want to give the suggestion that somehow Indonesia is being protectionist here. When you actually look at the horticulture sector—and Mr Mugliston just referred to this—I think it is very useful just to give an image here. There are these six lines where in horticulture where Indonesia is saying, ‘We’re not prepared to reduce our tariff.’ But when you actually look at the whole of the horticulture sector—and Mr Mugliston referred to this—Indonesia has 270 tariff lines. At the moment, only six per cent of those 270 tariff lines—in fact, it would be a total of 17 tariff lines out of 270—currently have tariff-free treatment. From 1 January next year, this—

Senator PRATT—You have explained very clearly the wider tariff negotiations. It is these six product lines that I am interested in as to why Indonesia has that particular motivation. You have achieved that success across the other lines. I respect that and it is a terrific outcome. I do not quite understand the rationale behind it.

Dr Church—Again, I mentioned the Chinese, because certainly—

Senator PRATT—The Chinese have an interest across those five lines specifically?

Dr Church—Certainly in the mandarins.

Senator PRATT—What about potatoes and carrots?

Dr Church—I would have to check the import figures. I think what you have actually seen is some increase in imports, particularly from China, but probably also including Australia. Frankly, the fact this is a fairly recent market. You actually had quite an increase in imports by Indonesia, particularly from China but also from other countries, including Australia, in the early part of this decade, and it was very much in response to that increase in imports as to these particular lines. Clearly, the industries concerned were concerned about the fact that that was having an impact upon them.

I think the point here to keep in mind—I would have to check whether Indonesia grows mandarins—is obviously, from what you are talking about, the affected industry might be other people, other citrus producers. There could be other fruits, which are produced by Indonesia. They feel that a market is now growing. I think certainly on the mandarins—and they are maybe what you are talking about here—whereas there has been a market in certain types of fruit which are grown by Indonesia, imports are now suddenly coming in of a new fruit, a market is being developed and you have actually had certain domestic industries concerned about that, that they are losing their own market and that this is imposing adjustment costs. They have obviously made representations to the Indonesian government.

Again, when they actually made the decision in 2004, they talked about a schedule of tariff reductions over time. I think one of the things we are up against is that it is until that schedule takes place and until there is some adjustment by the industry. I think that is what essentially Indonesia’s interest here is in providing some temporary protection. Even when they announced

that increase in the tariff of 25 per cent, they actually said that their intention was to bring it back down to 10 per cent next year. We understand that may not happen now because of the concerns about the need for adjustment.

I think that is as I understand the intention of the Indonesian government. Certainly that is how we read the fact that they said, 'It is not intention to leave this tariff at 25 per cent.' They were trying to send a message to their domestic industry: 'Yes, we will increase the tariff temporarily. Yes, we recognise you are suffering some pain at the moment from those increased imports. But, given the fact that we provide five per cent tariffs for the rest of the horticulture industry, we are not going to give you permanent protection at 25 per cent tariffs. We want you to adjust to that market situation.'

This is something which over time we would hope for. As Mr Mugliston said, this will be a continuing issue in terms of representations to Indonesia. We would certainly hope that over time Indonesia will be more ready to make commitments in this area and to lower the tariff. Again, I think a lot of this is about allowing that adjustment to take place, to give industry a breathing space, where there has been quite a significant increase. Certainly, I know that is the case with mandarins, when you actually look at both the Chinese and the Australian exports to Indonesia, and you are talking about in the early years of this decade quite significant increases in trade. You could actually understand why domestic industries might be saying, 'We think there is a problem here. Can you give us some support at least to adjust for the next few years?'

Senator PRATT—You are fairly certain that these decisions across those five lines have not been made in order to favour another trading nation over us?

Dr Church—I can certainly point to no evidence that that is the case and, in looking at this from what we know about the trade figures and other deals which they have done, I certainly have no evidence to suggest that.

Senator BIRMINGHAM—In terms of the step-down phases for tariffs throughout the period, how clearly defined are they for different countries that are signatories to AANZFTA?

Dr Church—One of the things which we have in this FTA, which we think it is actually a very significant development, is this. When you look at the previous FTAs which ASEAN has done with its other dialogue partners, none of them have the full tariff schedules. You have seen the FTA that we have tabled in parliament. We actually have these full tariff schedules for every country. What that does is this: for every single tariff line, it tells you what is the tariff rate going to be in each year of the transition period. It tells you what the base rate is, what it will be on entry into force, what it will be on 1 January 2010 and so on. None of the previous FTAs that ASEAN has done with its other dialogue partners has that degree of transparency. It really is a bit of a complex process trying to work out what the tariff commitments are. We look at AANZFTA and think it is a good benchmark, in our view, on that sort of transparency. Hopefully, it will be one for great ease of access by industry in trying to understand all this. For each industry normally there might be just one or two tariff lines that are of interest to them. They can go to each of the country's schedules which are of interest to them and immediately see this is what the commitment is going to be right through to the end of the transition period.

Senator BIRMINGHAM—So that is right through to 2025 in the case of Indonesia, for example, year by year adjustments made—

Dr Churche—Yes.

Senator BIRMINGHAM—Table 1 of the NIA, which you highlighted to us previously, for countries like Burma, Cambodia and so on, we see the tariff lines with tariff free treatment listed and of course the progress there is shown from the 2005 base through 2010 through 2013 and there is just this enormous drop to the final year. Whilst through to 2013 is a reasonable period of time and there is basically no progress in some of those instances, you expect huge progress towards the tail end. Is that progress actually spelt out?

Dr Churche—It is. We have the figures and we can certainly provide that to the committee if you are interested. The full table looks a bit intimidating when you first see it because it is giving the annual phase-in for every year through to 2025. That table in the NIA is just a snapshot. The point to emphasise here is the approach. It is not just the fact that in each year more tariff lines reach that tariff free treatment; you also have reductions in the tariffs. You might have a 30 per cent tariff and you will have cuts happening to that 30 per cent from day one. It is not just a case that it is a 30 per cent tariff on day one and it then becomes zero in 2013; you are talking about gradual reductions. When you are talking about high tariffs that can be just as important as getting to the final zero duty. The fact that a 30 per cent tariff might be down to 10 per cent by 2012 will allow trade to start flowing in 2012 and not have to wait until you finally get to the tariff-free treatment.

Senator BIRMINGHAM—It is probably best if you take this one on notice. We have had plenty of discussion about mandarins and there are some other products, such as cauliflower, broccoli, lettuce, spuds and so on, that also stand out. Is it possible to provide us with current export values across these different tariff lines for the key countries that have been identified in Horticultural Australia's submission—Indonesia, Philippines and Malaysia—as well as comparisons with similar horticultural products that would fall within category 7 and category 8 sections? This will answer that question that we had somewhere else along the table. I think, Dr Church, you indicated the scope of our export of mandarins to Indonesia. Is it actually something that is being exaggerated when in fact we are going to get enormous benefits in other areas of horticulture or the like? If we could see some of that data, that would be very helpful.

Mr BRIGGS—When we were in Darwin—and you may have seen this in the *Hansard*—the Northern Territory Chamber of Commerce raised the issue of behind-the-barrier trade restrictions. Could you talk us through how significant you think they are? The Chamber of Commerce was reluctant to go into much detail about it. I am interested in your views.

Mr Mugliston—That is a big issue. If I may just very quickly come back to the senator's question. Just on that point about the phasing of the tariff reductions and elimination, all the schedules are on the DFAT website. It is very user friendly. That is the feedback we have had from people. They have that certainty regarding the phasing. We do not tend to get too many questions from people who cannot follow it, which is positive.

Senator BIRMINGHAM—To have that business certainty going forward is obviously one of the key benefits out of this, and the clarity, the way you have described it, is a big plus. I certainly welcome that component.

