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JOINT STANDING COMMITTEE ON TREATIES

Reference: Australia's relationship with the World Trade Organisation

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JOINT COMMITTEE ON TREATIES

Thursday, 19 October 2000

Members: Mr Andrew Thomson (*Chair*), Senators Bartlett, Coonan, Cooney, Ludwig, Mason, Schacht and Tchen and Mr Adams, Mr Baird, Mr Bartlett, Mr Byrne, Mrs Elson, Mr Hardgrave, Mrs De-Anne Kelly and Mr Wilkie

Senators and members in attendance: Senators Bartlett, Coonan, Cooney, Ludwig and Mr Hardgrave and Mr Andrew Thomson

Terms of reference for the inquiry:

To inquire into and report on:

- opportunities for community involvement in developing Australia's negotiating positions on matters with the WTO;
- the transparency and accountability of WTO operations and decision making;
- the effectiveness of the WTO's dispute settlement procedures and the ease of access to these procedures;
- Australia's capacity to undertake WTO advocacy;
- the involvement of peak bodies, industry groups and external lawyers in conducting WTO disputes;
- the relationship between the WTO and regional economic arrangements;
- the relationship between WTO agreements and other multilateral agreements, including those on trade and related matters, and on environmental, human rights and labour standards; and
- the extent to which social, cultural and environmental considerations influence WTO priorities and decision making.

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Committee met at 11.06 a.m.**MILFORD, Mr Bernard, Senior Manager, Industry Development, Canegrowers**

ACTING CHAIR (Mr Andrew Thomson)—I welcome everybody present to this public hearing of the committee's inquiry into Australia's relationship with the World Trade Organisation. I am sorry that things were a little slow to get under way. Unfortunately, the Queensland government, which was to have started by giving evidence this morning, has withdrawn. They have put their written submission in to us, but the official who was to give oral elaboration on that apparently cannot attend.

The issue of globalisation and the effects of Australia's relationship with the WTO and a few other similar bodies are clearly of great interest to the community in all parts of Australia. We have received around 300 submissions to this inquiry already, from all kinds of people—Commonwealth government departments, state governments, industry groups, individual businesses, lawyers, academic experts, non-government organisations and many individual Australians too.

In this inquiry we are going to look at the opportunities for the community to get involved in developing Australia's negotiating position in some of the WTO issues. We are going to look at the transparency and accountability of the WTO, Australia's interaction with the dispute resolution mechanisms, and the impact that the WTO agreement has on other agreements—both bilateral and multilateral—that Australia is party to, on matters such as the environment, human rights and labour standards. There is often some conflict between various agreements.

Today is the first public hearing. We also plan to take evidence in a public fashion in Sydney, Melbourne and Canberra, and possibly other states. Today we are going to hear from Queensland Canegrowers, the Queensland branch of the National Civic Council and three academics with various views on Australia's relationship with the WTO. And there will be a community forum in which members of the public will be able to make a short statement to the committee.

Before we begin formally, I remind witnesses that these committee proceedings are proceedings of parliament itself and therefore the giving of any false or misleading information would be considered a contempt of parliament. I call Mr Milford from Queensland Canegrowers. Do you have any comments to make about the capacity in which you appear?

Mr Milford—I speak on behalf of Canegrowers, which—along with the Australian Sugar Milling Council and Queensland Sugar—has put a written submission in to the committee. But I just emphasise that I am speaking on behalf of Canegrowers.

ACTING CHAIR—Would you like to make an opening statement elaborating on the written submission, and then we will proceed to questions from committee members.

Mr Milford—Thanks very much. It is a little daunting to realise that I am the first speaker on the first day of the first hearing of what I think is quite an important inquiry. As I mentioned, the industry has put forward a submission which, apart from anything else, talks about the importance of the industry and the industry position as regards exports and our general economic situation. I will not go into the details of that position, but I will say that Canegrowers

believes that the current round of WTO negotiations offers Australia's best chance of substantially improving market access and improving the world sugar economy to boost exports, jobs and prosperity. At present this is not happening because agriculture is not formally part of the WTO agenda at this point. We believe it is important to push the negotiation agenda forward with the pre-meetings and the development that is going on so that in Geneva next year agriculture will become a formal part of the new WTO agenda.

In order to progress that aim, Canegrowers has supported an Australian sugar industry initiative to set up a global alliance of sugar producers, which has attracted membership from 14 countries. It is an industry group so we have members from the United States—even though they obviously do not represent the US position—and there is membership from the major exporting countries, which together account for something like 75 per cent of world sugar exports. So it is quite an important body. It has been set up to work in parallel with, and in support of, the efforts of the Cairns Group. The recent meeting of the Cairns Group in Banff—which was also the occasion for a meeting of the Global Alliance for Sugar Trade Reform and Liberalisation—was attended by our chairman, Harry Bonanno, by the chairman of the Australian Sugar Milling Council and by the chairman of Queensland Sugar plus a number of other representatives from Australia.

We believe this WTO round should focus on market access, domestic support and export subsidies with stronger rules so that commitments are in fact carried out. There is strong support for each of these objectives from the global alliance. It is perhaps fair to say that the global alliance is concentrating as much on export subsidies as on the other issues, whereas Australia's position is certainly to reduce domestic support and improve market access. But our goal is to place sugar as a priority on the agricultural agenda and Australia's major interest is in seeing more markets opening, particularly in the EU and the United States which both distort the world sugar market to a very large degree. Studies by ABARE have shown that the removal of support levels in the EU and the United States would result in an increase in world sugar prices conservatively estimated at around 25 per cent—but there are much higher estimates.

We also believe it is important that the WTO agenda does not become cluttered with non-trade issues such as labour, environment and multifunctionality. The International Labour Organisation should continue to have the prime carriage of international labour issues. We believe that environment and multifunctionality issues should be addressed through targeted, transparent and non trade distorting policies.

The global alliance—which, as I said, works in parallel with the Cairns Group—was set up by Australia, and the chairman of that is an Australian. The overall aim of its strategy is to achieve more market oriented sugar policies globally. At present, world sugar policies do not reflect the objectives of globalisation improving world economic welfare through freer trade policies. They do result in significant economic and welfare costs to developed countries, efficient sugar producers and sugar users, and they encourage surplus sugar production in the wealthiest developed countries. They encourage barriers to free trade access in contradiction to the objectives of liberalisation, and they encourage increased investment in high cost production countries in the development of otherwise uneconomic sweeteners.

As I say, I will not go into the policies of the different countries—particularly the US, EU and Japan; they are mentioned in our submission—but we believe that the approach adopted by the

global alliance for sugar trade reform and liberalisation should be directed at complementing and extending the approach taken by the governments of the member industries, and that of course includes Australia. This complementarity will be achieved by focusing on the domestic and world market effects of the current policies of the world's three richest economies. Of particular importance will be the promotion of alternative means of achieving the same policy objectives—in other words, support of domestic farmers in those three countries: EU, US and Japan—by means that are less devastating and distorting of trade and production.

I want to touch once again on the support of the global sugar alliance for the Cairns Group positions. We support the Cairns Group in its desire to end discrimination against trade in agriculture by eliminating trade distorting domestic support by commodity, achieving deep cuts to tariffs, eliminating and prohibiting export subsidies and establishing stronger and more operationally efficient rules and disciplines. I would draw breath at that point and ask if the committee has any questions.

CHAIR—Let us go to the committee.

Mrs DE-ANNE KELLY—I have no questions, thank you, Madam Chair.

Mr HARDGRAVE—I am much the same. I think the submission spells it all out. Obviously, from a Queensland sugar point of view you tend to be an organisation that does set a lot of prices, though, in the world sense; you are such a major producer.

Mr Milford—I wish we did. Australia is a major producer in the world, certainly. We produce about five million tonnes of sugar in a decent year—that is not 2000, let me say. The world produces about 140 million tonnes. So, yes, we are a major producer. We are the second largest exporter. We do have the ability to lower world prices if we were to decide to price all of our sugar on the market at the same time, but by no means do we have the ability to increase them—except, as we did this year to a certain extent, by having a devastating season, by producing something like one million or 1½ million tonnes less than our potential, by seeing farmers' incomes being severely reduced. Yes, there was a reaction in the world price, but it is not the way we would like to do it.

Mr HARDGRAVE—I asked that because I think that is very useful to have on the record, because I think Australians will see sugar cane everywhere and know that we are, by your own evidence, No. 2 behind Brazil and presume that we do have great muscle in this. But what you are really saying is we need the linkages through agreements, we need to be sure that other countries operate in a way that we operate, so that we are not just taking all of the hits and not getting the gains.

Mr Milford—That is a pretty fair summary. This year is a wonderful example of the way things work. We saw, earlier this year, historically low prices, which caused producers in Australia, Thailand and Brazil a considerable amount of pain, and—I think it is fair to say, although it is difficult to quantify—probably a certain level of reaction to those prices. If you produce sugarcane reacting to sugar prices is a difficult thing to quantify because of the cycle of the cane. You plant cane and it is in the ground for five years. So it is very difficult to say, 'Okay, this price reduction was due to people holding back on inputs or not expanding as quickly or what-have-you.' But, having said that, certainly we did react. But what we saw was

increased production in the United States and Europe and certainly no response to those low prices—and why should there be? They do not face those prices. Producers in those countries saw no change in their income. Once again, you have to qualify that statement. The sugar regime in the United States is going through some turbulent times, not because people are producing less sugar but rather because they are producing more and more under their protected regime.

Mr HARDGRAVE—I have one other question which is slightly off the WTO agenda but it is a good juxtaposition to have. Fifteen years ago, I think, the then government basically said, ‘Get big or get out,’ to cane farmers. I remember talking with people from the Sugar Wives Action Group around Maryborough when I was working for Channel 7 and I know that they were not too pleased with the concept of ‘get big or get out’, because they got bigger and then they felt that further domestic policy changes retarded their efforts, their borrowings—the banks and so forth. Those sorts of impacts on the industry are also pretty hard. Do they have parallels elsewhere in the world? Are you finding that those domestic imperatives—not so much government policy but certainly that is there—such as the impact of decisions by banks to close down farmers have parallels elsewhere?

Mr Milford—It is an interesting point that you make. In fact, it is a rather difficult one to answer. When the Asian economies collapsed in 1997, the banks in Thailand held considerable debt in their sugar industry, on the milling side in particular. There was some concern there that that would cause contraction in their industry. It probably has to a certain extent but, as I said, it is very hard to unravel particular influences on production levels. The Thais certainly have not been able to expand as quickly as they would have **liked** to, but that has been due to the price, the weather and perhaps also to credit issues. In Brazil, on the other hand—a number of their mills have had severe financial problems in relation to the real. **They are still in operation and have been able to expand, even though they have had setbacks because of weather factors.** So it is a very difficult question to answer in relation to countries overseas.

But if we look at producers, say, for argument’s sake, in the Red River Valley in the United States that produce sugar beet, they have different sets of pressures but they certainly are not cutting back their production because of this ‘get big or get out’ mentality.

Mr HARDGRAVE—Essentially, though, do you think that the Australian experience over the last 20 years and the changes in the industry put us in a good position? In other words, we have done a lot of the hard yards and other countries still have yet to follow our hard course of action. **Do you think** we are in a good position?

Mr Milford—I would believe that the Australian industry at present is well able to respond to improved conditions as they occur and well able to respond to the sorts of increases in world price that ABARE have said would be possible. There are a number of areas. I am not just talking about horizontal expansion. There is the possibility for that, but there are certainly technologies by which we would be able implement some vertical expansion over the next few years and they would be particularly assisted where prices were at more realistic levels.

Mr ANDREW THOMSON—Within the whole agricultural spectrum of products—some markets are more closed or liberalised than others—is it possible, or has it been tried, to split off sugar from the whole Cairns effort and to try and negotiate a way through it, even by attacking

the United States tariff walls and so forth, rather than go for the whole sector liberalisation? Has that been done?

Mr Milford—The Australian sugar industry has had numerous contacts with US government people. Through our embassy in Washington we have put our case on a number of occasions. All politics is local and we are not local. Our impact is very small. When you say ‘separate off’, what we have seen within the Cairns Group—and there does seem to be a good acceptance of this within the Australian government and a developing acceptance of it within governments of other Cairns Group participants—is that as a result of the GATT round of negotiations, sugar, as an agricultural sector, has been pretty much left out. There may be other agricultural sectors, but certainly there does seem to be a recognition that this time it is sugar’s turn, at least amongst others whose turn it might be.

Mr ANDREW THOMSON—Can you give us a quick thumbnail sketch of the politics of sugar in the United States? Where is it grown?

Mr Milford—The United States is one of the largest producers in the world. In a good year we produce five million tonnes. They can produce 10 or 11 million tonnes of sugar, plus the equivalent of another three or four million tonnes of artificial corn syrup—sweetener. Sugar cane is grown in Florida and Louisiana. A little is grown in Texas and it is a dying industry in Hawaii. Sugar beet is grown in the mid-west and it is a dying industry in California and the north-western states—Idaho, Colorado and places like that.

