



Queensland Government

**Queensland Government Submission to
the Joint Standing Committee on
Treaties Inquiry:**

**Australia's Relationship with the World
Trade Organisation.**

Prepared by

The Department of State Development

Introduction

Queensland support for WTO

The World Trade Organisation is the fundamental mechanism for gaining access to new markets for Australian exports.

The Queensland Government has consistently supported the Federal Government's approach to multilateral trade liberalisation, and regards the WTO as the chief vehicle for pursuing tariff reductions in other markets.

On 9 July 1999, the Deputy Premier formally submitted to the former Deputy Prime Minister and Minister for Trade the "*Queensland Government Submission On Australia's Approach To Further Multilateral Trade Reform And Queensland's Priorities For World Trade Organisation Negotiations*". This submission endorsed the Federal Government's approach to multilateral trade, as well as establishing Queensland's priorities and approach for the Seattle Negotiations.

Importance of maintaining/increasing open markets for Queensland goods and services

The Queensland Government is committed to expanding Queensland's export markets and recognises the contribution of trade liberalisation to progressing the economic development of the State. The opportunities brought about by trade liberalisation will assist in the development of new markets and facilitate the development and diversification of the State's industry base.

NTC Ministers statement on strategy towards liberalisation

At the National Trade Consultations Ministerial Meeting held on June 16 2000, Federal, State and Territory Ministers agreed that further (unilateral) tariff reductions by Australia should only be undertaken within the context of ongoing multilateral trade negotiations. In making this statement, the trade Ministers recognised the central role of WTO negotiations in achieving better access to overseas markets. However, the Trade Minister's statement also recognised that the negotiating environment has matured over the last 10-15 years, and that for Australia to continue its strategy of unilateral tariff reductions (including ahead of the APEC schedule) may no longer yield the best results.

Terms of Reference Responses

1. Opportunities for community involvement in developing Australia's negotiating positions on matters with the WTO;

There is a heightened level of public interest, combined with a considerable degree of uncertainty and lack of general knowledge about the role of the WTO and the effects of its decisions on member countries. For many people it is difficult to see the relationship between the activities and actions of the WTO and the tangible benefits that they derive, such as higher export volumes or lower consumer prices. This is particularly so as communities struggle to come to grips with understanding the concept and impacts of globalisation. In particular, community misunderstanding centring on a perceived independent role of the WTO, as distinct from the decisions of its members, appears to be prevalent and needs to be addressed.

The Queensland Government will continue to work with the Federal Government to increase community understanding about the WTO and, to the extent desirable and practicable, involvement in developing Australia's negotiating position. However, as the Federal Government has jurisdiction over the exercise of Australia's external relations, the ultimate responsibility for fostering community engagement remains at the Federal level. The Queensland Government welcomes efforts to improve public understanding of the impact of the World Trade Organisation (WTO) on Australia's overall prosperity and standard of living, and suggests that information should seek to present a more balanced perspective. This requires substantial research into the effects on specific industries and specific regions, as well as generalised information that presents both short and long-term impacts.

To assist in this process, a broader perspective than that of government is needed. There appears to be some level of public concern, in the context of globalisation, about the intentions of 'big business' and in particular multinational companies. In response, it would be highly desirable for small Australian businesses that have benefited from increased market access through WTO decisions to be used to help spread the message about their experiences associated with trade liberalisation. For example, this could occur through an Austrade advertising campaign using examples of such successful small businesses.

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| The Federal Government works with small Australian companies as well as the general business community to help spread the message about the WTO's benefits. |
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2. The transparency and accountability of WTO operations and decision making;

The WTO has been making consistent efforts over recent years to improve transparency in its deliberations. The large volume of information being made available by the WTO indicates concern to address this matter. On 21 July 2000, the WTO General Council discussed external transparency and concluded that, although the transparency and accountability of the WTO is of long-term relevance, it is more important to focus on critical trade issues. With the exception of speeding up document de-restriction (currently this process is elongated due to the documents needing to be available in all three official languages before release) little can be done that would have significant impact. This is particularly so given the highly technical nature of much of the WTO's own documentation.

Much of the transparency and accountability issues are not necessarily related to the WTO itself, but rather to the activities of member countries. The onus of responsibility for distributing information regarding commitments should remain with the individual country. From Australia's perspective, it is important to continue recent steps in publishing and promoting all information in relation to Australia's negotiating position and any impact assessments undertaken.