Mr Mugliston—Behind-the-border barriers are also referred to as non-tariff barriers. As I explained at the outset, the real focus in this negotiation was to get at the tariff outcomes. That was a major effort and negotiation in itself, as you can tell from the discussion here. You have identified six tariff lines in Indonesia's schedule where there are concerns and real disappointments, and we acknowledge that, but that is out of 11,000-plus tariff lines in Indonesia's schedule. There is a lot of very detailed negotiation, and getting the phasing right was also a major negotiation. It is clear in the agreement—and it is stipulated in the text of the agreement—that one of the objectives of this agreement is to progressively liberalise and facilitate trade in goods among the parties through, inter alia, progressive elimination of tariff and non-tariff barriers. We have a good start with tariffs. It is not finished. We are still doing more work, but it is a good down payment in progressing that objective. Of course there will be a lot of monitoring that we will need to do and we will do that. On the issue of the non-tariff barriers, it was recognised in the AANZFTA negotiations that tariffs are only one element of market access. This other element is the extent to which the non-tariff measures are barriers to effective market access.

Mr BRIGGS—So is it things like legal certainty? Can you define that?

Mr Mugliston—In terms of non-tariff barriers?

Mr BRIGGS—Yes.

Mr Mugliston—They are non-tariff measures which can affect your access to a market. It can be import licensing requirements and those sorts of things.

Mr BRIGGS—Government red tape and that type of thing?

Mr Mugliston—Yes. It was also a very sensitive point in the course of these negotiations for some of the ASEAN countries. I suspect this is where the Northern Territory Chamber of Commerce was coming from. A number of ASEAN countries did register concern with Australia's use of quarantine measures, arguing that such measures negate the commercial value of Australia giving tariff-free treatment on a number of products of export interest to them. There are those sorts of issues. We have agreed that this is a huge agenda.

Mr BRIGGS—Apples from New Zealand, for instance?

Mr Mugliston—That was not raised by the ASEAN countries.

Mr BRIGGS—The former member for Mayo had a very strong interest in that issue.

Mr Mugliston—AANZFTA incorporates WTO disciplines applying to non-tariff measures. However, it was just not possible to negotiate on those measures. We have agreed a work program to address non-tariff measures.

Mr BRIGGS—Would you describe them as significant?

Mr Mugliston—Yes. They are significant.

Mr BRIGGS—Do you think other countries would describe our restrictions as significant?

Mr Mugliston—They would in a negotiating context. Wouldn't you?

Senator WORTLEY—You have had the opportunity to have a look at the other submissions. I refer you to a statement in the submission by the Australian Manufacturing Workers Union. Point 4 says:

It is not in Australia's national interest to ratify a free trade agreement that requires "far more far sooner" in the reduction of tariffs from Australia relative to other treaty participants. Nor is it in Australia's interest to compromise the future interests of key strategically important industries like Australia's auto and components industry with an unbalanced FTA.

How would you respond to that?

Mr Mugliston—The first thing is that we are dealing with a very diverse region in ASEAN. You have three least developed country members of ASEAN. What I would refer to—which is referred to in the documentation here—are the so-called 'guiding principles' for negotiation on this ASEAN-Australia-New Zealand free trade area which were endorsed by leaders in November 2004. It was these guiding principles that were submitted to negotiators to operationalise in an agreement. One of the key principles takes into account differences in levels of development. Therefore, there should be provisions for longer transition periods for developing countries than for Australia and New Zealand. In fact, this was a key area of negotiations where you get the same eventual outcome but it is just a longer transition period in reducing the tariffs. Where Australia and New Zealand had more upfront as their general principle, the more developed ASEAN members are a little bit longer, with Vietnam, a little bit longer, and then the three least developed countries a bit longer.

Senator WORTLEY—Thank you for that, but what they are saying here is that it is not in Australia's interest to compromise the future of 'key strategically important industries like Australia's auto and components industry'. Specifically in relation to that, would you be able to comment?

Dr Church—Can I perhaps take that in two parts. On this issue of the extent to which Australia is doing faster liberalisation: as Mr Mugliston has just explained, this is an FTA with developing countries, including three least developed countries—that is internationally recognised. You are always going to have something of a longer transition period for those countries. They have significantly lower GDP per capita. It is internationally expected that a developed economy will have a somewhat faster transition. Having said that, when you look at what is happening in this FTA, the time frames in which these countries are doing quite significant liberalisation are actually fairly short.

Even using the part of the table which is in the AMWU submission, let us look at Australia's situation. We currently have our 2005 base tariff. Forty-eight per cent of our tariff lines are tariff free, and that will increase to 96 per cent on 1 January 2010. Look at Indonesia. They currently

have 21 per cent of tariff lines at zero tariffs, and that will increase to 58 per cent in 2010. I think that is quite a significant degree of liberalisation, which is actually greater than what we are doing. We are a bit over doubling our tariff-free lines; Indonesia is almost tripling. Look at the Philippines. They are going from 3.9 per cent of tariff lines at zero to 60 per cent. That is a pretty big increase in one day for a developing economy.

I can provide more detail, if you like, on this issue, but there actually is very significant upfront liberalisation by those developing economies in this FTA. Yes, there are some longer transition periods for them than there are for Australia, but it is not a case that Australia is doing everything upfront and these countries are not doing very much. There is quite significant liberalisation by these countries from day one. That is one point.

Senator WORTLEY—In relation to the manufacturing industry, what do you think the impact will be in Australia?

Dr Church—There are a couple of elements I would point to there. I can give some examples of this. These economies—particularly when you look at the manufacturing sector and at more elaborately transformed manufactures—tend to have much higher tariffs than Australia does. Yet we are looking at very significant levels of tariff elimination here.

I think one of the things you are looking at is moving from a situation where these countries, in the manufacturing sector, tend to have much higher levels of protection. They are getting into situations where many of these key manufacturing sectors will all have tariff-free treatment for the vast majority of tariff lines. We are actually moving to a situation where we will be on a comparable footing, from a starting point where these countries tend to have much higher levels of tariff protection than we do.

The second thing I will say about the manufacturing sector really goes back to this point which Mr Mugliston made earlier about regional rules of origin. This is something which is really not relevant to the agricultural sector. A mandarin, a table grape—it is going to meet the rule of origin whether you are talking about a bilateral FTA or a regional FTA, because, essentially, it is wholly grown in Australia. The issue of regional rules of origin really does not have too much impact for the agricultural sector, but it is hugely important for the manufacturing sector.

The key thing here is trying to tap into those supply chains. What is important here is that we are not just talking about direct trade. Australia is going to be exporting to these countries, but it is also what they export to us and what they export to each other, because what the regional rules of origin mean is that, if Indonesia wants to build a piece of machinery or build a car and export that to Malaysia, it can now count Australian components and inputs towards meeting the rule of origin under this FTA and gain access to the Malaysian market and so on right through the region. We are talking about not just direct trade from Australia to these countries, or direct trade from those countries to Australia but also trade between those countries and trade between New Zealand and these countries. Where you have manufacturing trade, they will be able to use Australian components and inputs towards meeting the rule of origin.

Senator WORTLEY—In relation to the auto and components industries sections of manufacturing, what would the impact of this free trade agreement be?

Dr Church—We are talking about very, very high levels of tariff liberalisation achieved in the auto parts sector. We have an individual fact sheet which sets out the auto outcomes. But most of the major countries, we are talking about pretty close to 100 per cent tariff elimination in the auto parts sector. Most of these tariffs are in the 15 to 30 per cent range and sometimes they can be in the 40 per cent range. Most of the ASEANs, for quite a significant part of their auto part trade, have tariffs at a similar level to ours, and we are talking about, within reasonable time frames, getting to very high levels of tariff-free treatment. As you know, we obviously have some concerns about the passenger motor vehicles outcome and the fact that, particularly with Thailand, Malaysia and Indonesia, we have not got the degree of tariff elimination we would like, but when you look at the good tariff outcomes in the auto parts sector—although you would always like faster acceleration if you can get it—overall we actually think the outcomes are pretty good. The time frames are not too bad and the degree of liberalisation is very, very high. In most of these countries it is 100 per cent or very close to 100 per cent.