As to the politics, certainly there is a very strong influence by a number of rich, influential families from Florida—Cuban families. I forget the statistic, but a very large proportion of the support that comes from the US consumers—because most of the support for the US producers comes directly from consumers—goes to a very small number of families, and many of those are in Florida and Louisiana. Sugar is produced in many states. It is one of the few products that have a program. So you have sugar, peanuts and tobacco. I am not sure about the current status of tobacco. What tends to happen in Congress is the phenomenon that the Americans call logrolling—people who come from states that are reliant on, say, a peanuts program, will support people from states with a sugar program for reciprocal support at the same time.

Mr ANDREW THOMSON—That is a good explanation. Thank you.

Mr Milford—It is pretty murky. But could I just make one more point, and I think this is a good point to make. The US sugar regime has been under enormous pressure for the last year or so. Because it pays well, it is worth people’s while to grow more sugar. And over the last 15 years the US has been growing more sugar than its increase in consumption, to the point where the US is now awash with sugar. Under the GATT arrangements, which are now enforced by the WTO, the US has a minimum import commitment of about 1.2 million tonnes of sugar a year from various countries in the world. It has, under NAFTA, an import commitment from Mexico and, as I said, it keeps growing more and more sugar itself. This has meant that it is losing its control on price, which has been to restrict the amount of sugar in the market.

The very tempting thing for the United States to do this year would have been to cut back on that tariff rate quota import—the 1.2 million tonnes that comes from throughout the world. Australia sells into that market about 80,000 tonnes. I believe that in the rules that are in place

now for WTO—minimalist as they have been in the case of sugar, and we did not see any change, we just saw the current situation sort of locked in—at least there is a floor, and so the US has just announced that, yes, it will continue to import that 1.2 million tonnes from throughout the world. I would point to that as a mark on the wall; that this is a win that we can mark up to the WTO, possibly—Bernie Milford’s opinion, if you like, that this is what would have happened if it were not in place.

Senator COONEY—Can I get you to continue on that theme. You are the first witness in our first session, and we will have people putting all sorts of issues before us. There are allegations that the World Trade Organisation is really an organisation that caters to the United States and to the European Union, Japan and Canada. I would like to get your assessment of whether we have got anything so far from the system in terms of agriculture, whether we are getting anything now, or whether we can hope for things in the future—so that the committee can put in context what you feel the World Trade Organisation does. Are we living on a promise or are we living on what has happened in the past or are we living in a present revelation of how this works?

Mr Milford—My presentation so far has certainly been based on the premise that Canegrowers and the Queensland sugar industry believe that the WTO provides a forum, that this negotiation forum is a republic of ideas—let us hope—and that, within this forum, if we come forward with good strong arguments people will listen. We are realistic enough not to believe that this is going to happen overnight. I do not believe that the Queensland sugar industry has formed a view—and Canegrowers certainly has not—that it is not worth our while to deal through the WTO. At the moment we are strongly supportive of the whole process and the Australian government’s involvement in that process. We are involved through the Cairns Group and through our parallel organisation.

So, in terms of engagement with the WTO—yes, we are in there. In terms of whether we can point to specific wins that we have achieved—I have just raised one, not earth shattering but perhaps it is there. Last month also saw the European Union cut back the level of some of its domestic quotas for support. The reason for doing that is that it has commitments under the WTO to rein in the level of export subsidies that it provides. The EU nominally does not subsidise its C sugar—its exports—but because it subsidises its A sugar and its B sugar so heavily people feel they might as well have a punt and get a bit of C. If people do not eat all the A and B, it sometimes dribbles off into C as well. So there are ways in which there is support for exports in the EU, and it has had to address that. There are some feelings that these cuts in support levels might not be the final answer. So there are a couple of minor things to point to. We can also point to restructuring in the Japanese industry; that probably would have happened anyway but it certainly is consistent with their requirements under WTO.

CHAIR—We have to get our heads around some assessment of the impact of the WTO. One of the things that I am having trouble with, just reading a bit about your industry, is: can we point to any real tangible benefits or are we really just holding the line? Have there been a few little gains and a few reprieves, if you like? Have we got any tangible gains that we can point to for your industry?

Mr Milford—Not really is the answer at this stage. The Uruguay Round of GATT was the first one where agriculture was included.

CHAIR—Agriculture is called the cinderella of the WTO, isn't it—not without some justification?

Mr Milford—Yes. Agriculture is the cinderella of WTO and sugar is the cinderella of agriculture—and probably because although the EU and US are very major producers of sugar it is not high on their list of priorities in trade terms.

CHAIR—Oddly enough.

Senator COONEY—You are saying that if sugar has not got the World Trade Organisation it has got nothing—in the sense that, if Australia is going to make her way forward, this is really the opportunity?

Mr Milford—I think that is a fair comment, and that is the way we would see it at the moment. Certainly Australia has no opportunity to influence domestic EU policies. We have no opportunity to influence what happens in Japan. We have no opportunity to influence what happens in Washington, realistically speaking. Those countries are the ones that will make decisions. They will not make them simply on the basis of, 'Okay, we can ditch our sugar producers.' They will make them on the basis of, 'Here is a package which on the whole benefits us, on the whole we will be better off and therefore on the whole we will accept it,' and we are hoping that included in that will be something that will improve their sugar regime. Particularly in the US and Europe, you can point to costs that their sugar regime has for their consumers. The US sugar regime costs their economy, net, something like \$½ billion a year and costs their consumers directly about \$1.6 billion. There are huge losses in there. When you realise, though, that the sugar in a can of coke is worth less than one cent, then you see that \$1.6 billion is pretty thinly spread sometimes.

I make the point that we certainly do have the philosophy that a final agricultural agreement should be a single undertaking, so that nothing is agreed until everything is agreed.

Senator BARTLETT—You have mentioned in your submission that 85 per cent of Australian sugar produced is exported. How much of Australian sugar consumed is imported sugar?

Mr Milford—A very small amount. We collect those figures but I must admit I have not looked at them for a year or so. At one stage it got up to about 10,000 tonnes of sugar a year out of an Australian consumption of just under a million tonnes.

Senator BARTLETT—Negligible in market terms.

Mr Milford—It is much less than that now. The point is that we have to set our price in relation to the world price. You never really know until the day that you sign a contract that you have got a price right. You have to make a few mistakes to be sure you are getting the price right. If it was always 100 per cent, I would say we were setting our price a bit too low because we were never making a mistake to flip over the edge.

Senator BARTLETT—As you have said, you are reliant on the global market for setting the market value for your product and therefore for your profitability. You are confident that by

pursuing what you are wanting to pursue through WTO the market value will increase rather than decrease?

Mr Milford—Yes, we are. We base that on ABARE assessments of the impact of change to world sugar prices. Having said that, we do not believe that if tomorrow the programs in the US and Europe were dismantled we would never see a sugar price of below 10c again. We base our price on US cents per pound. Over the last few years, the average price was between 9c and 11c, good prices were probably around 12c or 13c, and disastrous prices around 5c. The sugar market is a fluctuating market. It goes up and down quite considerably—much more than oil, for instance. We would be naive if we thought that changes in trade regimes would mean that we would never see low prices again. But we are confident that dismantling of support programs overseas would mean, on average, a general move upwards in prices.

Senator BARTLETT—You have said that environmental issues and labour standard issues are not issues for the WTO; they are issues for other conventions. Given the WTO, as you have highlighted, does have an enforcement mechanism that makes governments change their policies—which is fairly rare; ILO, as far as I am aware, does not particularly and neither do most environmental ones or any others—why should environmental or labour standards not be seen as part of the trade issues?

Mr Milford—It is a fair point. Our position on that would be that we believe that these things are not part of the course of trade. It may be that there is a requirement in the world for sustainable activity in certain areas. I guess the Kyoto agreement on CO₂ shows that people have the ability to put treaties in place that have enforceability standards—out in the future as they may be and perhaps weak, as people might consider them. Even so, Kyoto has not been ratified yet. Having said that, we are concerned that, if there is the ability to put environmental sustainability issues or things like that in negotiations, this will not in fact relate to true environmental sustainability or true science but will relate to countries using those as smokescreens for support and distorting support.

An example of this is the call for multifunctionality in Europe where the argument is that farmers are custodians of the landscape and we must preserve the landscape. We have no problem with the Europeans recognising that farms are pretty. We have no problems with the Europeans saying that farmers might need support to keep farms pretty. What we are saying is that the money to do that should not come from European consumers of sugar nor should it come from world suppliers of sugar. That would be our argument.

Senator BARTLETT—Is that not more than an issue of just ensuring if you put environmental components into it that they are soundly based—rather than saying that you cannot have them at all? If they are soundly based on science then is it not better to have that, as more comprehensive regulation of another factor that is involved in trade?

Mr Milford—We have two responses to that. One, science does tend to be in the eye of the beholder—witness the dispute between the US and EU on HGPS in beef. Two, fundamentally we do not believe that distorting trade for the sake of the environment is necessarily the best way of protecting the environment.

Senator BARTLETT—I could argue that if you are not protecting the environment then you are distorting the trade. To give an example from your industry, I am sure you would tell us that the Queensland sugar industry has the most environmentally responsible sugar farmers in the world or they are up amongst the best and have high standards. Hypothetically—and I do not know this—if Brazil were clearing Amazon rainforests for sugar—

Mr Milford—Not much sugar. We cannot nail them on that one, I am afraid.

Senator BARTLETT—There is a cost in that sort of environmental damage and it is externalised to the sugar. Do not they in a sense get a competitive advantage because their standards are lower than yours? Should we not seek to try and recognise and value the high standards that your farmers or growers follow?

Mr Milford—I certainly take the point that you are making. Our concern is more that the sorts of standards that might be imposed could be those that are appropriate in temperate regions and those that are based on other farming systems. We certainly have a concern about the appropriateness of any environmental standards that might be tried to be built into these things. Our clear preference would be that, if it is felt that rainforests need protecting, that happens through mechanisms other than trade.

Senator LUDWIG—In your submission you said that you were lobbying for liberalisation of the sugar industry overseas. Can you give us an order of magnitude in terms of a couple of snapshots of what you actually have to meet in terms of the EU, US or Japanese markets? If you have not got them available now, I would not mind them later. I understand they are doing it through mechanisms other than a tariff barrier. You must have some idea of what you have to meet in terms of trade barriers.

Mr Milford—I could refer you to an ABARE publication—the name escapes me at the moment—prepared before the Seattle meeting, which sets out just exactly what you are talking about: all of those points relating to the subsidy regimes in other countries. I can give you a quick thumbnail sketch. Basically, it is money. In the US, the market for sugar is kept high by restricting imports. It is kept at a level so that the income to US farmers is equivalent to US17c per pound. To give you a comparison, at the present time the world price is around about US10c per pound. Support in Europe comes through a very complex and mind-numbing system, as you can imagine. It basically results in support of around about US28c per pound being provided in Europe for producers of beet sugar and a little bit of cane sugar. They have a couple of cane sugar factories in Spain and some islands which are parts of the metropolitan countries. In Japan, there is a complex system of tariffs, levies and import restrictions. They have a very small beet industry and a very small cane industry. The support is basically for them. It is about the same level as Europe—about US28c per pound.

Senator LUDWIG—In your submission you advocate a greater role for the federal government in the dispute settling regime. You refer also to a global alliance with a number of other countries. Do you know of any actions that that global alliance or you are currently taking to effect some reduction in the tariff barriers that you say exist?

Mr Milford—No, basically because what is in there is essentially WTO legal. As I said, changes are taking place in Europe to bring them in line with the outcome of the GATT

negotiations. Potentially there was no change in the USA because of that. This is the story that we have been telling: sugar missed out and, even though these regimes are quite distorting, they are GATT and WTO legal.

Senator LUDWIG—How important is it to your industry that you have a good shot at liberalising tariff barriers through the WTO process?

Mr Milford—To take up Senator Bartlett's point, the Australian sugar industry is the most environmentally sustainable in the world. We are also very efficient—although probably not as efficient as Brazil, which has a vertically integrated industry. They have made some amazing technological strides in recent years. They were forced to change their harvesting regime from manual cane cutting to mechanical cane cutting and I expected them to fall at the barrier because, when we went through that change in the 1960s, it caused considerable disruption to the Australian sugar industry. But the Brazilians did not fall at all: they sailed over the barrier and used that change to introduce some very clever harvest transport arrangements and economies.

Having said that, we are efficient. We have survived in the world market where Australia has been a major exporter. A large amount of our sugar has been exported since World War II and we have been exporting more than 80 per cent of our product for at least the last 20 or 30 years. We have been in there and we have had it tough, but we have survived. We are efficient. I do not believe we can ever take any industry for granted. Sugar industries all around the world have disappeared. The Philippines is one example and Puerto Rico also had a major sugar industry. In the last 10 years, Cuba went from producing eight million tonnes to about three million tonnes at rock bottom. We cannot take anything for granted. We will continue to strive for efficiency and strive to push our costs down, but we cannot ignore this opportunity to achieve rationality in the world market or, I guess, to improve our returns in that way.

