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JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

Trade Subcommittee

Friday, 23 August 2002

Members: Senator Ferguson (*Chair*), Mr Brereton (*Deputy Chair*), Senators Bartlett, Bolkus, Cook, Eggleston, Chris Evans, Harradine, Hutchins, Johnston, Sandy Macdonald, O'Brien and Payne and Mr Baird, Mr Baldwin, Mr Beazley, Mr Bevis, Mr Edwards, Mr Laurie Ferguson, Mrs Gash, Mr Hawker, Mr Jull, Mr Lindsay, Mrs Moylan, Mr Nairn, Mr Price, Mr Prosser, Mr Bruce Scott, Mr Snowdon, Mr Somlyay and Mr Cameron Thompson

Subcommittee members: Mr Baird (*Chair*), Senator Cook (*Deputy Chair*), Senators Eggleston, Ferguson (*ex-officio*) and O'Brien and Mr Brereton (*ex-officio*), Mr Hawker, Mr Jull, Mrs Moylan, Mr Nairn, Mr Prosser, Mr Bruce Scott, Mr Somlyay and Mr Cameron Thompson

Senators and members in attendance: Senators Cook and O'Brien and Mr. Baird, Mr Hawker, Mrs Moylan and Mr Nairn

Terms of reference for the inquiry:

Scrutiny of the World Trade Organisation

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Committee met at 8.37 a.m.

CHAIR—I declare open the public hearing of the Trade Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade's annual review of the World Trade Organisation with specific reference to its progress towards trade liberalisation and the implications of its activities for Australia. This examination arises within the context of the annual reports of the foreign affairs and trade portfolio. The annual reports refer to the Joint Standing Committee on Foreign Affairs, Defence and Trade for any inquiry the committee may wish to make in accordance with the schedule tabled in the House by the Speaker.

In order to make the best use of the time available today, the subcommittee has decided to focus on the prospects of the Doha Round negotiations. Today's discussions will therefore examine market access issues in the key negotiating areas of agriculture, services and industrials, and the issues of intellectual property, trade and the environment and special and differential treatment for developing countries. We will be conducting the hearing in three sessions. Session 1 will provide an overview of the WTO and the Doha Round negotiations. Session 2 will look at market access and the negotiations for agriculture, services and industrial products. Session 3 will examine the issues of intellectual property, trade and environment, and trade and development.

BANKS, Mr Gary Ronald, Chairman, Productivity Commission

CARAYANIDES, Ms Anastasia, Assistant Secretary, Industrial Policy and Industrials Branch, Department of Foreign Affairs and Trade

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LARKIN, Mr John Terence, Assistant Secretary, Services and Intellectual Property, Department of Foreign Affairs and Trade

CHAIR—In moving to session 1, on behalf of the Trade Subcommittee I welcome representatives from the Department of Foreign Affairs and Trade and from the Productivity Commission. The subcommittee prefers that all evidence be given in public but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and, therefore, have the same standing as proceedings of the respective houses. I invite you to make a short opening statement before we proceed to questions.

Mr Grey—Thank you for conducting this hearing and inviting the department to come along. It is a pleasure to be here. I will make a short opening statement. Much of it will be familiar to you, but perhaps it will set the overall scene for some of your discussions later. Of course we are very happy to elaborate on any of the issues or the positions. Australia has an integrated and comprehensive trade strategy that encompasses multilateral, regional and bilateral activities. A central element of that strategy is of course the WTO. As a country dependent on international trade, strong and enforceable international trade rules are of vital importance to us. The WTO is the only organisation that sets enforceable international trade rules, and it also still provides the strongest mechanism for us to gain real improvements across the board in market access for Australian goods and services.

In developing Australian positions in the WTO, the government consults regularly with state and territory governments. The Minister for Trade recently increased the frequency of his consultations with state and territory ministers under the national trade consultations process to three times a year. The minister also chairs the WTO Advisory Group—comprising experts from industry, non-government organisations, trade unions and academia—which meets regularly to provide advice on Australia's interests in the WTO. The minister has twice called for public submissions on the WTO negotiations—once in July 2001, prior to the Doha meeting,

and again in April 2002, after the launch of the Doha Round. In addition, the department conducts broad based consultations with Australian industry, NGOs and community groups in the development of Australian positions. The DFAT web site includes weekly bulletins on developments in the Doha negotiations and monthly updates on specific issues such as services, intellectual property and dispute settlement. During the Doha WTO ministerial meeting in 2001, daily updates were provided on the web site so that state and territory officials and other interested parties were fully informed of developments in the negotiations.

Australian interest in the WTO can be looked at in two broad categories: market access, firstly; and, secondly, the system of rules and discipline which WTO agreements provide. The WTO provides a key mechanism for improving market access for Australian exporters. The successful launch of the Doha Round in November 2001 therefore provides us with an important opportunity to pursue our market access priorities. The Doha Round includes a mandate for market access negotiation in agricultural services and industrial products, and an ambitious deadline of 1 January 2005 has been set for completion of the round.

International agricultural reform remains a key element of Australia's trade policy objectives. Progress in agriculture is important, not just because agriculture contributes vitally to Australia's export performance and remains the most corrupted of all international markets but because progress in agriculture is necessary to ensure progress across the entire round. With an increasing number of developing countries joining the WTO—out of 144 members, 113 are developing countries—there is consequently a higher profile of developing country interest. Without improved market access in sectors of interest to developing countries—particularly agriculture—there will likely be no outcome for the round. Agriculture is therefore important to other high priority sectors for Australia. Australia has strong and growing interests in services and manufacturing exports that we are of course pursuing in the Doha negotiations. That particular point about the role of agriculture as the key to momentum in the round as a whole is not always understood in the broader community. If you do not get a big outcome in agriculture, you cannot get a big outcome in financial services, telecommunications or other areas. This is simply as a result of the negotiating dynamics in the WTO.