Senator WORTLEY—You believe that the component and auto section of the manufacturing industry will benefit as a result of this agreement?

Dr Church—All we can say is that this creates opportunities. Ultimately, it is really for business to realise those opportunities. We certainly think that, compared to the current situation that you have, when you look at the degree of liberalisation and the opportunities there for supply chains, there will be certainly far more opportunities there into the future than there are at the moment. FTAs are always only part of the environment which shapes what is going to happen to, say, the Australian components and parts industry, but we certainly think this creates opportunities which are far in advance of what they have at the moment.

CHAIR—Thank you for attending to give evidence today. If the committee has any additional questions, the committee secretariat may seek further comment from you at a later date.

[10.09 am]

DEADY, Mr Stephen Patrick, Director, Industry Economics and Taxation, Minerals Council of Australia

CHAIR—Although the committee does not require you to give evidence on oath, I should advise you that this hearing is a legal proceeding of the parliament and warrants the same respect as proceedings of the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. At the conclusion of your evidence would you please ensure that Hansard has had the opportunity to clarify any matters with you. If you nominate to take any questions on notice, could you please ensure that your written response to questions reaches the committee secretariat within seven working days of your receipt of the transcript of today's proceedings. I invite you to make an opening statement.

Mr Deady—Thank you, Mr Chair. I will be very brief. We made a short submission to the committee and we were very pleased to do that. The Minerals Council is a very strong supporter of the government's efforts to liberalise trade, obviously in the Geneva process as a multilateral system but also in the regional and bilateral free trade agreements. In that context we welcomed the signing of the AANZFTA agreement. It is an important agreement for a number of reasons. For the mining industry the region is certainly an important market for us. The tariffs we generally face in those markets are not high, as in most cases for minerals. Nonetheless, there are some tariff reductions on a range of products, which we welcome.

We believe that this agreement has some much wider implications, which over time I think will continue to deliver benefits for the Australian economy and for the minerals industry. We are a very strong supporter of the comprehensive agreements, and in this case the inclusion of initial steps on investment is a very positive thing. We also clearly applaud any progress in the area of services. For the Australian economy, the minerals industry is a major investor in a number of the countries in the region. A lot of industries that support the mining industry also benefit from the greater transparency and greater predictability that comes from the commitments included in these regional and bilateral agreements.

We made what we strongly think is an important point as to the timing of the announcement and the signing of the agreement. There is the very significant increase in protectionist pressure that we are facing as a result of the global financial crisis. This is a signal from Australia, New Zealand and the ASEAN countries of the importance of keeping markets open and having trade and investment liberalisation play a role in getting us out of the economic environment that we are facing.

We also believe that the agreement is a critical one. It is part of the framework that has been developed and will hopefully continue to develop through the APEC processes and through the deeper integration of Australia in the Asia-Pacific region. We see this, again, as an important step along that road. We all know how hard these negotiations are. No-one has any illusions about how difficult it might be to pull something together more widely in APEC. Nonetheless, we believe this is a very significant step along that road.

CHAIR—Thank you.

Senator BIRMINGHAM—Thank you for your time and evidence today. I appreciate your coming along. Obviously the minerals sector is pretty much a winner out of this FTA. That would be a fair summation of your position, wouldn't it?

Mr Deady—Yes. As I said, we welcome it. We think there are a number of important commercial outcomes for us on those tariffs. We have \$1 billion worth of trade in the region, so that is certainly significant. As I said, it is a down payment on some of the other things that we think are important. We welcome it and we think it is a good outcome, certainly for the minerals industry.

Senator BIRMINGHAM—Other industry sectors have expressed their concern, particularly that it locks in quite high-tariff barriers for some products over a long period of time, and indeed for some of them even at the 2025 end point for this agreement period they still face quite high-tariff barriers. I understand the support your industry has for it because of your own personal perspective, but do you think it is a positive deal for the rest of the country, given the fact that others are potentially paying a price for that?

Mr Deady—Obviously, we cannot speak for the other industries, but our assessment is that this is a very positive outcome for the Australian economy as a whole. I heard some of the conversations with the DFAT officers. The importance of these trade agreements is the certainty that they give. This notion of binding commitments from governments to do certain things is very important. Unfortunately, as I have said, we have seen the protectionist views out there now, despite efforts of the WTO, the G20 and APEC leaders to encourage industries to not resort to protectionist measures. Unfortunately, there has been a raft of examples where, in response to what are admittedly very difficult circumstances, governments are ratcheting up protection. We saw it in the United States in the Buy America Act, which was a very significant announcement that the US congress was going to include quite draconian provisions to protect US steel. It is pleasing, at least to some extent, that that was moderated, because at least now that legislation contains language that the US will honour their international obligations. There were limits placed on a country as large as the United States because of the trade agreements they have, so we see that as fundamentally important for the Australian economy. Any industries taking investment decisions about the future now have that certainty and have improved access arrangements in the ASEAN countries as a result of this agreement.

Senator BIRMINGHAM—Does the MCA have any quantifiable benefits it can point to from this agreement? Have you done any economic research to indicate what you think might flow from it?

Mr Deady—We have not done any detailed work. These are important markets for us, but, as you understand, the much larger markets for Australia are in North Asia, so we have not done any particular work. We have looked at the tariff cuts in some of those commodities that are of value to us and we certainly welcome those.

I do keep coming back to the investment side. Again, there are limits in this agreement. This is very much a first step. Hopefully, we have made that clear. There are access issues in relation to investment, but it is an important first step. There are many issues that clearly determine the

investment decisions made to spend large amounts of money in capital development for mining. There are a number of areas and aspects of the regimes in the ASEAN countries that could be improved. The framework that this agreement establishes, if you are looking at it from Australia's perspective, gives greater transparency and predictability. There are provisions and dispute mechanisms that we can access that allow recourse if certain decisions are taken by those governments. We certainly do not see that as a path that you would enter into quickly or easily but, nonetheless, it is a significant step forward.

We are encouraged by the ongoing process that is built into the agreement. Our experience with these trade agreements, including the WTO ones—certainly the New Zealand agreement—is that they continue to develop over time: they are not set in stone. You now have in place frameworks and processes whereby the Australian government can continue to have dialogue with those countries. It is up to Australian industry, including us, to talk to the negotiators and the government to make sure they do understand issues and problems that we may still have in those countries. I think that process is a valuable one and history has shown it to be very valuable, as agreements improve over time.

Senator BIRMINGHAM—DFAT point to the rules of origin provisions within the agreement as being one of the big wins. With regard to raw minerals, there is not a lot of argument that can take place about rules of origin, but is there any value-adding potential or opportunities that you see for Australia as a result of those changes?

Mr Deady—I probably cannot comment too much there. I think you are right: the rules of origin is not an issue for the minerals industry. Again, it comes back to that broader question, that deeper integration. I think this notion of regional content, as described, is a positive one and that, over time, will offer benefits for Australian industry. Globalisation, global supply chains are clearly becoming more important for all industries across all sectors, so I think that is a positive step. It is very important that those rules of origin be liberalising and not restrictive, otherwise you just do not generate the benefits that should come from the tariff reduction. But this is a positive step forward.

Senator BIRMINGHAM—Thank you.

Senator PRATT—The agreement was announced in February. The Minerals Council talked about improvements through the FTA in relation to Australian investments overseas, transparency and certainty, but stated there were still some ongoing issues that it would like to see the agreement address. Could you highlight for us how you see the improvements in the Australian mining industry's capacity to invest overseas versus where there are remaining issues.

Mr Deady—It is an important step forward that we establish this framework. The recognition that investment is a part of these trade agreements and is taken up in bilateral and regional agreements we think is a very positive thing. Currently, not only does the Australian economy broadly, and the mining industry specifically, continue to rely very heavily on foreign inflows into this country but we are now also a significant foreign investor ourselves. Again, that has become tougher with the global financial crisis but, currently, the level of Australian foreign investment overseas is almost equal to the amount of foreign investment in this country. The mining industry throughout 2008, again, despite very difficult circumstances continued to increase its investment overseas. The mining industry has investments in Indonesia, the

Philippines, Cambodia and Laos. Those things are important. The certainty, predictability and transparency that are enhanced by these commitments between governments are important.