Senator LUDWIG—Would it be fair to say—and this is the proposition that I am putting to you—that the WTO process is your only major instrument in seeking trade liberalisation to ensure that not only your internal efficiency but also your externalities, those costs that you have to face, are reduced; in other words, that the price that you obtain on a world market is fair?

Mr Milford—There are a number of international sugar bodies. There is the International Sugar Organisation, which is a government to government body of which Australia is a member. Back in the 1970s, the International Sugar Organisation put together an international sugar agreement which tried to keep sugar off the world market. I think the chances of that ever happening again are pretty minimal. We continue to support Australia's membership of the ISO, but we do recognise that the ISO has been pretty ineffectual for the last few years. The attitude of the industry is that we support it but we want a little more wood to be put on to the fire to perhaps get some better service out of the ISO and, if that wood does not actually ignite very much, we would suggest that Australia pull out.

We are members of some other international fora. The World Association of Beet and Cane Growers is one, but we are currently reviewing our membership of that. Australia has supported bilateral discussions—Australia and the United States in particular—that have covered various areas. For instance, during periods leading up to the last Farm Bill in the United States we were

reasonably active in supporting the Australian Embassy in Washington in presenting material to various bodies and assisting various bodies in evaluating the effects of potential changes in the Farm Bill that might affect sugar. We do have some other areas, but I think it is fair to say that we see the WTO as our best shot.

Senator LUDWIG—If it is your best shot, does it concern you that the WTO might be suffering in terms of its image? I guess the follow-on question that goes with that is: do you think there is room for the WTO to improve its image in the world—I guess, the public's view—and what avenues do you think it could follow to do that? I do not expect you to answer all of that, but perhaps you could take some of it on board.

Mr Milford—A marketing plan for WTO sounds like a daunting task. As I said before, we have made no assessment of WTO other than that this is the appropriate forum in which we should be arguing for Australia's case and arguing specifically for sugar's case for liberalisation. Personally, I find it quite distressing that the agenda of a forum which I believe can lead to freer trade and, by that method, improvements in environmental standards, improvements in developing countries and improvements in labour standards in those countries can be put at risk by criticism which I think is largely unfounded. I must say that that is largely a personal opinion. Canegrowers does not have an opinion or a policy on where WTO itself should be going but, certainly, we would be supportive of any action of the Australian government that did lead to an enhancement of the status of WTO.

Mrs DE-ANNE KELLY—Regarding the levels of subsidy to our sugar producing competitors in other countries: have they generally risen or are they generally falling?

Mr Milford—The actual support levels—what you might call the dollar support levels—in both Europe and America have been relatively stable for the last 10 years or so. In inflation adjusted terms, they have probably been falling slightly. That has had little impact on production levels. We are still seeing massive overproduction in Europe. They export about a third of what they produce. The US used to import about a third of what they produce and now they are awash with sugar. There have been, if you like, nominal falls in those levels of support, but no impact on production levels.

Mrs DE-ANNE KELLY—It is suggested quite often that there should be retaliatory action: Australia should put in place tariffs against imports as a means of assisting our level of domestic production. What would be the effect on the sugar industry of the imposition of tariffs on a range of goods such as pork from Canada, as was suggested about two years ago? What effect would such retaliatory action have on the sugar industry?

Mr Milford—An interesting point is that, for many of our customers, sugar is one of our major exports. Canada is a case in point and Malaysia is another. If Australia became involved in some sort of tit for tat escalating retaliatory action, the sugar area would feel very vulnerable because we have major exports into countries. We are pretty safe with New Zealand, but certainly Canada, Malaysia and most of the Pacific rim countries—Japan, Korea, the Philippines and Taiwan—are all major customers of ours and consume a large quantity of sugar. In many of those cases, sugar is the major primary product that goes from Australia into those countries.

Mrs DE-ANNE KELLY—Have any of them ever suggested that they would take counter-retaliatory action?

Mr Milford—It certainly has been raised, particularly with Canada in the case of pork and salmon.

CHAIR—Have you had any direct experience of the dispute settlement system or the other generic comments that you make in your submission arising from your discussions with other people?

Mr Milford—They would come under the latter category. We have nothing that we could take to a court because there are no rules at this point that are worth enforcing—apart from hold the line, which is not inconsiderable but is not really earth shattering either. At this point we have not contemplated any action under those dispute settling rules.

CHAIR—I gather that, as a matter of theoretical possibility, if you were able to do so you would be interested in taking some sort of proactive action.

Mr Milford—My word! Look at the situation in the United States with their 1.2 million tonnes of tariff rate quota. If, for argument's sake, the Americans had said that their commitment to Mexico was going to be part of that tariff rate quota, I think we would have looked very carefully at whether that would have been appealable under the rules.

CHAIR—We are running a bit short of time. Would you like to make additional comments about any of the questions? Do you feel that you have had an adequate opportunity to put your case?

Mr Milford—Senator Ludwig, would you like me to get you the reference for that ABARE book?

Senator LUDWIG—If you could. I will also have a search for it.

CHAIR—Does that report deal with non-tariff barriers as well?

Mr Milford—Yes.

CHAIR—Thank you, Mr Milford. The committee appreciates very much your representing your sector this morning and giving us the benefit of your views and experience. On another matter, is it the wish of the committee that the supplementary submission of the National Civic Council of Queensland be published? There being no objection, it is so ordered.

[12.05 p.m.]

TEESE, Mr Colin Frederick, Adviser and Writer, National Civic Council

BYRNE, Mr Patrick, Member, National Executive, National Civic Council

CHAIR—Welcome. Do either of you have anything to add to the capacity in which you appear?

Mr Teese—I was formerly deputy secretary of the department of trade and, for a time, Australia's representative to the GATT.

Mr Byrne—I am a writer and researcher on a variety of economic issues with the NCC.

CHAIR—Do either of you wish to make an opening statement?

Mr Teese—I have circulated a document which, no doubt, is in the possession of all members of the committee. I should say at the beginning that the National Civic Council is somewhat concerned about the direction Australian government trade policy is taking in the area of the WTO. Our concern is that, for whatever reason, WTO considerations seem to be driving trade policy rather than being an adjunct to it, whereas we think what should be driving the policy is the national interest pure and simple, of which the WTO is no doubt part.

It is probably not appropriate here—immediately, at any rate—for me to go into the reasons why we consider this so. I think it better that I let that emerge from the document as I proceed, but a bit of background would probably be helpful. The WTO has absorbed the former GATT rules and added to them in the context of the Uruguay Round of negotiation five or six years ago. The reasons put for the changes in the GATT rules were that the rules at the time were not being obeyed and that therefore they needed to be made more stringent, which has always seemed to me a rather curious reason to change rules. If they are not being observed, to make them more stringent is hardly likely to make them be more observed. Anyway, that was what was put.

In the final outcome of the WTO negotiations a whole different set of reasons appeared. They included the fact that comprehensive trade liberalisation would advance the cause of globalisation, contribute to greater trade flows, stabilise currencies and the international financial environment generally and smooth out trade imbalances. It has to be said that, at least as far as Australia is concerned, that has not happened. You could say that the reverse might even have happened in many cases. We now have what seems to be a structural and significant current account deficit, a declining dollar and, in terms of output, a manufacturing industry now significantly below the OECD average, whereas 15 or so years ago we were at the OECD average. Agriculture is also being somewhat buffeted by deregulation, most particularly and immediately in the dairy industry, but I think there are problems on the horizon for some other industries as well.

The other thing is that we seem to be involved in an ever growing list of trade disputes with trading partners. This has been a bit of a curious circumstance. In about the first 20 years of the GATT there were about five or six trade disputes. It has been escalating ever since. Since the

WTO was formed there have been about 200-and-something. So we have got into a situation where there is much more disputation about trade rules. I think in part that has come about because in the first 20 or so years of the GATT the world trading system was pretty healthy. There was pretty much growth around for everybody, and even if the rules were not being always observed nobody took too much notice. But that has all changed now. We are in a much more difficult trading environment, and that has made the resort to the rules much more frequent than before, and not always in a desirable way.

Dispute settlement in the WTO is one of the things which I personally am very concerned about. The rules—and especially the changes of rules which resulted from the Uruguay Round—seem to have encouraged resort to the dispute settlement procedures in a way that I do not think is entirely healthy. It also seems to be now characterised by more and more legalism. In the old GATT, legalism was pretty strenuously avoided, because it was realised that it was not terribly useful in settling disputes. The real emphasis in GATT was always on settling disputes if you possibly could without resort to any kinds of formal mechanisms.

But now we see some curious things happening—which I do not quite follow, to be frank. We had, for example, quite early on in the WTO days a dispute involving the US and the EU—or the EC, as it was—on the matter of banana imports into the EU. To my knowledge, the US is not a producer of bananas, and how it could get into a position where its right to export bananas to the European Union was nullified and impaired by anything the European Union was doing, I am not sure. I presume it comes back to the fact that there is a lot of US investment in banana production in some South American countries, notably Ecuador.

Anyway, this rather curious case went before the WTO. It was found against the EU and in favour of the United States and—lo and behold—even though we were told at the time of the settlement of the Uruguay Round that dispute settlement outcomes would be binding, the European Union was not bound by the outcome. In fact, all it said was that it would suffer whatever penalties of retaliation were endorsed by the WTO, which it did. So import restrictions were put on EU car batteries—and, I think, perfume—as retaliatory measures. I am at a loss to see how that can have helped any of the interested parties to that dispute and, more importantly still, how it contributed anything to the cause of free trade, because the way I see it it meant the restrictions on bananas remained and more restrictions were put on perfume and car batteries. I find it a funny way to use the dispute settlement procedures.

We do not seem to be helped by this procedure much either, because we have—with both side of parliament, Labor and the coalition, being in support of this—in the process of removing all tariffs not had regard to matching benefits as a result of those actions. No other members of the WTO or contracting parties to the old GATT, to my knowledge, did the same thing without getting some compensating benefit. Ours was a unilateral act. Despite this, we have not been able to settle any of our disputes on restrictions we have been questioned about with resort to any of these concessions we made without benefit, and the Howe leather case is a case in point. We were only able to settle that case—which itself is a fairly dubious case—by bargaining off a few unnecessary tariffs that we had kept.

If both the present government and the previous government had had their way, we would not have those tariffs any more to bargain off. Had that been the case, the only way the leather issue

could have been resolved would have been by some of our agricultural exporters taking a hit in access to the US market. So that has not been terribly good from our point of view.

When the boot went onto the other foot and we had complaints about US restrictions on lamb exports from Australia, we were not able to get anywhere. Nor were we able to get it resolved to our satisfaction by getting the lamb in or by being able to retaliate against the US. I assume that the reason we have not retaliated, or sought to retaliate, is because we still hope to settle it in a way which will be more profitable to us. But so far that has not happened. I just want to say that those measures within the WTO do not seem to have worked the way either the negotiators planned at the time those negotiations were made or as they worked in practice. I wonder whether that isn't something that ought to be looked at again.

Agriculture also gives me some problems because, at the time of the settlement of the Uruguay Round, some fairly extravagant claims were made by the then government about the benefits Australia's farm sector would gain from it. I did not think at the time that these had a very strong foundation, because it seemed to me that whatever negotiated advantages had emerged, they were pretty highly qualified—and we have seen a bit of that today from the previous witness. I think that is really not serving our interests terribly well either.

I would really like to ask the committee whether it is in possession of any estimates—which were publicly announced at the time by the then government—about the magnitude of the benefits and how these compare with the actual gains in trade to farmers and what we know since. I suspect that it might turn out to be not very much. I am also worried about the pressures which seem to have come from WTO considerations on the deregulatory arrangements that we have already put in place in Australia for dairy and that are down the track for some other commodities as well. Included in those kinds of measures are also the quarantine measures which are coming to light, and I would like to say a word more about that later. But in relation to agriculture, it seems to me that we do not have a clear story about how much we have got out of it.

I am somewhat puzzled by the fact that—even when I am told that there have been rules negotiated and settled in the WTO at Uruguay—the National Civic Council are in possession of some figures on the OECD which demonstrate to us that the levels of subsidies on farm products in Europe, Japan and the United States have actually gone up between 1993 and 2000. If you will permit me, Madam Chair, I will now pass around a copy of those figures. I am not clear, I should add, how this can happen in circumstances where subsidies—as in the case of sugar as was said before—are at least frozen. If you look at the figures, you will see that New Zealand, Canada and Australia are the only countries where subsidies have actually gone down.

I am worried that we are getting into a situation in agriculture where the important part that the domestic market plays in sustaining the industry might come under threat—maybe even is coming under threat—through these deregulatory processes. It is very important to understand the nature of agricultural production and export, especially for Australia—and Australia is different from most of the rest of the world, if not all of it.