This submission argues elsewhere that an Australian version of legislation such as US301 (which mandates identification of perceived shortcomings in the trade policies of the US's trading partners) is not required. However, it would clearly be useful to have some reassurance that Australia, at both Federal and State levels, was not out of step with other countries in adherence to the WTO Agreement on Subsidies and Countervailing Measures (SCM). Clearly, such information would also assist in reassuring communities concerned at the social and environmental impacts of trade liberalisation. The Trade Outcomes and Objectives Statement, released annually by the Federal Minister for Trade, provides a suitable vehicle. The 2000 Statement includes brief details (refer page 7). Some additional detail on context in relation to numbers of disputes brought by Australia's major trading partners might prove useful in this regard.

Australia can contribute to the overall transparency and accountability in the international economy by continuously reviewing and improving its own reporting systems.

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| <p>It is recommended that the Federal Government develop a scorecard to measure Australia's transparency and accountability in comparison with other countries. Australia should also continue to monitor the WTO to ensure that it maintain current levels of accountability and transparency in its conduct and operations.</p> |
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3. The effectiveness of the WTO's dispute settlement procedures and the ease of access to these procedures;

Potentially the area of greatest concern for the Queensland Government relates to the WTO's disputes investigation and enforcement mechanism. Recent cases such as Howe Leather and Tasmanian Salmon have illustrated the magnitude and reach of WTO findings. Of particular concern is that the impact of a decision can be directed to a totally unrelated sector of the Australian economy, including in a different State, through the countervailing measures applied. There is an element of fundamental inequity about such a system, which serves to undermine the intentions of the process.

In general, the Queensland Government sees benefits from Australia engaging more actively in the WTO disputes enforcement and investigation mechanism, to closer replicate the approach and levels of resources dedicated by the United States and the European Union and to support Australia's export-oriented companies. Currently, we are advised that staff in the Department of Foreign Affairs and Trade allocated to WTO disputes are fully committed with existing workloads. Any more active stance from Australia would require either dedication of additional resources at the Federal level or arrangements to introduce private sector expertise into the process (the US model). Queensland does not support a compulsory investigation mechanism such as that used in the United States (US301), but agrees that the current system of discretionary investigation on the basis of the impact on the company and the economy should be maintained and strengthened.

Current arrangements for access by Australian companies to the dispute process are a matter of concern. The requirement for companies to have undertaken a measure of prior preparation before the Department of Foreign Affairs and Trade will provide support has the effect of pre-qualifying, on the basis of their size and resources, those companies that can realistically pursue such action. This can be discriminatory against smaller companies.

The implications of increasing recourse to finely balanced legal arguments in the disputes settlement mechanism is likely to lead to an environment where the best resourced teams are unduly advantaged. The Queensland Government has been informed that the United States leveraged substantial private-sector legal assistance into its prosecution of Howe Leather. It is not in Australia's interests that the merits of the disputes settlement mechanism be subverted by undue economic force on the part of a few WTO members.

Given the complexity and legalistic nature of the dispute process, most issues would require engaging specialised legal advice. The Queensland Government is aware of legal firms preparing themselves for an increase in international trade work. Given the potential inequities for small companies if the case loads overwhelms the available resources, the Queensland Government believes that there should be some special consideration given to small to medium size entities. This might be, for example, that support mechanisms for pursuing cases proposed by small companies are reviewed based on a set of criteria established and agreed to by State and Federal governments. This would aid in removing the subjectivity of the "national interest" approach and allow for prioritisation of potential cases on a transparent and accountable basis.

Further, Queensland believes that this approach should apply equally to firms both facing and initiating action, on the basis that smaller firms seeking to expand their export markets should not be prevented

from doing so because of lack of resources, in the same way that small firms facing action should not face discrimination through lack of resources.

Discussion of dispute resolution also raises the issue of Australia's adherence to the WTO Agreement on Subsidies and Countervailing Measures (SCM). As of 1999, the State and Territories have agreed to notify their support programs to the Commonwealth for subsequent notification to the WTO. Given the trends outlined above, the Queensland Government would be concerned if increased adherence to SCM requirements at the State and Territory level was not mirrored by the actions of other WTO members in relation to their notified assistance programs.

It is recommended that the Department of Foreign Affairs and Trade provide financial and other forms of support for small companies facing or initiating disputes resolution action and considers developing a rigorous, transparent process to prioritise cases.

It is recommended that the Commonwealth investigate and implement simple mechanisms for advising communities and interested organisations, including the States and Territories, of the performance of Australia and its key trading partners in meeting the requirements of the WTO Agreement on Subsidies and Countervailing Measures.