One of the critical things for us is the conditions or the requirements that can be attached to investment and, again, this gives us an opportunity. They tend to be sort of behind-the-border measures. Here again, we have an opportunity through this agreement to address those. We certainly have not solved all the problems. I do not pretend to know what many of those are but, in terms of Australian mining companies taking investment decisions, a whole raft of issues are taken into account. We see the fact that there is a trade agreement, the fact of some greater commitment and certainty there and the knowledge that over time there will be an ongoing dialogue between governments to address issues as they emerge as a positive.

Senator PRATT—Thank you.

Mr FORREST—A question that you might be able to add some information to is the suggestion of behind-the-barrier tariffs, de facto quality controls and so forth. Is that of concern in a mineral perspective?

Mr Deady—Behind-the-border measures are certainly issues for all industries, and the mining industry is no different. In our case often it is related to investment type decisions. As I said, there could be performance requirements that go along with that. There might be a requirement, for example, that local product, local steel, can only be used in, say, a port development or infrastructure and various things like that, which add to the costs. One point I would make about behind-the-border measures—and, again, I hope this does not sound flippant; I certainly do not mean it like this, because I think it is apparent from the trade agreements—is that our negotiators improve access. Often we do not know about the additional difficulties of doing business because the barriers have been too high to even get into those countries before. That is something we have seen. The experience of these negotiations in the past is just that. You suddenly have access because the tariff comes down but find there are some other requirements, whether they be labelling or other regulations, that you then have to address.

That is why these agreements need to continue to focus on behind-the-border measures, and I think that is the case with mining. We do not have huge issues. As I said, most of them would be attached to investment type arrangements: what are the conditions that can go along with that investment. Some of those may be more onerous than we think is justified.

Mr FORREST—Thank you.

CHAIR—As there are no further questions, we thank you for coming along to give your contribution today. If the committee has any further questions, the committee secretariat may seek further comment from you at a later date.

Mr Deady—Thank you for your time.

Proceedings suspended from 10.25 am to 10.41 am

JAMES, Mr Ian Harry, Vegetable Industry Economist, AUSVEG Ltd

MULCAHY, Mr Richard, Chief Executive Officer, AUSVEG Ltd

WINTER, Mr Stephen Raymond, National Horticulture Market Access Coordinator, Horticulture Australia Ltd

CHAIR—Welcome. Do you have any additional comments to make on the capacity in which you appear?

Mr Winter—I am the Secretary to the Horticultural Market Access Committee, or HMAC, the peak market access committee for the horticulture industry. I have also been asked to appear on behalf of Citrus Australia Ltd and the CEO of Citrus Australia Ltd.

CHAIR—Welcome back. Although the committee does not require you to give evidence under oath, I advise you that this hearing is a legal proceeding of the parliament and warrants the same respect as proceedings of the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. If you nominate to take any questions on notice, could you please ensure that your written response to questions reaches the committee secretariat within seven working days of your receipt of the transcript of today's proceedings. I now invite you to make an opening statement.

Mr Winter—Thank you. I would like to express our appreciation for this opportunity to meet the committee on the important topic of the AANZFTA.

By way of background: the Australian horticulture industry is a major agricultural industry. The gross value of production is around \$7 billion to \$8 billion. It has primary horticultural exports of \$750 million. It includes around 17,000 horticultural enterprises. It has a labour force of over 100,000 people, or about 20 per cent of the total employment in agriculture. Horticulture Australia is a national research, development and marketing organisation servicing the horticulture industries. Horticulture Australia works in partnership with the horticulture sector to pursue programs that provide benefit to the industry.

Citrus Australia Ltd is the national peak body representing citrus growers. The citrus industry in Australia has a gross value of production of around \$450 million, exports of around \$160 million to \$180 million and includes 2,000 growers.

AUSVEG Ltd is the national peak industry body representing vegetable and potato growers. The vegetable industry is sizeable: it has a gross value of production of just over \$3 billion, primary exports of \$169 million and includes 6,000 growers.

As an indication of the significance of horticultural trade with ASEAN: in 2007-08, horticulture exported \$164 million worth of primary and processed horticultural produce to the 10 ASEAN nations. Collectively, ASEAN ranks ahead of all other single horticultural export markets. Our primary markets are New Zealand, Japan, Hong Kong, China and the USA. The

balance on horticultural trade with the ASEAN is about even, with around \$160 million going each way.

With regard specifically to our issues and our thoughts with regard to the AANZFTA, Horticulture has sought this dialogue with the committee to discuss the extent of trade liberalisation offered to horticulture by the AANZFTA. This extent, in our view, unfortunately is disappointingly below the potential. By way of specific numbers, if you would bear with me for a moment, using the measure of the value of tariff reductions and removals achieved by our industry under AANZFTA and in terms of our current trade, our submission calculates a value of the AANZFTA of around \$2.9 million by 2012, rising to \$4.7 million by 2020. This compares with a value of total tariff elimination, were that to happen, of around \$7.7 million annually.

What does this mean? It means that for horticulture, on the basis of that key measure, AANZFTA offers us between 40 per cent, early in the decade, and 60 per cent, by the end of the decade, of the full value of tariff elimination. Obviously we do not know the outcomes under AANZFTA for other agricultural industries. Our industry does view that these outcomes are well below our own expectations and indeed perhaps below any measure of adequate liberalisation under Australian free trade agreements.

What then are the contributing factors towards this gap between outcomes and potential? Our submission points out the following four points. One is the limited number of trade lines, including their value, to which a zero tariff applies on entry into force of the agreement. The second is the number of trade lines, and their value, where tariff reductions are excluded from the agreement. The third is the number of lines, and their value, where a greater than zero tariff continues to apply at the end of the furthest points of the schedule—in other words, 2024, 2025 et cetera. These continue with reasonably high tariffs—some very high. Fourthly, at the other end, the final factor which impacts on this gap is the speed with which the remaining tariff lines I have not already referred to reduce to zero over time.

Full examples of all four groups are provided in our submission. We understand that horticulture is a complex industry. There are many industries under the umbrella of horticulture. There are 2,000 tariff lines for horticulture in relation to the ASEAN nations, and 170 of these are key to our current trade. Those 170 are the ones we look at in making our assessments of the impact of the AANZFTA.

If we may, Mr Chairman, we would like to draw the committee's attention to our general conclusions, which are as follows. One, to achieve adequate trade liberalisation outcomes future FTA negotiations need to better address exclusions, non-zero tariffs and tariff draw downs granted to our FTA partners. Those are the points I have already made.

Two, future negotiations need to at least match existing tariff levels. An important case in point here is that Horticulture views AANZFTA represents a serious missed opportunity to match China's zero tariffs into the ASEAN, putting certain Australian horticulture industries at short- and long-term disadvantage.

Three, while we have some understanding of the prospects for further tariff liberalisation by Thailand, as an ASEAN member, we nevertheless view—and we have some understanding of

the situation in Thailand in recent times—that an opportunity has been missed under AANZFTA to improve on key Australia-Thailand Free Trade Agreement, TAFTA, horticultural outcomes.

Further, Horticulture does not accept the argument which has been put up that there is current value in the tariff outcomes under AANZFTA as the negotiated tariffs are bound as the maximum that can be applied and therefore would be lower in the possible future instance where an ASEAN member may increase its MFN, its general global, tariffs. The reason for this is that we are unaware that any ASEAN member is planning to raise their applied rates. In other words, if any benefit is claimed for the binding of the applied rates, to us it is theoretical and non-realizable. It is certainly not at present.

