



7 August 2020

The Hon Dave Sharma MP
Chair
Joint Standing Committee on Treaties
GPO Box 6021
Canberra ACT 2600

Via email: jsct@aph.gov.au

Dear Mr Sharma,

RE: Joint Standing Committee on Treaties inquiry into 'Certain Aspects of the Treaty-making process in Australia'

The National Farmers' Federation (NFF) thanks the Committee for the opportunity to provide a submission to its inquiry.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council, and these organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services, as well as state-based policy and commodity-specific interests.

Australian agriculture is an export-oriented industry, with export earnings constituting 78% of total farm income. This level of dependence on export markets means that the impacts of trade agreements on the industry, whether positive or negative, are significant for agriculture.

The NFF considers it important that industries with a material stake in the outcome of trade negotiations be given an insight into those negotiations as they are in progress, and an opportunity to provide regular feedback to the Government on the direction of these negotiations. The NFF considers that the creation of a system whereby certain industry representatives be provided with access to live negotiating texts and schedules and provide feedback on those texts and schedules, on the condition that they sign a non-disclosure agreement, would achieve the desired outcome while avoiding compromising the confidential and sensitive nature of ongoing negotiations.

There is currently little transparency around the decisions made by Australia's negotiators on either negotiating objectives or agreed outcomes for the majority of a trade agreement's text, schedules or annexes. Decisions on most negotiated outcomes are made by a small number of departmental officials. This has resulted in the Australian Government concluding negotiations with outcomes that have been, on occasion, unsatisfactory for industry.

From an industry perspective, the outcomes of negotiations are more likely to account for the interest of those stakeholders. From a governmental perspective, this would have the benefit of removing much of the ambiguity around what outcomes would be acceptable to industry, therefore decreasing the likelihood of industry opposition to a treaty after negotiations have concluded.

Real-time industry consultation would bring about a fundamental shift in Australia's trade policy, transforming it into a bottom-up process where treaty outcomes are inextricably linked to the preferences of Australian industry and the Australian public. This shift would eliminate the perception, widely held in certain parts of the community, that trade agreements are secretive, imposed on Australians by their Government, and detrimental to Australian society and the Australian economy.

Such a system would also increase the level of expertise, experience and insight informing Australia's negotiating position. Industry representatives would bring a depth and breadth of industry knowledge, and of the ramifications of certain treaty outcomes on industry, not commonly held by trade officials. This would enable negotiators to avoid adverse outcomes and pursue beneficial outcomes which they might not have recognised without industry-specific expertise.

The simple principle underlying this proposal is that actions based on incomplete information are likely to be sub-optimal. The more informed Australia's negotiators are of Australia's sectoral interests, the more likely they are to secure optimal outcomes. It is not possible for sectoral interests to convey their priorities to Australia's negotiators with precision and comprehensiveness unless they are aware of what is being offered by Australia's negotiating partner.

A system such as this has existed in the United States since 1974, where 26 advisory committees comprised of approximately 700 citizen advisors provide feedback to the United States Trade Representative (USTR) and directly to the President during negotiations. Several of these committees provide policy advice while others provide technical advice.

While the NFF is not calling for a system identical to the US Advisory Committee System (ACS), we believe it illustrates how such a system might operate, and exemplifies the benefits arising from such a system: a better-informed negotiating position and assurance that trade policy is representative of sectoral preferences.

The NFF asks that the Joint Standing Committee on Treaties recommend that the Australian Government initiate an inquiry into establishing a mechanism whereby industry representatives be provided with access to live negotiating texts and schedules and provide feedback on those texts and schedules. This mechanism should be consistent with the principles outlined in this submission and should be developed through extensive consultation with industry.

Should the Committee opt to make this recommendation to the Government, the NFF stands ready to assist in developing a more detailed proposal. Should you have any questions regarding this submission please contact Mr Liam Watson, Policy Officer (Trade and Economics) on 02 6269 5666 or at lwatson@nff.org.au.

Yours sincerely

A solid black rectangular box redacting the signature of Tony Mahar.

TONY MAHAR
Chief Executive Officer