4. Australia's capacity to undertake WTO advocacy;

From a community perspective, the Department of Foreign Affairs and Trade needs to strongly encourage representation on WTO issues from as broad a spectrum of the community as possible. To do this successfully would appear to entail better engaging the views of businesses and other beneficiaries of trade liberalisation. The Queensland Government sees that the most logical approach requires much stronger involvement from line agencies such as Austrade and the Department of Industry Science and Resources and successful small Australian businesses. Given their role, they are in a better position to communicate the advantages and direct effects of trade reform with companies, and more particularly the small business sector.

The Federal Government retains responsibility for pursuing and managing Australia's relationship with the WTO. Additionally, it may be necessary to bring in other parties at different stages in the disputes process to provide a national and impartial response, particularly where high levels of legal or economic expertise are required. Nevertheless, it is of critical importance to incorporate the views of States, Territories and other external bodies when coordinating a disputes response.

The Queensland Government strongly supports the Commonwealth's continuing attempts to address global market distortions and selective enforcement of compliance in certain sectors of major economies, particularly in respect to agriculture and other commodities. The Federal Government is solely responsible for Australia's relationship with the WTO, but should consult fully with the States, Territories and other external bodies, particularly in advance of major trade-related events or discussions, including disputes.

5. The involvement of peak bodies, industry groups and external lawyers in conducting WTO disputes;

Further to the points raised under TOR 3, it is becoming increasingly evident that the WTO is becoming a more litigious forum in its basic operations and functions. For example, the Queensland Government has been informed that the US is leveraging considerable private sector expertise to pursue cases it has brought to the disputes resolution process. The US has also dedicated substantial additional public sector resources to identifying potential breaches by other countries.

Accordingly, it will become increasingly important for Australian companies both bringing and facing dispute actions to have access to expert opinion from both an industrial and legal perspective. Clearly the peak bodies, industry groups and external lawyers are well positioned to supply this form of advice. Additionally, peak bodies and interest groups are well placed to put forward cases to the Department of Foreign Affairs and Trade on behalf of their industries, including some attempt at prioritisation in the event of multiple cases beyond the resources of DFAT. External lawyers might be better placed to take up the cases at a later stage to avoid questions of their professional interest.

In relation to the question of bearing the costs of any actions, evidently larger companies may be in a stronger position than small and medium sized enterprises. It will be necessary for governments to be alert to cases where action cannot be brought because of lack of finance for expert legal opinion.

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| <p>The Federal Government, in consultation with the States and Territories, should explore effective means for it to provide relevant support to such bodies where resolution of trade issues DFAT is handling requires peak body expertise.</p> |
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6. The relationship between the WTO and regional economic arrangements;

The World Trade Organisation assists Australia in its trade development and market access efforts by providing a vehicle for the country to gain greater access into markets that have previously been inaccessible or otherwise not viable as a result of varying levels of tariff and non-tariff protection regimes. Traditionally, the value of the WTO (and its predecessor, the General Agreement on Tariffs and Trade (GATT)) to Australia has been that, as a medium sized player in international trade, a multilateral forum with some ability to enforce rulings was best placed to meet Australia's particular circumstances and interests.

The early successes and potential of Asia-Pacific Economic Cooperation (APEC) changed the dynamics of trade negotiations mechanisms. Australia's strong early support for APEC reflected the view that a regionally based mechanism, in which Australia could play a key role, improved the prospects for better market access for Australian goods and services. Similarly, the momentum for the North American Free Trade Agreement (NAFTA) demonstrated that other countries were testing alternative mechanisms.

While the effectiveness of APEC as a trade liberalisation mechanism is, in Queensland's view, still open to some debate, there is renewed interest in other regionally focused forums. A possible linkage between the Closer Economic Relations (CER) Agreement members, Australia and New Zealand, and the ASEAN Free Trade Association (AFTA) offers some new prospects for freer trade in Australia's immediate region.

There are undoubted benefits in using regional mechanisms as levers to open up prospects in the multilateral forum of the WTO. That said, to date the outcomes obtained in the WTO have represented the major successes for Australian exporters.

There is considerable effort being undertaken at the moment to investigate and develop regional trading blocs in a number of regions. Mechanisms such as AFTA-CER (which would link the Australia-New Zealand *Closer Economic Relations* agreement (CER) and the Association of South-East Asian Nations (ASEAN) Free Trade Area, or AFTA) and the so-called P5 (Australia, United States, New Zealand, Singapore and Chile) are typical examples.

The background to current activity is a fear that, in view of increasing protectionist sentiment, the world might splinter into two or three trading blocs. Countries are therefore seeking to align themselves with their major trading partners.