I would also like to draw the committee's attention to an issue of serious concern for our industry in relation to AANZFTA: that is, that Indonesia will maintain an applied tariff under AANZFTA for mandarins and other key horticultural imports from Australia—in particular, non-seed potatoes and carrots—at 25 per cent. This rate goes forward to 2025 and falls only in that year to 18.7 per cent for mandarins and non-seed potatoes and 12.5 per cent for carrots. In other words, these 18.7 per cent and 12.5 per cent tariffs continue into the future, with no further change. We find it very hard to understand the logic of this agreed binding tariff, which is well above the MFN rate, which is the general global tariff rate. The globally applied Indonesian MFN rate will be 10 per cent in 2010. Therefore, Australia has agreed to a tariff substantially above—15 percentage points above—the rate applied to ordinary global trading partners. Nonetheless, Australia can still avail itself of the lower MFN rate. For us, this throws into further question the point—whatever it may be—of an agreement between Australia and Indonesia to an inapplicable 25 per cent tariff, which is 15 per cent above the MFN rate.

What does this example mean in hard dollar terms? The Australian mandarin industry calculates that the high MFN rate on Indonesian mandarin tariffs since 2005—that is, 25 per cent, falling to 10 per cent in 2010—is largely contributing to a loss of up to \$6 million in annual exports into Indonesia. As I previously mentioned, this \$6 million alone exceeds the entire value of the estimated horticultural tariff liberalisation achieved under AANZFTA. Similarly, the mandarin and vegetable industries must now look towards the prospective Australia-Indonesia FTA negotiations to correct the situation and present Australian horticultural produce with a competitive trade-generating future tariff position into Indonesia. We are particularly focused—as obviously we need to be—on the prospects for the Australia-Indonesia FTA to correct this tariff picture.

The horticulture industry does acknowledge a number of points with regard to ASEAN tariff liberalisation efforts. These include the efforts which the departments and several Australian ministers have made in the past few years to convince the Indonesians and certain other ASEAN nations of the merits of tariff and trade liberalisation, as would beneficially impact on our horticultural exports, such as mandarins and vegetables. We also acknowledge that AANZFTA tariff outcomes do entail some benefits, particularly for our table grape industry, as described in our submission.

While acknowledging certain commodity sensitivities exhibited by our negotiating partners, which generally always exist—particularly in developing countries—we nevertheless argue that Australia must do more to achieve trade liberalisation from our negotiating partners in the context of FTAs. We would be appreciative if the committee would support our position. Our

trade partners have sensitivities. We ourselves have sensitivities, which are represented by the fact that, while under the FTAs their produce comes into our country for free and with zero tariffs, we are burdened by a future picture of a substantial number of high tariffs continuing into the future, which does not generate trade for us and makes us uncompetitive.

We thank the committee for the opportunity to explain our analysis and understanding of the AANZFTA as it applies to our industry.

Mr Mulcahy—AUSVEG Ltd is the peak industry body representing the interests of Australia's vegetable and potato growers. The Australian vegetable industry has made a submission to the Joint Standing Committee on Treaties regarding its disappointment with some aspects of the AANZFTA. Of particular concern to the industry is the weak outcome with regard to Indonesia, mainly, and the Philippines and the failure to address concerns that the industry had already conveyed about the TAFTA.

Australia should not agree to tariffs that are higher than other FTA tariff outcomes or MFN tariffs, yet Australia has negotiated a worse tariff outcome than available under MFN tariffs. For the vegetable and potato industry these outcomes relate to carrots, non-seeded potatoes and shallots into Indonesia. The situation is made worse by the fact that the lower pre-existing tariffs will continue to apply. The anticipated Australia-Indonesia FTA negotiations should make correcting these tariff outcomes a priority.

Australian vegetable growers, already upset by the less than ideal outcomes under the Thailand-Australia Free Trade Agreement, will be disappointed with the lack of a rapid movement to zero tariffs. It is, to say the least, surprising that Australia is endorsing or can endorse an agreement which delivers less than ideal outcomes, inferior to those already available under MFN or existing FTAs.

It appears that the concerns raised by the vegetable industry at the signing of the TAFTA have not been taken into account once again in these negotiations. As outlined in the Horticultural Market Access Committee submission presented by Mr Winter, Australia has not achieved the equivalent of tariffs facing Chinese exports into ASEAN. This point will not be lost on Australian vegetable growers who have seen their export markets devastated by Chinese competition. Thank you, Chair.

Ms NEAL—You are essentially saying to us that this agreement actually puts people selling or exporting vegetables to these countries in a worse position than they are presently. Is that a proper summary?

Mr Mulcahy—Essentially, yes. It does not deliver any of the anticipated benefits from—

Ms NEAL—I understand that, but is it—

Mr Mulcahy—Yes. It is actually at a higher rate than what would have been the prevailing rate.

Mr Winter—Actually, it does not necessarily put us in a worse position. In some areas, as the submission explains, there is a benefit from reduced tariffs. The particular beneficiary is our

table grape industry. So generally speaking it is not a worse position but it is not in general terms, as we have maintained. The fact that only 40 to 60 per cent over 10 years of the liberalisation potential is achieved means it is disappointingly below the level we would hope for and other parties might hope for from FTAs.

There are some situations, as we have mentioned, in the AANZFTA which are just exceedingly hard to understand, where Australia and Indonesia, for example, have agreed to rates which are 15 per cent above the general global rates. We cannot understand the logic or the sense in it. It is a bad scenario. We cannot explain to our industry why this is the case. We have needed to explain to our industry that we understand that we can continue to apply the MFN rates or the TAFTA rates, where they are lower. Nevertheless, it is a very difficult outcome to understand.

Mr James—In particular it is in relation to the Indonesian ones, which are the major ones, because we are talking about a 10 per cent rate at the moment, or that type of thing. At the end of this agreement, we are still left with rates of 18.75 per cent and 12.5 per cent on vegetables. That rate is higher than the applied rate at the moment. The difficulty we have is that we cannot understand why an Australian negotiator who is negotiating for a free trade agreement could write into a free trade agreement rates which are higher than the rates which apply at the moment.

Ms NEAL—One of the things you also raised in your submission was that the results of this agreement are worse than an arrangement between ASEAN and China. Do you have any views about why that is the case?

Mr Winter—Basically, the ASEAN and China have entered into an FTA. It was represented by what they called an early harvest, which came into effect in 2003-04 and 2004-05, where they focused horticulture, presumably because there was intense interest in each of China and ASEAN in promoting horticulture specifically. They could see, presumably, some form of complementarity between China and the ASEAN bloc in promoting horticulture.

So basically under that agreement it was early harvest and it was obviously confirmed when the full FTA was completed between ASEAN and China. The Chinese rates into ASEAN and the ASEAN rates for China are zero across the board either in the very early years or certainly by 2010. That is in the most developed of the six of the 10 ASEAN nations. My thinking is basically that they saw a complementarity between ASEAN and China. That has been supported by huge growth, for example, in horticultural trade between Thailand and China. They saw this complementarity. They agreed zero rates across the board with the Chinese. As you can appreciate, of course, the cost structure of Australian horticulture is above the Chinese cost structure. In a situation where we do not similarly enjoy zero tariffs into the ASEAN—in fact, contrarily even, we still retain the tariffs—it just makes our competitive position much harder.

Mr James—It is a very sensitive issue for vegetable growers because basically we have lost a lot of our markets in South-East Asia to Chinese competition. When you are trying to talk to vegetable growers about becoming export orientated, they see China getting unfair advantages in, say, these free trade agreements vis-a-vis Australia. The expectation out of all this was that Australian vegetable growers would at least be able to compete on an equal footing with Chinese vegetable growers in these markets. That is where the disappointment comes.

Mr Winter—I think there is almost a case that FTAs should include a clause which says that our outcomes should be no worse than the outcomes achieved by whatever prior FTA negotiations have taken place. That would remove this problem, of course. If it is the case, as it is, that each FTA is a creature of its own and the FTA partners can negotiate with Australia whatever tariffs they may think are suitable from their perspective in the Australian context you do get outcomes where even after negotiation you end up with a far worse tariff structure in many cases than applies to our competitors.