First and foremost, for most agricultural commodities, we export most of what we produce. Only a small percentage of it—as you heard for sugar—is sold in Australia. The rest is exported. Most of the other sugar producers in the world—and the same goes for wheat

producers and producers of all the other things you can mention—sell most of their production on the domestic market and they export a tiny fraction. The implications of that are quite clear and they were made obvious to us by a witness from the cane growers: because of that, they can afford to subsidise what they put into the export markets from what they sell on the domestic market. It is much more difficult for us to do that when we are selling three-quarters or more of what we produce in what are open, contestable markets.

The other thing about agriculture which is important is that, for the most part, agricultural products are undifferentiated. That is, they can really compete only on price. I think in one respect I might like to differ with my friend from the cane growers about the possible benefits which would flow from greater access, in terms of better prices for the sugar industry. I am not sure whether that would happen. I have seen all the studies and I wonder whether they take into account the essential fact about that. The international price of sugar is determined by one fact alone and that is whether world sugar production is in excess or short of demand. If it is in excess of demand, no matter where it is produced or under what subsidy conditions, the price will be low. If it is short, then the price will go up. It is a function, quite simply, of what is the demand for the product at any given moment. Those are the two critical factors which we have to take into account with our agriculture.

The way we have managed agriculture in the past has been to say that we will have the capacity for industries to maintain a domestic price level which is higher than the world price on the domestic market. That gives the producers some cushion in export markets, where they have to accept the world price. We can only do that and make it stick if we have some control over the way domestic prices operate. That means, in the final analysis, having some control over what can be imported of that product into the country. For all practical purposes in the past, with crucial products for us we have not allowed imports of things like wheat and even sugar, except in negligible quantities.

That has enabled us to maintain arrangements which permit the export of those products in circumstances where the producers have to compete for most of their production on world markets at world market prices. It seems to me that the influence of the WTO on this procedure, which is flowing through to the deregulation considerations, is not necessarily to the best advantage of Australia and that is another reason why I say that trade policy considerations of course have to take into account WTO issues but they also have to look at the wider national interest questions which are raised by those sorts of things.

A word or two about quarantine: I find where we are moving on the issue of quarantine both puzzling and alarming. The commitments on quarantine matters in the new WTO agreements, on my reading, are really no different from those in the GATT, except that a couple of the considerations which were implicit in the way the GATT was formulated are now explicit in the WTO agreements. They have to do with things like risk management and that sort of stuff. It seems to me that the way we are approaching them is very different from the way we approached them pre WTO.

Take, first of all, the question of Tasmanian salmon and the imports of Canadian salmon, which is acknowledged to be diseased in a certain way which almost certainly would spread. I cannot help getting into my mind that the way that issue was handled by the Australian Quarantine Inspection Service is really one where that agency actually intruded into trade policy

considerations, which I do not believe have any place in their deliberations. It was also a very unusual decision because it brought into consideration state rights issues. I am not fully aware of what has happened subsequent to the WTO finalisation of the Uruguay Round negotiations, but I understand that the states—if not all of them, at least some of them—signed a memorandum of understanding with the Commonwealth about what they would do on quarantine efforts. But it is still my understanding that, ultimately, the states have the right under the Constitution to withhold entry of any goods. Again, I understand that in the case of Tasmania they exercised that right notwithstanding whatever memorandum of understanding they had with the Commonwealth.

As a result, the WTO found against Australia on the matter of salmon. It seems to me the only way they could find against Australia was to find against Tasmania, which is not quite the same thing. I do not know whether the other states have banned imports of Canadian salmon in the way Tasmania has, but let us assume for a moment that they have not, to illustrate my point. Effectively, that means that the only resort to retaliation Canada can have is against Tasmania, and the only imports it can take retaliation against are Tasmanian imports into Canada which, of almost all products, would be negligible. I cannot see how this whole proposition ever got out of hand in the way it did and led to these trade policy arguments. I am also told, incidentally, by the salmon people in Tasmania—a very interesting question—that Canada has no intention of selling any salmon here and even no capacity to do so because all the salmon it can sell it can sell in the US at a better price.

CHAIR—I hesitate to interrupt you, but I am sure that members of the committee would like to ask some questions. Can you bring your opening statement to a conclusion?

Mr Teese—I am just about finished. Internationally, I wonder whether the WTO is not making it more difficult for us to relate to the rest of the world in bilateral ways, particularly Asia, than I would be comfortable with. It is not improbable that the world will divide into trading blocs. If that were to happen, it would be difficult for us to fit into any bloc which is not part of this region. We do not seem to be well equipped to deal with that at the moment. The opinion in Asia is that we are too close to the United States and Europe to be part of Asia in any meaningful way. It seems to me that it is partly our international commitments on trade policy that are leading them to that view, and I wonder whether that also needs to be taken into account when we are considering the way we relate to the WTO. Perhaps I will leave it there, and people can ask questions.

CHAIR—Thank you. You have raised a number of issues that I am sure the committee would like to take up. Mr Byrne, I am conscious of the time, and I do not want to shut down your opening statement, but would you care to make a brief one?

Mr Byrne—I will be brief. I want to take up a little further the question Colin started with about getting some evaluation out of perhaps DFAT of what the benefits of the Uruguay Round have actually led to, given those figures that we have presented to you that indicate that the average level of farm subsidy going to farmers across many OECD countries has actually risen, and particularly in the main economies we are trying to get into—the EU, the US and Japan. Quite clearly, it appears on the surface, the agreement on agriculture under the final act of the Uruguay Round simply is not being implemented by those major trading nations.

I emphasise the importance of asking this question of DFAT because I have had instances in the last six weeks where, firstly, a farmer I was dealing with—who is a prominent industry leader and whom I happened to have shown these figures to—had a visit from two DFAT officials who said they had never seen anything like these figures before, which I find a little hard to believe; and, secondly, because I know of one farmer, who is a friend of mine, who at a one-day DFAT public consultation in the south three times tried to raise these figures and was told by the DFAT official, ‘I will talk to you later,’ and when he spoke to him later—he obviously was concerned about these figures being raised publicly at the consultation—the DFAT adviser had no answers to the question that these figures raise. That is why I think it is of some importance to get them raised.

I want to make one comment on a fairly specific area in relation to quarantine. Colin has raised quarantine generally; I wanted to raise it specifically in relation to the draft report AQIS produced last week on apples, and perhaps to raise with you a serious question about the manner in which that report has come to the conclusion that it has, that under conditions it would allow New Zealand apples into Australia. The four conditions set down by AQIS that had to be considered in terms of making a decision on access of New Zealand apples—or, if this is carried through, apples from any fire-blighted country—were, firstly, the probability of the disease entering Australia, which it said was high; the probability of it establishing the disease in the country, which it said was low—and I will come back to that one; whether the probability of the disease spreading was high if it did establish; and whether the economic consequences of it taking hold were extreme if it did spread.

Fire blight is literally the foot-and-mouth disease of the apple and pear industry, and it is a disease which I understand affects 76 other species of plants. I find it curious that they have come to the conclusion that the probability of its establishment here was low. The critical pages in the report are pages 85 and 86, which refer in part to an earlier report of AQIS which involved a question being put to a number of scientists—five of them, I think: ‘What is the probability if an apple core or some apple scraps were thrown aside in the Australian environment of the disease taking hold?’ I think anyone would have to say on that sort of very broad question that the probability of the disease establishing itself was low. It is the wrong question. The question is: ‘What is the probability of it taking hold when you get shipments of half a million apples coming into Australia?’—not one apple core being thrown aside but half a million apples. That is the sort of volume that we are potentially looking at. I refer you to the AQIS risk management handbook, which on page 42, under its international standards for phytosanitary measures guidelines on pest risk analysis, article 1.2.4.2, section 6, says:

In general, risk increases with increasing volume of commodity imported.

If your commodity is one apple, it is probably low. If it is half a million apples, I cannot see how you can say the probability of the establishment of the disease is low. I throw that up with just as many other serious questions about this report, because it seems to me that their application of the sanitary and phytosanitary international regulations under WTO is being put in a rather extraordinary way. I think that needs to be seriously looked at. For the sake of time, I will leave other matters till question time.

CHAIR—Thank you, Mr Byrne, and I know there are many more issues that you would like to raise. Having regard to the time, I ask that you and Mr Teese keep your answers as brief as possible so that each member can get an opportunity to test some of your evidence.

Senator LUDWIG—Mr Byrne, I notice that the submission that you have given out today basically sets out an area and then goes through the various issues. You say the WTO should not do this, and so on and so forth. What do you suggest as a policy initiative that the federal government should take, for argument's sake, in respect of the sugar industry as one example or the manufacturing industry as another? Are you suggesting that we put a tariff barrier on them or reduce tariff barriers or support them in other mechanisms? For argument's sake, do we tie our trade negotiations with core labour standards, which I think some of the manufacturing entities are asking for, as an answer to the criticisms that you raise with the WTO?

Mr Byrne—I sat down and had a look through the agreement on agriculture last night. When I look at it in relation to what could be done with sugar growers, for example, it seems to me that the WTO agreement basically removes the possibility of having the traditional domestic market support scheme as it would apply here in Australia. I will go back to the previous speaker who was here from the sugar industry. His point was that there was little that he could point to in terms of gains that the sugar industry has actually made as a result of the Uruguay Round. Then the implication is that we are hoping that, through other measures in the future, we will be able to make gains.

I have a fundamental problem with that particular statement, because the EU, Japan and the United States treat agriculture like we treat the Institute of Sport and the arts. It is not something they regard strictly from an economic perspective, as we tend to do; it is part of something that they subsidise as part of their culture. Europe subsidises it because it starved during two world wars and it is not going to starve again in a high conflict situation, Japan likewise. They have other reasons which are both strategic and cultural by which I just do not see that they are going to wind back their agricultural subsidies. That is why, while the WTO has gone ahead in some areas, it has not gone ahead in agriculture. That will be particularly so in the next couple of years. As everyone that I see looking at where the world is going—economists—is looking at a significant economic downturn coming out of the US, I cannot see the US and Europe cutting their subsidies. In fact, the US basically does not have a good welfare system. It subsidises industry in order to keep people in employment and I cannot see it cutting its subsidies.

What can you do in the meantime? Firstly, I do not see subsidies coming down. Let us assume that there was a possibility of them coming down in the next five or 10 years. What do you do for our farmers in the meantime? I refer you to article 5 of that section of the agriculture agreement, where in part you are allowed to have restrictions on a loan for balance of payments reasons. I think everyone would agree we have a balance of payments problem in this country. In annex 51(d) you are allowed a five per cent domestic market support scheme for any one of a variety of factors that are non trade: food security and environmental protection. Australia could say that it wants its sugar industry supported because of the need to settle the north of this country.

Under annex 2.6, you are allowed to make payments on the basis of low incomes, up to a point. You might define that you will allow to farmers whose income is below \$35,000 a year a certain government subsidy. Annex 2.8 allows for natural disasters assistance—and they have

certainly had them in the cane industry in the last few years. Annex 2.12 is on environmental progress, and annex 2.13 is on regional assistance programs. There is a string of things that can be used, in effect, to do what the domestic market support scheme used to do.

Finishing this off, I would say that you have again to consider this in the context of Australia being totally different from the United States, the EU and Japan. We export 80 per cent; they consume 80 to 90 per cent domestically. We are heavily dependent on world market prices. If we do not have some regulatory system—in whatever form—to help stabilise the domestic market, we leave them at the mercy of the world markets. We are in a totally different position. These rules were written essentially by the Europeans, the Americans and the Japanese to suit their markets. We are in a different situation. That is where we need skilled people who get in and read the rules and work out what can be done in order to give some stability to the rural industries here.

Senator LUDWIG—To put it in a neat sentence, which I know is a little difficult, I guess you do not support—and please disagree with me if I am summarising this badly—the production of tariffs. What you would prefer to see is both an increase in tariffs on agricultural goods and, for argument's sake, manufacturing goods and also other support mechanisms outside tariffs; otherwise, not those subsidies. Is that the thrust of what you are saying? We should not then—

Mr Byrne—I am saying that, rather than tariffs—

Senator LUDWIG—Are you not supportive—

Mr Byrne—Firstly, I do not think we should be abolishing the nuisance tariffs—because nuisance tariffs are a bargaining chip in the WTO. Once you do away with them, you have lost your bargaining chip. You are allowed to put on a general tariff in the case of balance of payments problems, but I would discuss that in a slightly different context, and not in terms of agricultural protection. But I do think that, rather than necessarily going heavily into tariffs, there are other means available in the WTO rules. They are written full of holes, so that people can get around it. That is how the big trading nations write these documents. We have to get smart, get in and read the rules, and find out what we can do.

Senator LUDWIG—What level of magnitude would you suggest, for argument's sake, in manufacturing or agriculture, in terms of non-tariff support subsidies or schemes?

Mr Byrne—That is a technical question that you have to sit down and work out, industry by industry. I am talking here more about agriculture. Manufacturing needs a shot—

Senator LUDWIG—Your paper goes to more than just agriculture. That is the context in which I am reading it.