In officials level meetings over the past 2-3 years, Queensland has suggested to the Commonwealth that greater attention should be paid to the merits of alternative regional mechanisms. This is particularly so in relation to an apparent loss of credibility in APEC as a trade liberalisation mechanism. The Queensland Government recommends that such comparative activity continue. However, in the absence of any other multi-lateral trade organisation and unless one or more regional mechanisms offer greater benefits, the WTO should remain Australia's primary means of obtaining a reduction in access barriers from our trading partners.

Queensland is concerned however, that the pursuit of unilateral tariff reductions to provide Australia with a "high moral ground" is diminishing the strength of future negotiating positions. While Australia

has been able to obtain some improvements in market access through adopting unilateral protection reductions in the last 15 years, and further unilateral reductions would produce natural economic benefits, it is also important to recognise that the negotiating environment has changed and that a more aggressive approach may now be warranted. The recent meeting of Federal, State and Territory trade Ministers media release stated “...*That any reductions only be undertaken within the framework of ongoing multilateral trade negotiations which provide improved market access*”. This agreement between the Ministers recognised that a fresh approach to tariff reductions was needed, which takes account of the now low level of general tariffs in Australia, the relative impacts of tariffs (many being considered in the Productivity Commission report are within the range of 3-5%) compared to exchange rate variations and the increasing use of non-tariff barriers.

There is evidence that using regional trading arrangements (RTAs) in the period leading up to the new WTO round of negotiations allows for greater leverage when negotiating in the future, especially with more powerful members. The strength and merits of any such involvement needs to be consistently reviewed on the grounds of what the arrangement can actually deliver to Australia in the long-term compared to the benefits available from other mechanisms.

The Queensland Government has previously highlighted the contribution of trade liberalisation to advancing the economic development of the state. However, the Queensland Government recommends that the Federal Government should continue to monitor and assess the impacts and benefits of regional trading arrangements in addition to those offered through membership of the WTO. Where clear benefits are apparent, Australia should consider entering regional trading agreements as a supplement to any multilateral arrangements.

7. The relationship between WTO agreements and other multilateral agreements, including:

7.1. Those on trade and related matters, and on environmental, human rights and labour standards; and

Issues such as the environment, labour standards, competition policy and human rights are all constituent elements of sustainable economic development and are all proper subjects for action and national and international levels. However, the Queensland Government considers it is important that these issues are addressed in the appropriate fora rather than making an explicit linkage to trade impacts and using the WTO as the mechanism.

The WTO website states the WTO's role as:

*"...The only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. **The goal is to help producers of goods and services, exporters, and importers conduct their business (emphasis added).**"*

There is little advantage to be gained from diverting the WTO's agenda from trade issues to increased coverage of issues that can potentially have negative consequences for the free flow of trade internationally and where alternative forums exist to address the relevant issues.

On this basis, it is clear that any discussion on issues not directly related to trade or not representing an obvious non-tariff barrier is inappropriate for the WTO, and should be excluded from discussion. This view is also shared by developing countries, who see any actions related to these issues as outside the WTO mandate and, in most cases, little more than thinly-disguised protectionism by the industrialised countries.

7.2. The extent to which social, cultural and environmental considerations influence WTO priorities and decision making.

Following from section 7.1, it is evident that decisions taken by the WTO in relation to trade barriers have impacts that are felt in member countries, including through changes in industry competitiveness, environmental standards and the working conditions of employees. In section 7.1, the Queensland Government argued that such issues should be addressed in the appropriate fora and that linkages between these fora and the WTO should serve as the mechanism for addressing the impact of trade liberalisation on the environment and society.

The outcomes of the WTO's work manifest themselves in economic change in member countries. This change becomes the responsibility of domestic governments to manage, taking into account the aspirations of their citizens, the need to protect the environment and these governments' level of commitment to integration into a global market. The effects of change on societies should not be resisted, but the adverse effects should be mitigated and communities helped to adjust. Part of current more general unease at the WTO may reflect a general belief that insufficient account has been taken of the need to help communities deal with changes that have occurred through industry restructuring as a result of globalisation.

While social, environmental and cultural considerations will always provide a background or framework for a country's negotiating positions, it would not be desirable to formalise the use that member countries can draw on such considerations in WTO negotiations. For example, EU support for 'multifunctionality' in agricultural negotiations results in continuing levels of subsidies that distort world agricultural trade. It would appear preferable that steps be taken domestically to assist sectors, regions and communities to adjust.

The Queensland Government believes that the WTO should maintain its direct focus on resolving trade inequalities rather than trying to address issues outside its mandate. However, where other issues threaten to establish defacto protectionist practices, the WTO should intercede.