Ms NEAL—There might also be a case to say that no rate should be higher than the global rate, I would have thought.

Mr Winter—Absolutely. It is just incomprehensible. We have sought reasons for it and have not really received any answer to why that has happened. We understand some elements of the Indonesian situation. Nevertheless, it is difficult to understand why we are sitting now on it. We would sit on a rate which will not apply at 15 per cent about the MFN rate for six of our key commodities into Indonesia.

Mr FORREST—Your disappointment is noted, particularly with regard to the fact that the Chinese seem to be better negotiators than us. You are not actually asking this committee to recommend that this agreement not be ratified. There have been some gigantic gains, particularly for table grapes and stone fruit. We are never going to get there in one step, but I assume your recommendations are designed to encourage our committee to recommend much better processes in negotiation in the future. I wrote down the four recommendations you made. But there are some significant steps being made for commodities other than the ones you have mentioned.

Mr Winter—We believe there are beneficial outcomes for table grapes of around \$2 million a year, which is roughly the figure in the submission, based on current trade levels. Although the tariff outcomes per se are generally good for stone fruit, if you look at the current level of stone fruit trade there are beneficial outcomes for stone fruit. You also have to look at the specific AANZFTA outcomes compared to what is already in existence in TAFTA. The benefits there are not much less. So I certainly would not use the word ‘gigantic’ in relation to those commodities.

Mr FORREST—I did not say ‘gigantic’.

Mr Winter—The thrust of our recommendation: all we can do basically is to look to the future and see if there are any improvements or lessons that can be made going forward, with regard to FTA negotiations.

Mr FORREST—You explained earlier why the Chinese outcome has been better than the one we have achieved, but there must be other cultural reasons why that is so, especially in regard to mandarins.

Mr Winter—Possibly but it is very hard to know. I would not have chosen the thought of cultural reasons, but I can understand why you asked that. Perhaps in my personal view there is a different politic between China and ASEAN nations than exists, obviously, between Australia and the ASEAN nations which may well influence their outcomes vis a vis ours. Nevertheless, if you sit with uncompetitive tariff rates, you sit with uncompetitive tariff rates going forward. It is

not by design that there happens to be an Indonesian FTA coming up which gives an opportunity, and that is to be welcomed. We are hoping that those changes can be negotiated.

Mr FORREST—What is your confidence in the capacity of Australian negotiators particularly in regard to horticulture and their understanding of the domestic challenges and so forth? Are you absolutely confident we have the best negotiators?

Mr Winter—It is a very hard question, Mr Forrest, thank you. We have professional negotiators who are split up by areas so, obviously, you have agriculture negotiators. Those agriculture negotiators have to cover all agriculture commodities. There are key issues with each and every of those agriculture commodities in terms of FTAs or the Doha Round. In many ways you find that those issues differ between agricultural industries so there are a range of issues for them to absorb. Those issues will vary in intensity. Obviously for the particular industries they are vitally important but I would guess that DFAT negotiators have a responsibility to take an across-the-board agricultural and national perspective. On the other hand it would be true to say that for the most part those negotiators may not have a specific agricultural background, for example. In those circumstances it becomes vital that the degree of interchange and dialogue all the way through the FTA process with the industries is quite crucial. We have not found any lack of opportunity for lack of openness to the negotiators, and we are always overly welcome in terms of being willing to provide whatever information support they need for their negotiations.

Mr Mulcahy—Mr Forrest, if I could just add to that. I have only been in this role for a month and I asked the very same last question last night of Mr Winter as to whether the issues here were as a result of our sector not advancing its arguments well enough, particularly the vegetable sector, and I hope to address that in the period ahead, or whether our position was well-considered but other factors came into play or whether those negotiating were not as able as the negotiators on the other side of the table. I am only this afternoon to have my first meeting with some of those involved in particular negotiations so I have an open mind, but I must say I raised the same issue as to why we have not had a better outcome negotiated in some of these arrangements. I will be interested going down the track to see what views I form in relation to that. I think Mr James has some comment too.

Mr James—Yes. I can comment probably from the feedback we get from vegetable growers. To some extent vegetable growers feel they are marginalised in Australian agriculture despite the fact that it is the fourth largest agricultural industry in the country. The feeling is that basically Australian negotiators probably do not have as much knowledge or give as much credence to the vegetable industry as the industry warrants. There is a feeling of, I suppose, discontent. This goes back to the comments made about China too. There is a feeling in vegetable land that basically the vegetable industry is regarded as a fairly insignificant industry by Australian negotiators and therefore does not get the full attention that it should otherwise get.

Ms NEAL—There probably is not a recognition of the vegetable industry being important. People tend to think that Australian agriculture is wool and grain and that is what is embedded in the public mind.

Mr Mulcahy—We have to take some responsibility for that.

Ms NEAL—I am not trying to blame you for that.

Mr Mulcahy—We will work on that.

Mr FORREST—On that line, can you recommend ways to improve the process? I am not quite sure whether the commodities have the resources to accompany negotiators and be present so that they can come out to a back room and discuss a proposition that has been put. It is about strengthening the connection about the real challenges that occur for vegetable growers. Can you recommend any way to strengthen the process?

Mr Mulcahy—In the first instance we need to ensure that our views are clearly and widely disseminated in terms of those involved in the negotiation process. We were discussing yesterday the perceived closer relationship in a number of Western developed countries between government and industry where negotiations occur, particularly the United States. The closer interaction that appears to have occurred with a number of other countries may not be as well developed in Australia. I think there is scope for inclusion of industry representatives at the table in some of those negotiations, which may open up a new approach. Yes, there is an issue of resourcing those things. There are a lot of difficulties financially facing a range of the bodies in the agriculture sector in Australia at the moment, whether it be wool or our sector or a host of others. Some resourcing issues might need to be addressed, but I think it is in the Australian national interest that we get the best outcomes. Whilst with the best intent on the part of negotiators, they might not necessarily be sufficiently across the full impacts in those negotiations and I think their position could be well enhanced if they were able to draw on some industry expertise not just prior to going off to those negotiations but actually while we were involved in them. So I think there would be merit in that.

Ms PARKE—Thank you for this discussion about the factors that may or may not have contributed to the outcome for Australian horticulture in the AANZFTA. I have a particular bias as the daughter of an orchardist. I do hope we can see improved outcomes for Australian horticulture in future FTAs. My question is about the special safeguards regime in Thailand. Could you please explain how that works and what effect it has on the agricultural industry in Australia?

Mr Winter—I would be pleased to. The special safeguards mechanism applies from our perspective to three commodities in particular: mandarins, table grapes and frozen potatoes. That basically means that there is a set volume figure and if imports from the importing country's viewpoint exceed that figure the tariff can then be hiked back to either the base rate or the MFN rate. For those commodities basically it is something like 30 or 40 per cent. So you find that very frequently happens with table grapes, and quite early in the season, that once they hit the rather low trigger level of whatever the figure is, a thousand tonnes or so, then straightaway, even though the tariffs are declining over the period to 2015 to zero, nevertheless the tariffs can be hiked back to the original MFN base rate. It will jump back for this year, in rough terms, from 12 back to 30 or 40 per cent. That is a special safeguard mechanism. Presumably it safeguards the Thais from excessive—whatever that may be in their view—future imports. That is not to say that imports do not continue over those levels. They certainly do. We export about \$12.5 million worth of table grapes to Thailand, by far the major commodity export into ASEAN. As I say, that industry is affected by this trigger mechanism, as are the other two commodities, mandarins and frozen potatoes.

Ms PARKE—Mr Mulcahy, in your presentation you referred to Indonesia but also to the Philippines. Can you expand on how this agreement affects horticultural industry exporting to the Philippines?