Mr Teese—I would say this: on the point of industry protection, whether for agriculture or manufacturing, the days of tariff protection are gone and have been gone since we went to floating exchange rates—because tariffs are irrelevant in that circumstance. If we want to support industries, we have to do it in other ways. You can only work out what is needed industry by industry, because they are all different—and that goes for manufacturing, too. When

we did have a policy on tariff protection, it worked on that basis as well. So you would have to look at it industry by industry, whether agriculture or manufacturing, if you wanted to do it. It is crucial in the area of agriculture, though, for the reasons I said: because we export so much of it. The problem does not arise in the same way for manufacturing.

Mr HARDGRAVE—I guess that you would agree that it is regarded that Australia punches above its weight in international affairs, and the inference from that is, as you have already outlined in your written and verbal submission, that we are very small fish in a huge ocean. In your supplementary submission, with the rankings of average farm subsidy, you mentioned the third most populated nation in the world, but you have not mentioned the first and second—being China and India—or the fourth, being Indonesia. But that is all right. The USA has 250 million, I think, and the EU I am taking at about 400 million. Japan has 120 million, Canada has about 30 million, Australia has 19 million and New Zealand has 3 million. So I guess we are looking at, from what you said before, small domestic consumption versus large domestic consumption, and the excess of domestic consumption is sold offshore from those bigger economies. Is that essentially correct? Yes or no?

Mr Teese—Absolutely.

Mr HARDGRAVE—So, really, you have put the case for us not bothering to be in the WTO and for us just going our own way—that it makes absolutely no difference whether we are in or out; we are still just going to take whatever the world leaves over for us. Is that where you are at?

Mr Teese—In one sense yes, but let me qualify it. We are not going to be able to influence the way the big players manage the world trading system. They are the big players and they really construct it and use it the way they want, and we essentially just have to follow along in that. But there are reasons why one would want to be a member of the WTO—for example, reasons of international cooperation and not to be seen to be someone who was putting the nation outside the family of nations of the world, if you like, on this important issue of international trade. Even though we may not get great benefits out of it and even though we cannot expect to win cases where the big players have a different view, it is useful for regulating our relations with countries of about the same size and it is useful for these international cooperation reasons. But international trade is power politics, and the big powers are Japan, the EU and the United States. The US, in particular, which is the biggest economy in the world, really runs the whole thing. That is the way the world is.

Mr HARDGRAVE—So they do not practise what they preach?

Mr Teese—And they do not have to.

CHAIR—It appears to me that the big players have pretty well punched each other out on some of these issues—beef, hormones, bananas and cases like this where enforceability is a serious problem with the way the rules work. So I suppose the lesson from that is that when it gets really nasty—being government to government arrangements—and somebody sticks their feet in the sand, there is nothing much you can do. But, coming back from the mega players and some of the disputes that have resulted in these impasses, my assessment is that the rules are working pretty well in enabling a range of market access. The number of disputes—there are

certainly a lot more disputes than under GATT; you are quite right—is really the measure of success, if you like, because so many settle without having to go through the whole process and there is a lot more confidence in the rules underpinning the WTO dispute settlement system as actually being able to give some outcome, even if it is just pointing the finger and giving a big threat. I take your point that the whole sort of retaliatory system begs the question about what you are talking about with free trade.

Mr Teese—Exactly.

CHAIR—I take that point on board, but there are a whole range of mechanisms that appear, in my assessment, to work better than under GATT. Under GATT it was very much people—perhaps even people such as yourself—using great persuasive skills and there being negotiations and diplomatic discussions about how to resolve these things, whereas now it is a legally enforceable mechanism, in theory, that appears to be the crown jewel in the WTO system. At least that is how it is described.

Mr Teese—It is.

CHAIR—That at least holds the potential for developing countries and people in a very small way to actually get to the table somewhere. There are lots of flaws in what I am putting to you but, just as a general proposition, the dispute settlement system appears to be one of the aspects of the WTO that is well worth pursuing and seems to underpin why countries want to be part of it.

Mr Teese—I am not sure that I agree entirely. As to the developing countries, I think they are somewhat apprehensive about the WTO, because they see the imbalance between what goes for the big players and what goes for the rest. They are not as accommodating about that disparity as I am, maybe because they are less realistic than I am. They see that as an impediment, and that is certainly going to be an impediment in the negotiations, if they ever get off the ground, on the trade in services, where they have to do all the giving and the US is going to do all the taking. I do not think they are too keen on that idea. So it may not be such a good idea. But there is something coming up on the horizon that might put the dispute settlement procedures to the test, and it has to do with the US tax arrangements on off-shore exporters, where they have lost a case to the EU on it.

CHAIR—That is right.

Mr Teese—Nothing has been done yet. There are billions involved in that, and there is no way the US can ever settle that by conceding, because they would never get Congress to pass the legislation to get rid of those concessions. Incidentally, just as another aside, those concessions—which we have never challenged for some reason—also apply to the exporters of leather from Mexico who put Howe leather in the box in the US. So where that comes out might have a lot to do with the future of the dispute settlement procedures in the US. I cannot personally see how it can be resolved, because I do not see the EU backing off and I cannot see the US settling; and there is no way concessions can be exchanged to settle it, because they would be too big.

Senator BARTLETT—I am getting the impression, particularly from the answers you have given to questions from others, that you are not so much against the WTO as criticising the way Australia is engaging with it: ignoring some of the opportunities that are there, and those sorts of things. Is that correct?

Mr Teese—Yes. I would not for a moment suggest we should not be in it. I think that would be a kind of pique—withdrawal from something that we are not satisfied with all the outcomes of. What I would like to see is bilateral trade policy initiatives taken outside the WTO context where we could benefit from them, and even some kind of arrangement with Asia—if we could do it—in a new trading bloc; but certainly not based on the quaint term we have coined for APEC, ‘open regionalism’, because nobody is going to accept that. It is ludicrous.

Senator BARTLETT—So your criticism is basically around trade policies of successive Australian governments rather than of the WTO itself?

Mr Teese—Yes. When I was involved personally in it, the focus of trade policy was not the GATT and the rules of the GATT, as though they were the last word on everything and that was the only direction we could follow. That was an element of trade policy, which was important to us and which we followed, but we had lots of other elements of trade policy that we followed as well. It seems to me that we are neglecting many of the others now and putting too much emphasis on the WTO.

Senator BARTLETT—What do you think is driving that? Is it a misguided belief that it is in Australia’s interests? Or is it an extreme commitment to some economic theory?

Mr Teese—If you want me to be very frank about what is driving it, I think it is a kind of ideological commitment to the benefits of free trade.

Senator COONEY—I think I understand the propositions you are putting, but is central to that proposition the fact that we need very skilled people running it? I think you have said that. It has been said that Australia punches above its weight but, even if it punches above its weight, it does not punch all that hard in the field. To a certain extent, there is not much it can do, I suppose, and so it has got to look around to see what sort of opportunities there are. I think that was what the sugar industry was saying, through Mr Milford. It gets back to the question that was asked by Senator Ludwig: given the fact that we are perhaps not as powerful as we would like to be to do these sorts of things, what else can we do—other than, as I understand it, try to see what the opportunities are and have very highly skilled people who know what is going on and take the opportunities as they arise? Can we do anything more than take that sort of ad hoc approach?

Mr Teese—No. I think ‘ad hoc approach’ is a good term to use because it should be much more based on that: pick up the bilateral opportunities when they come, do not close off any options and do not be too hasty to follow the lead of other countries, large or small. I always had the view that it is never wise to say that you support something some other country put up. If you support it, say, ‘Yes, it is a good idea,’ but do not say that you support what someone else does. We seem rather ready to come in behind what other countries do. I cite the case of Asia: a couple of years ago, during the Asian crisis, the idea was put up that there should be an Asian monetary fund. The US jumped all over it, the IMF jumped all over it and we jumped all over it

too. Two years later, both the US and the IMF are now saying that it is a good idea. Now, whenever we talk about wanting to link up with Asia, we are spoken about as being a country that cannot be trusted because we are in the pockets of the United States and Europe. We need to be careful not to get on those bandwagons, which are not leading us anywhere but are serving somebody else's interests.

Mrs DE-ANNE KELLY—Following on from Senator Bartlett's questions, I understand that your concern is not about withdrawing from the WTO but rather is about ensuring that we use the rules more effectively. So your view is that at the moment Australia is very acquiescent: we get bullied, we do nothing about it and we do not use the opportunities open to us. Is that so?

Mr Teese—Yes, that would be my assessment.

Mrs DE-ANNE KELLY—In the conclusion written by Ross Howard, you mention that Australia needs trained negotiators skilled in commercial diplomacy. What is your opinion of those currently negotiating on our behalf?

Mr Teese—I do not want to get into the personalities of it, but I will make an observation about public administration policy. I spent 30 or so years in the area of trade policy, and it really took me a long time to get a grasp of the subject because it is not easy to understand when you come to it new. Nowadays the Public Service is constructed along different lines to the one I was involved in; there is not a long continuity of people coming up through the ranks who have an institutional memory of what went on in the past. A hell of a lot of what I learned about all this I learned from people who were at the original GATT negotiations in 1947. I am worried that that institutional memory is very much lost now when you have such a big turnover of people who are coming in and out of the Public Service for brief periods. I wonder whether they can ever get the same continuity and understanding of things that were possible when you had a different kind of public service structure. That seems to me to be an important issue. Maybe I am just seeing it from the prejudice of my own particular status, but that is the way I see it being handled when I look at it now as an outsider.

Mrs DE-ANNE KELLY—Mr Byrne, you mentioned apples, and there was quite a deal on that in the submissions from AUSTAND on quarantine policy. What is your summation of AQIS? I know there has been mention that they have intruded upon states rights and imposed themselves on trade policy. What would you rate them out of 10?

Mr Byrne—I put it differently. I think AQIS is a scientific body that should be doing the scientific assessment. Decisions on what that scientific assessment means are really political decisions, which should probably rest ultimately with the cabinet and the government. The problem is that AQIS is a scientific body that has been thrown into a position where it is expected to interpret WTO rules. It is not an institution that has been set up to interpret what Colin has just been alluding to: not only rules but a system that operates in a way that takes a lot of experience to understand. AQIS has been set up as a scientific body but it has been thrown a task that I do not think it should have. Its responsibility should be to do the best scientific studies available and, in accordance with its own rule book—and I refer to the same page I referred to before, page 42 of the risk assessment book—it should describe the uncertainty in the risk estimation output. You could take the question that I referred to earlier—the question on

which much of the AQIS report on apples hinges—and put it to five different scientists and you could get totally different answers.

I am somewhat disturbed that that page in the report that is so critical to the final AQIS assessment is based on just personal communications and is not really based on a hard scientific assessment of what happens if you actually start throwing apple cores around the environment sort of thing. It raises perplexing questions about why such an almost shallow sort of assessment has been made at that critical stage in the report. I cannot answer why that assessment has been so shallow, but I would simply reiterate that I think its responsibilities at the moment are not what they should be. They should be scientific, not political.

Mrs DE-ANNE KELLY—You have not answered my question. What would you rate them out of 10 for results?

Mr Byrne—Are you asking me to rate them as a political body or as a scientific body?

Mrs DE-ANNE KELLY—For their role.

Mr Byrne—If you asking me to rate them as a scientific body, I do not rate them very highly. But I do not know whether there is a political motivation in the conclusions they came to. That is why I say that I do not think they should be in the position where they are forced to make a decision that should not be theirs to make. That is why I hesitate to quite give you a figure out of 10 exactly. I think the question is slightly different.

CHAIR—Thank you. I am sure we would like to spend much more time exploring some of these issues. It really just scratches the surface. Thank you both very much for coming to the committee and giving us the benefit of your considerable experience and insight into this matter. We will certainly take them on board and consider them carefully.

Mr ANDREW THOMSON—You kindly sent us an extra submission in an email this morning. It seems to suggest it was sent at 4.27 a.m. If you were up at that hour of the morning, you must be working hard.

Mr Byrne—My computer has got a funny time setting; that is what it was.

Proceedings suspended from 1.02 p.m. to 1.52 p.m.

[1.52 p.m.]

HISCOCK, Professor Mary Elizabeth (Private capacity)

SANDERS, Mr Richard David (Private capacity)

CHAIR—It is a pleasure to welcome our two participants in the academics discussion panel. We will open the panel discussion with a short statement from each of you, if you care to, outlining your views on Australia's relationship with the WTO and we will then move into a more general discussion.

Prof. Hiscock—I would like to begin my opening statement by making it clear that I am an international trade and investment lawyer. My particular interest and expertise lies in the transactional area, rather than in the institutional area, and I think that in our conversations these points perhaps will keep showing up. I would like to make three preliminary points. The first two points come out of the DFAT submission, which has already been made to this group, and particularly page 58 of that submission. In the departmental submission, they point out that in the department's view there is little or no WTO legal expertise in the private sector. I would like to make the initial point that this is partly a question of classification and a failure of communication.