Mr Mulcahy—The situation with the Philippines is, I guess, more of a theoretical than a practical concern. Most of our focus is on Indonesia but, as I understand it, in the current agreement the tariffs applying in the Philippines will be still at a disadvantageous rate in terms of Australia, should we be exporting to that market. I might refer to Mr Winter to give the current rate under the AANZFTA agreement.

Mr Winter—It varies according to the product, but those rates will be maintained at a high level across a whole range of vegetables. Into the Philippines, they are up to 32 per cent. From 2020, they will be 20 per cent for carrots; 20 per cent for cauliflowers, broccoli et cetera, and lettuce; and 16 per cent for celery et cetera. What we find hard is that, as I have just mentioned, between Australia and China there is a substantial difference in the cost of production and, of course, the same applies between Australia and the Philippines. For us to export certain commodities to certain countries like the Philippines is really a hard sell. Despite the difference in the cost structures, to be hit by a continuing high tariff simply does not make sense. It is discouraging. It does not make sense. It puts our prospects, whatever they may be, of exporting more into the Philippines at a longstanding disadvantage.

Mr Mulcahy—I will just give Ms Parke the specific figures; I have them in front of me. In relation to potatoes, the future tariff under this will be 40 per cent to 2019 and dropping to only 32 per cent in 2020. With cauliflower it is 25 per cent to 2019, and 20 per cent by 2020. For a head of broccoli it will be 25 per cent to 2019 and 20 per cent in 2020. And for lettuce it will be 25 per cent to 2019 and down to 20 per cent in 2020. So they are quite high tariffs that are going to continue to apply well into the future.

CHAIR—Mr Briggs has been asking other witnesses about behind-the-barrier trade restrictions in ASEAN countries and, in his absence, I will ask: do you think that they constitute a problem for the horticulture industry?

Mr Winter—Basically we have focused on the tariff issue. As our submission states, that is the No. 1, key issue. There may be, selectively, in certain areas or for certain commodities, varying non-tariff or behind-the-border barriers, but our focus must be and is on those tariffs which are the primary factor influencing our trade prospects.

Mr FORREST—And there are residue limits—on quality and all sorts of stuff like that—aren't there?

Mr Winter—Yes. I mean, with horticulture commodities we are faced by a whole series of phytosanitary issues when exporting to these countries. Generally, as your committee would know, they are negotiated quite separately from the FTAs, even though FTAs, in various ways, can impact on the progress of our phytosanitary negotiations, for example by setting up specialist committees and by offering the other country opportunities to debate phytosanitary issues under an FTA umbrella. Basically, phytosanitary issues are handled under the WTO SPS agreement and between the phytosanitary authorities. But, nevertheless, plant produce being plant produce, the issue of phytosanitary access is, in varying degrees in varying commodities,

nearly always of primary concern to us, whether it is new access or maintaining access. That is one area.

The other area you have correctly mentioned, Mr Forrest, is chemicals—residues, MRLs. That is the sanitary area. So the combination of changes in the chemical applications which are permitted by these countries, which change quite frequently, and phytosanitary issues represents a whole range of issues which, traditionally, are not handled under FTAs but which are, nevertheless, of concern to us. If we have an opportunity in the FTA context, we would be only too pleased to have another opportunity of raising these issues.

Ms HALL—Mr Forrest asked you a question that related to your overall position on the agreement. You are not opposing, as you have already indicated, the signing of it, but I noticed some ambivalence in your answer to Mr Forrest. For my clarification, could you articulate whether you think there are any overall positives in this agreement for your industry, or whether the overall result for the industries that you represent here will be negative? Is it going to be a plus or a minus?

Mr Mulcahy—There are two different answers: yes and no. In relation to our own sector, we are obviously not particularly pleased with the outcomes. Would we suggest the scrapping of it? No, I do not believe that is what we are advocating, but I hope we will send a clear message. Hopefully—with respect to the committee—the committee will take into account the concerns we are expressing about how this has been negotiated and about some of the elements when you present your report. In terms of those who are winners, I will refer that back to Mr Winter who can talk about those who have in fact benefited from this agreement.

Mr Winter—We certainly thought about your question. It is not new to us. We have taken the view that there is very strong political support behind this agreement. Although we obviously do not know the situation for other industries, or agricultural industries, our guess would be that the likelihood of a significant number of parties opposing this and that resulting in whatever situation occurs from strong opposition is probably quite low. It has been spoken about in glowing terms by various parties, including the government. We agree that it is vitally important because ASEAN as whole is a major trading partner and neighbour to us. A lot of effort has gone into the AANZFTA. It has taken about four years in total. That is really why what Mr Mulcahy says is our view—that we think there are lessons going forward. In real terms, it is better for us to request attention to some of those issues, which can only be for the better in the future.

Ms HALL—Thank you. I noted that there have already been a number of questions about negotiations and the negotiators. I would like you to articulate in point form the exact issues that you would like to be included when negotiations take place in the future.

Mr Winter—Firstly, a much closer relationship between industry, the departments and the government negotiators all the way through the process; secondly, recognition that the outcomes of FTAs are precisely intended for the benefit of the industries. Therefore, to achieve the maximum benefit, a higher level of interaction between the government agencies and the industries is necessary to get to that higher level. Those two points—which sound rather similar—alone would be primary. I will go to an issue. We hear from time to time the comment that, basically, these are intergovernmental negotiations. Once the negotiations are termed ‘intergovernmental’ you get the confidentiality issues and all of those issues which indicate that

they are matters for intergovernmental discussion only. Nevertheless, that view does not fully recognise the points I have just made: to get a successful FTA in terms of industry outcomes, the level of industry interaction and dialogue, I think, should ideally be higher than it is.

Mr Mulcahy—Could I just add a supplementary point. The matter I raised in reply to Mr Forrest earlier is that some thought ought to be given to even providing some resources to enable industry to be part of this process right through. I strongly endorse the view that Mr Winter has put—that, regarding the term ‘intergovernmental’, it is well and good to say that the door then closes on private industry, but there is no reason why, in fact, one cannot address issues of security and confidentiality and involve industry in some of those more critical negotiations. I think it just involves a cultural change in how we do business. If we are going to look after the national interest we need the best available resources that we can mobilise. With all the best intentions of officials, they may not necessarily have the depth of understanding of particular industry sectors.

Ms HALL—Given that this agreement goes across a number of industries and is designed to be of overall benefit to Australia as a nation, how would you like to see the negotiations or the government balance those competing industries? For instance, you may miss out a little somewhere but there may be enormous gains in another industry. That I think is one of the issues that always arise in negotiating such agreements.

Mr Mulcahy—In the early stages it is vital that any sectoral interests be able to come forward and put forward their views—and in fact be actively encouraged and resourced—

Ms HALL—I most definitely agree with that.

Mr Mulcahy—just as this committee might invite evidence from various parties, and they have that opportunity. I recognise the point you make at the final stage that you cannot have a room full of everyone—there are 44 peak industry bodies alone in horticulture, so obviously it is impractical. But I do not think it is beyond the realms of reality to suggest that people could be appointed with broad industry experience who would be in a position to have a reasonable level of knowledge of major sectors in Australia, such as agriculture, mining and so forth who may not be across the most minute detail but should be in a position to draw on those resources. Just as we appoint people to the Reserve Bank who are not there to represent a particular sector but would represent a collective deal of experience one would hope, in these areas of negotiation there is the potential to source champions of industry in Australia who would be not necessarily tied to one sector but would have broad industry knowledge. There would be merit in having some of those people much closer to negotiations than probably occurs at present.

Senator WORTLEY—You have provided a number of points that you would like applied in future agreements to achieve a better outcome. Just from the conversation that we have had here today it appears as though you are putting a lot of faith into a future agreement with Indonesia. I am wondering what you think would be different when the negotiations for that agreement are taking place, given that you have articulated well the concerns of your industry here?

Mr Winter—We would hope that the points we have made, are making and will continue to make are better recognised by the negotiators. We are reluctant to keep deferring outcomes to the next FTA. Nevertheless, in this case with the Indonesians, it is the situation we face and

therefore it is really our major opportunity to correct the negotiated outcomes on key tariff lines with Indonesia. Despite the great efforts of a number of parties—I have already mentioned ministers and departmental efforts over the years—I think there is a task for all of us there to make sure that the negotiations with the Indonesians do focus even more on these issues to achieve a desirable outcome. We need somehow to have a better understanding. Maybe it is held already and we just have not been privy to it, but we need a better understanding of what are the influencing factors in Indonesia to keep the situation in place or the influencing factors which might occur to change the situation.

Senator WORTLEY—You have acknowledged the benefits that will apply to the table grape industry, but in your opening statement and in particular in relation to mandarins, carrots, non-seed potatoes, shorts and mangoes you said that results from this agreement for the short- and long-term would be to our disadvantage. Could you just elaborate on that?

Mr Winter—Yes, I am pleased to. ‘Short term’ basically means that over the short term there are existing high tariffs or equivalent constraints. As for ‘long term’, some of those tariffs quite significantly will continue for the long term. That is what it simply means.

Senator WORTLEY—We understand with regard to the tariffs. What I am focusing on here is the impact on those industries in the short and long term.

Mr Winter—The impact on those industries will correspond to the existence of the tariffs and to the level of the tariffs. As I said, we are not arguing that the treaty itself is necessarily going to make us worse off, but it is not going to make us better off. Indeed, it could make us worse off in the sense that other countries will continue to enjoy lower tariffs—substantially lower tariffs, zero tariffs—for a long period of time, so in that sense the failure to achieve equivalent tariffs does give us a short- and long-term disadvantage as well, simply because we are at a different tariff differential.

Senator BIRMINGHAM—Thanks, gentlemen, for very well presented arguments today and for taking a relatively pragmatic approach, as well, to what is achievable out of this inquiry process. Perhaps one of our recommendations needs to be that there is more fruit and veg on the cafeteria menu at DFAT!

Mr Mulcahy—I heartily endorse that, Senator!

CHAIR—And in here!

Senator BIRMINGHAM—And in here, indeed. I will ask for a couple of figures, firstly—and feel free to take these on notice if you cannot give them to me. What is the total value of Australia’s fruit and veg exports to both Indonesia and the Philippines?

Mr Winter—Yes, I can certainly tell you that. The total value of Australia’s exports is in terms of all hort—in other words, it is the primary produce, so that is fruit, nuts, veg and also processed hort. Those are the figures in front of me; that is why I will quote them. To the Philippines we exported only \$4 million worth of horticulture produce in 2007-08, and to Indonesia it was \$35 million.

Senator BIRMINGHAM—That certainly helps to put some perspective on why the focus is on Indonesia even though the tariff rates for both look fairly horrific in a few different categories. Again, feel free to take it on notice, but are you able to break down for us in terms of those impacted categories—potatoes, cauliflower, headed broccoli, lettuce, carrots, mandarins, melons et cetera—what proportion of exports they account for, please?

Mr James—I can give you some figures for Indonesia. For lettuce it is \$1.2 million; carrots, \$0.6 million; potatoes, \$0.4 million; cabbages, \$0.3 million; onions, \$0.2 million; and tomatoes, \$0.2 million. That is a total of \$4.5 million into Indonesia, but that figure has fallen in recent years.

Mr Winter—This is current trade, and this is a situation where two major veggie lines, which are onions and non-seed potatoes, are affected by prohibitive tariff rates—too high tariff rates rather than ‘prohibitive’, because trade is continuing, but they are excessively high tariff rates.

Senator WORTLEY—Mr James, did you say that that figure has fallen in recent years?

Mr James—Yes, in recent years for this stuff.

Senator BIRMINGHAM—So, prior to the tariff escalation of 2005, a number of those categories presumably would have been higher or significantly higher?

Mr James—That is right.

Mr Winter—Can I just correct a statement. The products are carrots and non-seed potatoes, not onions and non-seed potatoes.

Senator BIRMINGHAM—Thank you. Of course, we have spoken about China and the comparative deal that they have. As an exporter into the markets of Indonesia and the Philippines of fruit and veg and horticultural products, how large are they?

Mr Winter—They are very substantial. In fact, the position—again, the figure in front of me is for all horticultural produce—for Chinese exports into Indonesia in 2007-08 is \$403 million in horticulture, and into the Philippines it is \$185 million.

Senator BIRMINGHAM—So, if you are the Indonesians or the Filipinos sitting down negotiating an FTA with a country or a group of countries, China poses a far more significant threat, you would have thought, to local production capabilities than does Australia.

Mr Winter—That is a possible and probably valid comment.

Senator BIRMINGHAM—Indeed. I think that shines a very stark light on the failings of getting a decent outcome on these particular product lines.

Mr Winter—I certainly agree with that comment.

Senator BIRMINGHAM—I think we have covered some of the quarantine concerns which I was going to ask about with my good friend at the other end of the table. Overall in terms of the

precedent this sets, are you as industry groups concerned that it sets the precedent for Australia as a bit of a soft touch when it comes to negotiating future agreements?

Mr Winter—Our view is basically that TAFTA was the first agreement to perhaps fit that description. AANZFTA, being a second agreement to Thailand but with the ASEAN nations, probably continues in that vein. The difficult situation for our negotiators going into the future is that it may be fair to say that FTAs with Thailand or ASEAN or one or two of the other FTAs are probably the easy ones and that the harder ones will be the FTAs with the North Asian countries, which already have been in place for several years now and where progress in negotiations continues to be rather slow. Our concern is that if this is the situation with the easier of the negotiating opportunities then what is going to come out of the North Asian negotiations I really do not know.

Senator BIRMINGHAM—Thank you very much. I am sure we look forward to looking at some of the responses the department provides to the things we asked of them earlier today, but I think there is a strong view that your industry needs a much greater say at the table in future negotiations.

Mr FORREST—Chair—

CHAIR—You have had a few bites of the cherry, if you will pardon the expression, so one more question.

Mr FORREST—There has been some discussion about the rules of origin test. My impression would be that for your commodities that would not be an issue. It is pretty much fresh product, and that origin issue is only if there is a processing step in that. Is that correct?

Mr Winter—That is correct. As far as primary horticulture is concerned, we grow it here. It is indisputable. Rules of origin do impact to a degree in processed horticulture possibly, but our major stakeholders are the primary industries. So from that perspective what you said is correct, yes.

Mr FORREST—What about a step to make it shelf ready, asparagus prepackaging or something: does that introduce an opportunity for this step?

Mr Winter—I do not believe so. We have looked at the rules of origin as one of the parts of the package of an FTA, and consistently we have concluded that the rules of origin issues are not in contention with regard to FTAs as far as primary horticulture is concerned.

Senator BIRMINGHAM—Can I throw in one extra question? Mr James, in terms of changes to the amount Australia exported, volumes and dollar amounts, of the categories that were impacted by the 2005 tariff increases, would it be possible for you to take it on notice to come back to us with any definitive changes that occurred between the pre-tariff and the post-tariff increase?

Mr James—You would like some figures in relation to changes over that period of time?

Senator BIRMINGHAM—That would be excellent, as a clear demonstration of the impact that have has had on Australia's capacity to export those products into those markets.

Mr James—I will take that notice and get some information back to you.

Mr Winter—Can I actually answer part of that question? Obviously with regard to mandarins the impact has been an evidential decrease of about \$5 million a year, going up to \$6 million probably, into Indonesia in the case of mandarins. That is from the continuance of high tariffs since 2005.

Senator BIRMINGHAM—I think we had some of those figures earlier on mandarins. I would be interested in the other products too.

CHAIR—Thank you for attending to give evidence today. If the committee has any further questions, the secretariat may seek further comment from you at a later date.

Resolved (on motion by **Senator Wortley**, seconded by **Ms Hall**):

That the committee authorises publication of the proof transcript of evidence given before it at public hearing this day.

CHAIR—Thanks, everyone. I declare the public hearing closed.

Committee adjourned at 11.40 am