I believe—and this is typical of many of the problems in this area—that the department sees the question of expertise in terms of institutional expertise, whereas private sector lawyers really do not look at the institution but at the outcome and the consequences of its activities as they affect the interests and the activities of their clients. For example, the Law Council of Australia has had an international trade committee for almost 40 years, and that has been made up of private sector lawyers of considerable eminence and experience.

If you refocus on the question from the lawyers' point of view, you will probably get a different answer to that question. If you ask, for example, questions about anti-dumping or access to a market for goods or services, then I think the assessment of expertise is likely to produce a different answer. Many lawyers have gone, as I have done, through this process of a wider identification of the area of concern with the source as well as the outcomes. I often find amongst my own students who are in practice that they will say to me, 'Just wait till I get back to the office and tell my partners about this,' because they suddenly see implications that they had not seen before for their daily activities and practice. There is also a very considerable range of in-house expertise in corporations and industry groups, which I would also classify as being in the private sector. They have had considerable first-hand experience of many of the kinds of problems that come up because of the interaction of the activities of WTO, our legal system in Australia and the international trading and global system. I believe that arising out of that there is an obligation to continue the very commendable course of education of lawyers by DFAT on WTO issues and matters, but I would suggest to you that it could profitably be a two-way process.

The second point that I would like to make also relates to a DFAT comment, where they say there has been little interest in this area by students in universities other than the ANU. This is

not correct. In my experience, either at Bond University, where I am now, or at the University of Melbourne, where I was for over 30 years, there is a very high and growing level of interest. Students from my present law school at Bond have served as interns in DFAT and in the WTO over the last couple of years. We also have a very considerable number of students from developing countries who come to study in Australia because the expertise is in Australia and they prefer the climate of discussion of these issues in Australia to that which they would find if they went to study in Europe or North America. They feel more comfortable in the kinds of open debates that we have in this country. What I, as a teacher, feel I need is a more proactive stance by government to support and to enrich what we can do. I have to tell you that working in a Queensland regional university makes you feel about as remote from Canberra as Mars is from the rest of the world. It is a very interesting contrast from the experience that I had when I was at the University of Melbourne. I feel that somehow or other I went over the horizon when I came north of the border, and I do not particularly like that feeling.

Mr HARDGRAVE—What is wrong with the Promised Land?

Prof. Hiscock—Moses never got there. The third point is that I would like to generally make a supportive statement about the policy of the government, particularly in the review of dispute resolution processes in order to strengthen the system generally. It is necessary to reinforce that the ultimate objective of dispute resolution within the WTO framework is really to make sure that people comply with their obligations. That is a major architectural challenge in the present state of the agreement. But, if we cannot do that, then what we risk is going back to the beggar-my-neighbour strategy of retaliation of the 1930s. I think getting rid of that destructive policy was one of the major triggers for the creation of an international trade order.

CHAIR—Thank you, that was very interesting. Mr Sanders?

Mr Sanders—I am an ecological economist, and that is the area of expertise I will be speaking from today. Australia's relationship with the World Trade Organisation is based on two core assumptions: first, that globalisation serves the greater good of humanity; and, second, that globalisation is inevitable. My research shows that these assumptions are highly questionable and have little factual basis. I would suggest that they are little more than assertion. The World Trade Organisation's core agenda is worldwide economic liberalisation. To avoid any confusion, I will use the term 'globalisation' to mean this global process of economic liberalisation. I will begin my testimony by highlighting the lack of sound evidence to support the proposition that economic liberalisation is beneficial.

Take the Australian Treasury, for example. Evidence given to this committee when you were inquiring into the Multilateral Agreement on Investment suggests that the Australian Treasury relies on questionable evidence and even faith to underpin its support for trade and investment liberalisation. I quote from *Hansard*, where Mr Bartlett is questioning Ms Murphy of the Australian Treasury.

Mr BARTLETT—Surely, ... there ought to be some attempt to quantify benefits from the potential flow of dividend into the country and netted from dividend flows out of the country.

Mr HARDGRAVE—It is one of those classics: an economist is someone who tells you tomorrow why what they told you yesterday did not happen today.

Ms Murphy—All I can refer you to, Mr Bartlett, is the OECD work, including the recent study that was put out by the OECD on the benefits of liberalisation of trade and investment. Australia participated in that study and fully endorsed it.

Mr BARTLETT—So Treasury has made no attempt to quantify the potential benefits or cost to Australia?

Ms Murphy—As economists, Treasury would argue that trade and investment liberalisation is good for economic growth, both domestically and worldwide.

To me that statement would appear a bit of an article of faith. The transcript continues:

Mr BARTLETT—In ethereal terms, but no attempt to quantify it?

Ms Murphy—I am not sure how you would actually go about quantifying it.

I would like to draw your attention to the following points that were made in that exchange. Firstly, Treasury had not conducted a cost-benefit analysis of trade and investment liberalisation—and apparently it does not know how to. Secondly, liberalisation increases economic growth, and Treasury implies that this is good—I will return to this point in a moment. Thirdly, Treasury relied on the OECD report referred to by Ms Murphy called *Open markets matter*, which was published in April 1998, to support its position that economic liberalisation is beneficial. I might point out that this OECD report has been widely used to support the argument that economic liberalisation serves the greater good. Unfortunately, the report is heavy on assertion and light on empirical evidence—I won't go into that now.

Of greater concern is the report's admission that its trade analysis is based on what it calls the 'solid foundations of the theory of comparative advantage'. That is on page 9 of the report. I find it quite astonishing that OECD economists use this outdated theory, outdated because the theory applies only under conditions where capital is not mobile between nations, as it was when the theory was developed in the 1800s. Under the current conditions of high capital mobility there is no such thing as comparative advantage, only absolute advantage. That essentially means that strong economic players win and the weak lose. I submit to you that this use of inappropriate theory fatally flaws the OECD's analysis in that particular report. I might add that they do a lot of good work as well. I might add in parentheses that Australia's heavy reliance on foreign investment makes us a weak player ripe for the plucking, and I believe we are being plucked to the tune of around \$100 million a day at the moment.

Returning to the point that economic liberalisation increases economic growth, this is true. It is the evidence that is most often relied on to support the assertion that economic liberalisation is beneficial. Unfortunately, indicators of economic growth, such as GDP, are poor indicators of the welfare of society, because expenditures on events such as car accidents, natural disasters and so on that reflect a cost to society are added to those that reflect a benefit, rather than being subtracted. Cost-benefit analyses that do subtract economic, social and environmental costs from benefits show a very different picture. For the many economies where such analyses have been conducted, the evidence strongly suggests that net welfare has been in gradual decline since the 1970s, and that the costs of growth have slightly outweighed the benefits in this period.

Two completely independent analyses of this kind—*A sustainable net benefit index for Australia, 1966-67 to 1994-95* by Dr Phil Lawn and me and *The genuine progress indicator: a new index of changes in well-being in Australia* by Dr Clive Hamilton of the Australia

Institute—show very similar declines in net welfare since the 1970s. I have a couple of graphs here which show gross national product rising. When you subtract the cost from the benefits, you find that until the 1970s things are improving but since then they are in gradual decline. This is the study that my colleague and I did. A similar study by Dr Clive Hamilton of the Australian Institute shows very similar graphs. This is based on two completely independent studies. Basically, the message is that things are deteriorating slowly.

The graphs tell us that the economic growth is actually taking us backwards when you take all factors into account. This sounds incredible until you think of the rapid degradation of the planet's ecosystems, which provide free services of far greater value than that of the whole global economy. Growth in economic activity is rapidly liquidating the natural capital stocks that provide these free services. It sounds incredible until you consider the social impacts of net outflows of wealth from most countries and the massive dislocation and insecurity caused by global structural changes.

A reality of business is the tendency to privatise the benefits and socialise the costs where possible. It follows that the benefits of economic growth flow mainly to owners, while the associated and slightly larger environmental and social costs are borne by society. For this reason, while the economic growth associated with trade and investment liberalisation is in the narrow and myopic interests of owners, it is not in the interests of society at large. Furthermore, it is not in the interests of future generations if the ecological basis of our existence continues to be liquidated. The current reality is that the legislative mechanisms necessary to limit or prevent the costs of economic growth being socialised exist primarily at the national level. The overriding objective of the WTO is to remove the very mechanisms by which societies can protect themselves from corporations and investors who have a vested interest in externalising the costs of their economic activities on to society and the environment.

I will now turn to the questionable assumption of the inevitability of globalisation—and by globalisation I am referring to the global process of economic liberalisation. While it may be inevitable that we live in an increasingly interconnected world, it is nonsense to believe that economic liberalisation is inevitable. The reality is that, far from being inevitable, corporate interests are struggling to make globalisation happen. The collapse of the Multilateral Agreement on Investment and the setback to the current WTO round at Seattle due to reluctance on the part of governments of the less developed countries is clear evidence of this.

The repetitive mantra that globalisation is inevitable is a clever use of language that serves two political purposes. First, if decision makers believe this, they will develop policies that accord with what they see as being inevitable, and turn this inevitability into a self-fulfilling prophecy. On the other hand, if they see it for the clever propaganda that it is, they are more likely to develop policies that promote the common good rather than serve the narrow corporate interests which undermine the common good. The second political purpose it serves is to create a mood of resigned acceptance on the part of the population being impacted on by the structural changes flowing from liberalisation. This also assists in turning this inevitability into a self-fulfilling prophecy. I would very strongly urge the members of this subcommittee to begin to see that the case for economic liberalisation is based on little more than faulty theory backed by assertion and spin—as, indeed, is most received wisdom.

Powerful institutions backed by powerful corporations and powerful people have a vested interest in economic liberalisation and have been persistently pushing this line for 30 years. Gradually the idea has become accepted. Economists who have been trained in this school of thought have to believe what they teach. It is almost a prerequisite to believe this for those who move into the bureaucracy in Canberra to join the ranks of Sir Humphrey Appleby, on whose advice government relies. I submit that it is not in the national interest to support the World Trade Organisation's liberalisation agenda. Either we have rules to protect the weak and the planet or we have the law of the jungle where the strong prevail.

Senator COONEY—I want to ask Professor Hiscock some questions. I have taken on board what Mr Sanders says, but, with the World Trade Organisation, we have gone down the path a bit. I want to put this proposition: you could have the most perfect system, but if you do not have the right people running it, they can run into trouble; or you can have a fairly ordinary sort of system, but if you have the right people in there, it could be made to work. Do you have any comments on the way Australia is using the World Trade Organisation, technically? Putting aside what Mr Sanders says, I am interested for the moment in the technical skills that Australia might have in making use of the World Trade Organisation, whether we have people with the skills. Do you have any thoughts about that?

Prof. Hiscock—Part of the difficulty is that the skills need to reside in the place where the activity occurs and the decisions are made. The result of our interaction, our membership of the WTO, is a permeation of the whole national system at both the state level and federal level. So that if you are looking for where the expertise is, you have to look in a lot of places. In other words, putting it the other way around, the number of people who can get into trouble, because of our membership of the WTO, is really quite considerable and they are very scattered and very diverse. To some extent, part of the difficulty is that, because of this permeation of our system, many of the people who are engaged in those activities do not realise the WTO implications that follow. To take a very simple example, people who work at the state level are not necessarily attuned to these things, especially given the expansion of activities of the WTO over the last 10 years. It has moved way beyond traditional areas of trade.

We then have, obviously, a problem of management and communication—those are the skills that are the problem. It is a matter of being able to streamline and coordinate the channels of information at state and federal levels. Looking at it from the outside, it does not appear to me that that is exactly what is happening. So that, when you come to the top of the pyramid, to the formal national responsibility, you have what so often happens in a federal system: somebody at the top is theoretically responsible for the activities of a large number of people, not directly under their control and not necessarily within the channels of communications. Opening up those channels of communication is not an easy task. I think we have much more skill, but whether we are making adequate use of that skill is what concerns me more. It is not difficult to give people the skills and to sensitise them to what has to be done. What is much more difficult is to set up a system that really works, where, within government, you will have a flow of information across departmental divides and across state and federal divides as well.

Senator COONEY—We had some evidence just before lunch that corporate memory has been bleached out of the Public Service because there is a lot of turnover, whereas in former days a person would get in and stay there for 40 years and had some corporate memory of what

was going on. Have you got any comment on that, where you have not only the problem of the federal system but also the problems where people have been turned over?

Prof. Hiscock—I certainly believe that there is a difficulty. I do not know that you necessarily have to stay somewhere for 40 years in order to master the system, nor do I think skill is incompatible with having a revolving door. I do not mind if good people go out the door if good people come in the door, but it would be nice if they spoke to each other as they came and went. It is very difficult when you have to start re-establishing relationships on a regular basis. I think I referred in my submission to the fact that, when I first started to work in the area of international trade and investment in the field, which was in the mid-1960s, there was a very widespread network of Australian trade offices overseas. There were people in those offices who were very responsive and very supportive of people like myself who were out there working in the field. The number of overseas offices is now greatly reduced. The number of people who actually have a remit in this area is even more reduced, and they are not necessarily in the places where trade is taking place but perhaps rather more where diplomatic activity is involved.

So I personally have experienced a diminution of that kind of first-hand experience. It was always seen that one of the great assets Australian traders and investors abroad had was that they had these people. I have seen them take an Australian exporter by the hand and actually lead them through the problems they would face. This was an object of great envy from other countries, who would say, 'Our people don't have anyone like that.' There seemed to be a commitment at the grassroots level to understanding what the problems were. I accept that you do not have to be out there doing it, but I think you have to have open channels of communication if you are going to stay at home and let other people send the information back to you. Somehow or other we seem to have lost that quality of understanding what the problems are in the field. I have a personal joke that every time I get to know anybody within the department they get sent to Belgrade; I now sense a certain reluctance to cooperate with me in some matters. This is the sort of problem that you have if you have people who do not see long-term career expectations within the framework of government.

Senator COONEY—Apropos that, do you have any thoughts about the relationship between universities and the whole system upon which the World Trade Organisation is based, their dispute settling procedures and what have you? Do you think the universities are being taken notice of?

Prof. Hiscock—I think it is a two-way street. In some ways, I personally feel there could be much more support of the activities of universities. On the other hand, universities as a public resource of expertise are very much under pressure because of the additional burdens and responsibilities on people. In terms of prioritisation, I do not think there are too many funding dollars in providing public service for government. People might feel they are going to do much better if they sit down and produce something which will actually increase their departmental budget, so that dimension of university life to some extent has shrunk as part of the funding crisis.

The personal relationships between departmental officers and university people seem to be very limited. I know that some of my former students in the department have had very good experiences, but many of them have not. It seems to me that it is sometimes a loose

confederation of warring tribes and that one has to pick one's way carefully through this kind of warfare. I have had it said to me, for example, that I would be less welcome in Canberra if I worked for the state government, that I would be less welcome in one department if I worked with another department. I find it hard sometimes to believe that everybody is on the same side.

Senator COONEY—What level of ability is Australia up against? Say the United States or the European Union were the other party in an issue Australia had before the World Trade Organisation, have they got great skills in this area?

Prof. Hiscock—They certainly have a reputation for having great skill. If you look at the United States, it has a very substantial corps of people who have been specifically trained in an area in which they effectively interact with government, and that is because—even from the time when I was a student in the United States—international trade has been seen as part of public law, whereas our tradition in Australia is to see trade as a private activity in which government has a limited role. So almost every international trade lawyer in the United States would be found in Washington. A few may have ventured out to the west coast or the east coast, but they will only be the local officers of what is really a whole enterprise and dynamo that is run from the seat of government. I do not think we have ever seen trading and investment activities in this way. I know that we have developed industry lobby groups, but those are still, in a sense, an add-on to the major economic activity.

The same thing is probably true within Europe. You have, again, a sort of governmental corps of people who are identifiable and highly trained. Again, we have not done that. We are much more freewheeling than that and much more flexible than that. It is one of the things that give us strength.

Senator COONEY—I have lots of other questions, but I think I had better stop there.

CHAIR—We might come back to you, Senator Cooney.

Mr HARDGRAVE—Mr Sanders, I just want to develop a little further where you stand on this matter. Did I understand you correctly in saying that, basically, the WTO is not worth being part of because we are not really getting anything out of it? We also heard evidence earlier this morning about there being these large trading entities. Although the evidence did not include China and India, the two most populous nations in the world, or Indonesia, the fourth most populous nation, it did include the USA, with 250 million people, the EU, with about 400 million people, and Japan with 120 million, as being 'the bad guys'. In fact, Canada, with a population of 30 million, was thrown in there too. These countries, we were told, have large domestic markets for their produce and can easily afford to heavily subsidise their domestic consumption and sell the excess onto the world trading market, and they are actually outside of what the WTO is all about. Australia, being a very small fish in the world pond—with 19 million people, and a large export industry versus a small domestic industry—is really in no position to argue with the big three trading groups in particular. So, given all of that, and given what you said before, are we better off being inside the tent looking out or outside the tent looking in?

Mr Sanders—I think the appropriate role for Australia would be in the international arena to start to question the logic of where the World Trade Organisation is taking our world. There are

lots of people around the world who are very quickly cottoning on to the idea that it is not really in the interests of anybody other than a very small minority of people—the very wealthy ultimately, the investor class, if you like—to go down this track. The evidence shows that inequity is growing within countries and between countries. We have got massive environmental degradation because the scale of our economies are becoming bigger than the scale of the planet and the capacity of the planet to cope with these impacts. So whether we like it or not, we are a bit like those fellows who were on Apollo 13, a crippled spaceship. What our economic activity is doing is essentially breaking the life support systems that keep us alive. We are destroying those through that economic activity. We are so wedded to the economic, to the exclusion of the social and the environmental, that we are doing something which is ultimately insane.

I accept what you say that, given the current circumstances, it is very difficult for Australia to buck the system, but I think if we provided the leadership—and there is no doubt that the citizens of the world would be behind any government that moved in another direction. I think the WTO itself as an institution needs to be replaced by another international institution that will actually set rules that will determine how our economic activity is conducted—in particular, trade and investment. What we need are rules that are universal, so I agree with that aspect of what the WTO is trying to do. But what we really need to do is put a floor of standards underneath—and a rising floor at that—so we can start to improve the ends. Ideally, what we are trying to do is to create a better world, one would believe. The whole theory of economics is oriented to maximising the welfare of society. The economics are simply the means to achieving that. What has happened is the economics have become the tail wagging the dog, because we are so insistent on pursuing the economic that it is actually at the expense of the maximisation of the welfare of society.

Mr HARDGRAVE—If I may interrupt there, would you agree that, no matter what system you try to impose that floor on, if the USA, the EU and Japan are currently bucking the WTO system which they advocate—and that is what we are being told—they are not going to follow any rules that are set by whatever this independent group is? They are going to dominate whatever is set up, and Australia is going to be the tail being well and truly bounced around by the dog.

Mr Sanders—If you look at Europe for a start, while governments are running fairly counter to public opinion, I think they are starting to move behind public opinion now. The governments in Europe have started to respect the fact that consumers, for example, do not want to have genetically modified foods shoved down their throats, so there is a movement happening in Europe that is quite significant. In the United States, this movement is now moving quite rapidly as well. It has been quite a bit behind the Europeans, but on the ground people are mobilising. In fact, across the world, particularly in the Western and more developed countries, the citizenry is getting organised, is mobilising and is starting to demand.

Mr HARDGRAVE—Have you got evidence to back that up? In the United States, no more than one in four people even participate in presidential elections, so it is hardly a politically mobilised society.

Mr Sanders—I know best the evidence from Australia. The sociological studies that are being conducted are showing that very high percentages of people are expressing a discontent

with the extremely hectic pace of life. People are looking for a way of trying to slow this down. People like Richard Eckersley and Hugh Mackay, for example, are doing a lot of research in this area.

Mr HARDGRAVE—Are there correlations then in the United States and Europe as you suggested?

Mr Sanders—Anecdotally, and that is all I can say at this point, from my own communications with people in those countries, I think, yes, there is that happening.

Mr HARDGRAVE—Professor Hiscock, you raised in your opening statements one of the favourite bees in my bonnet, if you like: whether or not our treaty negotiators fully understand the differences in our legal system from those of some of these bigger countries and markets that I have just been talking about with Mr Sanders—in fact, how our constitution stands out as a document that may have impacts upon it because of things we sign up to and the difference between common and civil law jurisdictions, and so forth. Is that also a problem in matching our systems with their systems, negotiating with their systems, and having them actually fall into the same lines that we have fallen into, or is it still more a matter of the biggest dominating and the smallest kid in town getting beaten up every time?

Prof. Hiscock—I do not know that I agree with the last one. I do not think that is the line—but I will come back to that in a moment. I think the trend is probably moving the other way. I think that what you see is that more and more significant units have got this multilevel problem that we have, whether you call it strictly a federal structure or whatever. You have one seat at the table but when they go away and they have to put into effect the obligations that are undertaken, it is going to affect a great many people behind them. I think clearly that is the case in Europe, not only within the European Union but in those countries with which there are arrangements spreading out from the European Union. It is clearly the case in the US and Canada.

I believe that it will be our position for the foreseeable future. I cannot see any change in either our structure or our **activities** that makes a difference. The common law, civil law thing really has no impact here. The extent to which people understand the significance is a matter, I suppose, for internal consultation to some extent in the development of attitudes before people go off to negotiate. One needs to distinguish the point at which they are negotiating. If you are going off for five years of negotiations, one would hope there would be a continuing exchange of information during that period of five years. You cannot come back from five years of negotiations and have somebody say, 'Well, I didn't like that,' and throw the whole thing out the window.

If, on the other hand, you have a relatively self-contained dispute, it may be much easier to have a process before and after. So the idea of review of a treaty really needs to look at the nature of the treaty. I think the undertakings that result from the WTO are, in many respects, quite different from some of the other kinds of treaties that we might, say, enter into with New Zealand about visa-free immigration. This is really much more entering into a continuing relationship. I do not think it falls on any particular part of the political process to say that we will back out of a relationship unless we have got good reason to do it.

Mr HARDGRAVE—Do you have a quick comment on the fact that now, with this revised treaty-making process that we have had in place since mid-1996, there is more disclosure and discussion about what is coming on? What we are trying to do is revisit something that has already happened and, as Sir Joh always used to say, ‘You’ve got your foot stuck on the fly-paper.’ Is it part of the problem that we are actually now uncovering some of the consequences that might have been unearthed before we signed if we had had a different process in place? In other words, given what you said before, not all the logic resides within the carpeted halls in Canberra.

Prof. Hiscock—No, but there are telephones, I presume. Some of the logic can go down the wires. Some of the good things that have come out of the treaty review process are the sort of structured analysis of the situation, the benefit interest analysis that takes place really as a result of improved parliamentary processes. I think that is a highly commendable thing and it forces people to come together. There is also the knowledge that you might not be able to keep everything swept under the carpet; at some point, some of these things are going to come out so you might as well get them out early and deal with them relatively soon.

I certainly was a great advocate of this kind of review process. I also think that it may have sharpened some of the political sensitivities about the division of powers between the state and the Commonwealth so that, in my view, it has made the Commonwealth more hesitant in exercising its powers in circumstances where I think it should have done that. It would wear the inconvenience and the lack of efficiency that comes from spreading things out across the country rather than bite the bullet and say, ‘We’re going to do this one all by ourselves.’

Mr HARDGRAVE—Mr Sanders, would you give us a quick comment on that same matter? Do you have a view on that or an observation?

Mr Sanders—No, not really.

Senator BARTLETT—I apologise for missing some of your earlier evidence. If you have said something in response to what I am about to ask, please say so and I will just read the *Hansard*. The key issue from a policy sense is where we are now with the WTO and the situation we find ourselves in. What is the best way forward? Should we seek to reform it? Should we ignore it and explore trade through other direct country to country aspects, or should we try to pull out from the whole thing and tear it all to bits, or should there be some variation on that theme?

Mr Sanders—At worst we need to look at reform, but part of the problem of reforming an institution like the World Trade Organisation is that its core agenda is actually economic liberalisation—this is what it is set up to do. Economic liberalisation is very clearly not in the interests of the majority of people on the planet and is not even in the interests of Australia. One of the reasons we push so hard in the World Trade Organisation is the misguided desire to increase our agricultural exports and agricultural markets. My research is primarily in the area of agricultural sustainability, the economics of agriculture and so on and so forth, and it is very clear.

The 1995 report of the Prime Minister’s Science and Engineering Council made this point: the costs of degradation and so on arising out of agricultural activities are possibly greater than

the industry itself is worth. Again, this is coming back to costs and benefits. We have this tendency in our policy areas to always look at the benefits and pretend the costs do not exist. It was exactly the same with the Treasury people at the MAI hearing—Mr Hardgrave probably recalls how they were waxing lyrical about the benefits but got really caught up when they were called to account on the costs and actually admitted to this committee that there were no additional benefits to Australia from signing this agreement, after they had spent the whole time telling us how wonderful it was going to be. So we have this problem where we do not look at the costs and we just focus on the benefits all the time.

If you look critically at Australian agriculture, we are destroying the natural capital that underpins agriculture. We are destroying the future of agriculture by our current agricultural activity. Scientists like me have been trying to get people to understand this for the last 10 or 15 years. It is only in the last year or two that the rest of society is finally coming to acknowledge that this is a reality. We do not need to expand our agriculture; we have to contract it to a level that is actually within the carrying capacity of this continent.

CHAIR—What would that be?

Mr Sanders—It is very difficult to put numbers on things like this, but a good starting point would be to basically aim at production for domestic consumption of food and fibre in the first instance and see how things go for 10 or 15 years at that level of production. If the landscape starts to rehabilitate slowly, and it looks like we are sustainable, then we would maintain that. If it looks like we have cut back more than we need to, then possibly we could look at a bit of export. This whole idea of going hell for leather trying to increase agricultural exports is totally misguided, and that is the main reason we are in there in the WTO in the first place.

Senator BARTLETT—Expanding on that, the witnesses just before lunch—and I am giving my understanding of what was said rather than quoting them—were saying not so much that the WTO is a problem but that the problem was really the fixation on trade liberalisation, with which Australia in particular seems to have an ideological obsession. There are bits in the WTO statement, as it is written now, that enable subsidisation for social purposes, environmental purposes or other sorts of non-tariff types of activities where justified. Their suggestion about how the EU and the US have approached it is that the EU and the US are not fixated on trade liberalisation except with particular industries when they think it suits their interests; they are much more well rounded. Is that a fair comment?

Mr Sanders—With regard to the World Trade Organisation itself, there are provisions to protect society and the environment to some extent within the rules. I think the real problem lies in the dispute panels, where you have a panel of three trade officials who only understand trade. This is all they can see. They do not realise you actually live in a real world that has people, societies, environments and things like those; all they see is trade. Every decision that they have made to date has, for whatever reason, not come down on the side of society or environment, so I do not think it really works.

Of course, the WTO is also very keen to keep things like society and environment out of the equation. It says that labour standards, for example, should be in the ILO and it says, 'We've got various environmental agreements and so on and so forth to deal with the environment.' If we go back to the scientific tradition in our culture, it is based on the idea that you can fragment

the world into all these little bits and pieces and study them in minute detail. What we are just starting to realise now is that you have to go one step further; you have to put the picture back together again and you actually have to adopt a holistic perspective. When you look holistically, when you incorporate the social, economic, environmental and political factors—and the dynamics of those—then you get a much fuller understanding of how to deal with these problems.

Trade is the most powerful influence shaping our planet and our lives, and therefore environment and society issues must be in there as well at the very least and not excluded. As for the reason that they are excluded, you have to understand what the World Trade Organisation is. It is an institution which the World Economic Forum boasts it was responsible for starting. It was started at the end of the Uruguay Round in Marrakesh: you had all these bureaucrats and characters coming together and deciding that they were going to create a new vehicle. This was not an agenda that was driven by governments; it was an agenda that ultimately was driven by corporate interests.

The World Trade Organisation is a private institution in a sense, in that it was created in that way. The origins of it are very interesting. It is really there serving the interests of capital, those of big corporations and the wealthy. That is what it is set up to do. For that reason I think that, rather than trying to reform the WTO—although speaking pragmatically from a political point of view that is the best first step—what we really need to be working on is arguing in the international arena for another institution which puts in place rules that actually serve the welfare of society. Where all this goes wrong is that, if you go back to Adam Smith and his theory of economics, you see that he came up with this idea that the invisible hand would maximise the welfare of society. For a long time in the Western world that was true; it worked, but now we are moving into a situation where people's needs are no longer needing to be met. The whole thing is just about keeping the system growing, because if it stops growing it is going to collapse on itself. The nature of the financial system is such that it must grow at around 5.8 per cent compounding per year or it will collapse in on itself. It is that dynamic that we have got ourselves locked into which brings us into a completely different area of financial reform which I am not going to touch.

All of these issues need to be understood in a comprehensive and holistic way. It is just not adequate, as conventional academics have done, to pigeonhole into one area because if you find a solution in this area that makes sense within the realm of that theory, you then find it has all these other negative impacts on other areas. You need to understand the whole problem, in a holistic way, and the dynamic interrelationships of all of these systems so that you can come to a meaningful answer. And ultimately, as I suggest, if we are like Apollo 13 with our life support systems in crisis, we need to start moving pretty quickly to resolve those issues.

Mr ANDREW THOMSON—I think we are talking at cross-purposes in some of the discussion so you had better explain this genuine progress indicator, the graph that went down, because a lot of what you are on about is in that. What does the one that is below the top one mean?

Mr Sanders—The graph that is continually rising upwards—

Mr ANDREW THOMSON—We know that—that is dogs and dust and diesel. What is the other one?

Mr Sanders—The other one is when you subtract activities or economic transactions which involve a negative impact on society or environment. So traffic accidents would be subtractions on there. Running down your natural capital would be subtractions. People moving from secure, 40 hour a week employment into insecure, ‘casual work when you can get it’ would be reflected in there.

Mr ANDREW THOMSON—So they are qualitative things?

Mr Sanders—No. I could give you the journal where our paper is published. It is quantitative. It took us three months to go through and collect all the data from ABS and various other things; it is all based on the numerical data. What we have basically done is adapted microeconomic theory of the firm, where the optimal scale or size of operation for the firm is determined where the costs equal the benefits at the margin, and we have applied this theory to the economy as a whole and argued that there is an optimal scale for the economy as a whole. If that line—the costs minus the benefits—was running horizontally, you would be at the optimal scale of your economy.

Mr ANDREW THOMSON—So somewhere in there are values that you have attributed to these phenomena—traffic accidents or the movement of a person from a particular job to another one?

Mr Sanders—Say \$1 billion has been spent on things related to the traffic accidents that happened in Australia in a given period, then that would be \$1 billion minused.

CHAIR—Have you got a list of things that go into that?

Mr Sanders—Yes, it is in our journal.

Mr ANDREW THOMSON—Do you give any weight to scientific innovation in this calculation—for example, improvements in pharmaceuticals or medicine and, hence, the longer people live?

Mr Sanders—Yes, things like that are included.

Mr ANDREW THOMSON—So if in the top graph you would include in the GDP calculation the net returns from, for example, the pharmaceutical industry, do you then assign a benefit to the development of a better pharmaceutical to treat a certain illness? You seem to attribute all the minuses. But if you are going to attribute a value to something qualitative, like an increase in the life expectancy of people generally or of people afflicted with a particular disease, where is that? That is just as much a change in the status of someone as it would be if they lost the leg in a traffic accident, for example. Where is that?

Mr Sanders—I do not think we have gone to that fine a degree of detail. Things that are beneficial get included as benefits; things that are not beneficial get subtracted. These kinds of genuine progress indicators have been going for a while now and there are about 20 or 30

studies that I am aware of around the world. The ABS was even starting to look at this. But there is a political problem with this kind of indicator because it does not tell the story that the politicians want to see. People like to see things going up and up and up; going down is bad news. In private conversation with David Trewin with the ABS a few years ago, when we were first working on this, he was telling me that there is a political brake on developing an indicator based on this kind of methodology. Although the ABS has got a discussion paper out at the moment looking at various indicators, they are very simplistic, and they do not conduct this kind of analysis.

Mr ANDREW THOMSON—Just before you go on another 30 minutes, can I ask: is there a value given in the calculation to boredom?

Mr Sanders—To boredom?

Mr ANDREW THOMSON—Yes.

Mr Sanders—Yes.

Mr ANDREW THOMSON—So if you take, for example, a statistically valid number of people, do you calculate in the chart that goes down whether they are bored or stimulated by life generally, and would that have a numerical value attributed to it?

Mr Sanders—We have imputed values to things of that nature, yes. Again, any of this statistical stuff is fairly, I suppose you could say, rubbery. All statistics are. By the same token, I am not saying that that diminishes from the validity of what it is telling us. With things like boredom, we might infer from the data we can find that, say, four per cent of the population has become unemployed and is basically doing nothing on the streets, and that not only are they just doing nothing but there is actually a disbenefit from them being in that situation. So we might attribute, say, 0.2 or 0.3 of an average wage value to that disbenefit. It is arbitrary, but it is included in there.

The interesting thing is that Clive Hamilton's index, which was done completely independently of our own, gets a very similar result. He has used a different methodology as well. His does not actually have a theoretical basis behind it in the same way that ours does.

Mr ANDREW THOMSON—We will go into that later. Would the Work for the Dole program be positive in your calculation because it gets people active where otherwise they would be indolent?

Mr Sanders—Yes, I think so.

Mr ANDREW THOMSON—I was going to debate with you the role of large corporations and their ability to marshal capital and, hence, provide for more scientific innovation, but we do not have time and I must return to Sydney. Thanks for the exchange.

Mr Sanders—You are welcome.

CHAIR—We are going to have to wind this session up in a moment but, Professor Hiscock, I want to ask a couple of questions about your very interesting evidence about the capacity to engage the DSU. What is very interesting in Australia is what you say is the untapped potential or untapped expertise of the legal profession and, I suppose, academics to be able to feed into the DSU. Do you mean to assist DFAT or do you mean in some other capacity, being government-to-government arrangements?

Prof. Hiscock—By the time you get to formal processes of the DSU you are clearly in a government-to-government situation. But I am talking about the critical stage at which some difficulty first emerges. I think at that point it would help those Australian people affected in Australia by complaints and the government as well if there were a wider access to expertise outside the government structure. Presently, I know there is a limitation on matters of international law to keep them within government but I think that is unnecessarily rigid and there could be interaction, as there is in many other aspects of government, with outside firms and consultants to provide necessary expertise. But that also needs then an appropriate structure within government to maximise the use of that expertise.

CHAIR—Do you foresee then that if there were perhaps a greater involvement of private profession in these matters that the whole process would be better assisted from a government point of view? Or do you think that it would be a better way to engage the community and to engage other interests in having some input into how government understands it might engage these processes?

Prof. Hiscock—I would have thought of those as two separate things. The first matter I would see as being a question of professional advice, with advice coming from a professional in that capacity that obviously does not disqualify them from acting in another capacity in a wider way. In terms of the availability of expert advice, again I think you get the answer to the question you ask. You have to know what questions to ask. So you cannot just wait for the crisis before you call people. You need to have an integrated unit—perhaps a panel of people—that is there available to be called upon in the absence of crisis. I do not think that our government can afford to maintain—nor should it—staffing at crisis level. What you need is a small competent group of people that can be enlarged as the situation emerges, which is pretty much what we have now. I just feel that they need to be looking in other directions and they need to make more of what they have already got as well as looking out.

CHAIR—What is your assessment, from a professional capacity, of the extent to which Australian legal firms, accounting firms and other professional advisers factor into their advice, by providing appropriate staff, advice about the WTO risk management strategic investment decisions? Do large firms have large international trade law sections that could take in students if we were somehow to increase the interest and capacity of universities to provide these courses?

Prof. Hiscock—I do not think they describe them as international trade law sections, but I think that if you boil down the job description you would find a number of people who are doing that. Again, the WTO covers such an enormous range of activities that there will be some areas of WTO where there will clearly be people involved full time in things like anti-dumping subsidies, possible complaints on grounds of dumping and so on. On the other hand, if you are looking at questions of market access, there will be groups of people who will be advising

clients abroad who will keep running up against these problems and who presumably will be coming back to their lawyers and to governments and saying, 'There are opportunities we do not have.' Access to professional services overseas is a clear example of that sort of problem.

CHAIR—My experience has been, in looking at and visiting firms in the EU and Washington and places like that, that there is very much a feeling that there is so much scope for development of that work with NAFTA and the EU anyway, whereas Australia might have the occasional WTO related issue. But I think it is broader than that. If you look at the impact of the WTO it will not be long before firms are going to be professionally negligent unless they are advising firms of some of the risk exposure—for instance, that might be a shareholder of a company that has been given a subsidy—and for government setting that sort of policy as well. It seems to be a hugely interrelated problem how you harness this expertise.

Prof. Hiscock—Our recent experience with Howe leather has taught us all that lesson very effectively—who does the client sue for professional negligence in that case?

Senator COONEY—How transparent is all this? As an academic, and in addition to that, have you got any idea of how the lamb case was prepared and conducted? It would be greatly helpful for this committee to be able to see how the matters are prepared and run. I do not suppose we can get to that—have you had a look at that at all?

Prof. Hiscock—No, I have not. The only way I would have that is if I had been literally close enough to pick it up anecdotally. That is not a public process, and again you are going to have problems of commercial confidence, competitors and so on. I can understand why a lot of this is not in the press. You see the consequences, but you can only go back and reconstruct the process behind it.

CHAIR—It is interesting. In discussions on reform of the DSU, there have been huge arguments about whether or not even submissions should be published. It depends, of course, on whether you are the applicant or the respondent, usually, and to what extent it is going to send everything into the corridor anyway—if the public position is out in the open, to what extent there are other discussions that will not be. So it raises very difficult issues.

Prof. Hiscock—It is important to remember that the WTO is not parallel to our legislature. If we were talking about this in relation to parliament, we would have a whole different set of values. This is basically a multilateral institution for trade in services, and if people feel that somehow or other it has recently turned into a monster, they should perhaps go back and look at the Bretton Woods outline for the international trade organisation, which also would have taken on competition policy and tax within its remit, as well as many of the things that are just coming back into the regime now. You need to take a long bow when you assess the contribution, and look at it in the light of a very slowly developing international world, which is slowly recognising the place of individuals and groups.

CHAIR—Thank you. We could probably go on for some time—I know I would like to—but we will have to wind this session up, because we have promised to allow some statements from the floor. So it just remains for me to thank you, Professor Hiscock and Mr Sanders, for giving your particular insights and your time to the committee this afternoon.

Committee adjourned at 3.03 p.m.