Australia has been an active participant across the board and has submitted negotiating proposals in most Doha negotiating groups. Australia is the permanent chair of the Cairns Group and we have been working with our colleagues in the Cairns Group to build momentum in the agricultural negotiations. Mr Vaile, as minister, will chair the next Cairns Group ministerial meeting to be held from 18 October to 21 October in Bolivia. In addition, we have been active in developing coalitions with like-minded countries in other areas of interest to Australia, including services, intellectual property, transparency, government procurement and trade facilitation.

Minister Vaile's decision to host a mini-ministerial meeting in Sydney from 14 November to 15 November 2002 provides an opportunity for Australia to further its leadership role in the Doha negotiations. The informal meeting will bring together from about 25 countries trade ministers representing a broad range of regions and interests, including developing and least developed countries, as well as the incoming WTO Director-General, Dr Supachai. While the agenda is yet to be finalised, we expect discussions will help build understanding across a range of issues such as development, market access and preparations for the fifth WTO ministerial

meeting to be held in Cancun, Mexico on 10 September to 14 September 2003. That particular meeting will be the halfway point in the Doha round.

Another important avenue for pursuing improved market access in the WTO is through the WTO accessions process. Recent accessions of China and Taiwan to the WTO provided major gains for Australian exporters of goods and services and also offered our businesses a more predictable environment. There are currently another 27 countries seeking to accede to the WTO including important trading partners such as Russia and Vietnam. We also have a strong interest in ensuring that other issues, such as trade and environment, are not used in ways that increase trade protectionism. Similarly, we do not support attempts by some to extend a higher level of intellectual property protection to geographical indications on food and other goods.

I will make a few comments on rules. A key element of the effectiveness of the WTO is its focus on a rules based system. Strong and enforceable trade rules provide a predictable environment which is necessary for Australian exporters. As well as providing market access, the Doha round provides an opportunity to further improve and expand those rules as necessary. A further area of Australian interest in the WTO is the dispute settlement mechanism. Australia is a very active participant in dispute settlement processes. While we do not, of course, seek out disputes for their own sake, we have been an active user of the system since its inception in 1995 when the WTO came into force at the conclusion of the Uruguay Round. Australia has been quite successful in using the dispute settlement system to improve market access and to protect our interests, while recognising that the process can be lengthy and at times frustratingly time consuming. Most recently Australia has won significantly improved access for our beef exports to Korea and has regained access to our prawn and lamb markets in the United States.

Australia will continue to be active in protecting and advancing our interests through dispute settlement. Mr Vaile recently announced that Australia would join Brazil in challenging the EC's sugar regime in the WTO, particularly the EC's sugar subsidies that have resulted in one of the least efficient sugar producers becoming one of the world's largest exporters of sugar. This has the effect of both distorting world trade and depressing global prices. We remain watchful in other areas to determine whether there is a need to mount a dispute. A significant benefit of the WTO dispute settlement system that is often overlooked is the leverage of such a system in resolving disputes at the bilateral level—for example, the Korean agreement to permit the freezing of Australian chilled beef. In the Doha round Australia is a proponent of an effective dispute settlement system including the use of more equitable dispute settlement timetables for safeguards and clear rights of third parties in compensation deals.

While the WTO is Australia's highest trade priority, we are also negotiating free trade agreements with Singapore and Thailand and pursuing the launch of negotiations with the United States. In addition, we are exploring closer trade and economic relations with Japan and China. These activities support and complement our WTO objectives. In recognition of the importance of following a comprehensive trade strategy, the Department of Foreign Affairs and Trade has been resourced to simultaneously handle the new round of WTO negotiations and the negotiation of major free trade agreements.

CHAIR—Thanks for that very comprehensive review. Mr Banks, please proceed with your briefing.

Mr Banks—Thank you for the invitation to participate in this opening session today. The Productivity Commission has a much wider mandate than its predecessor bodies but it retains a strong interest in trade policy matters, given the importance of those issues for Australia's economic performance and living standards. The effective functioning of the WTO system and opportunities presented by the Doha round are of particular importance at this time when the commitment to liberal trade of some of Australia's major trading partners has been in doubt and when multilateralism itself has been under challenge by the rise of bilateral trade agreements.

In my remarks this morning, I would like to focus on some of the broader issues and potential benefits for Australia in the new WTO round. I will not attempt to get into the detail of the current negotiations or the institutional arrangements—I think that is the comparative advantage of my colleagues here from DFAT. I should mention at this point that I had hoped that my fellow commissioners, Richard Snape and David Robertson, would be able to appear this morning. They both have particular expertise on WTO matters. Unfortunately, they could not come, but I have the benefit of being accompanied by Dr Philippa Dee, who has conducted a range of quantitative studies on the impact of trade barriers and trade liberalisation and would be able to describe some of that work in a bit more detail, if you wished.

This committee has already heard a great deal in its previous inquiries about the role of the WTO and its significance for Australia. A point that deserves re-emphasising in the context of the new negotiating round is that the contribution of that system comes as much from the order and stability that it brought to international trading relations as from the reductions in trade barriers through successive negotiating rounds, as important as these have been. In particular, the first article of the general agreement—the MFN or non-discrimination clause—has played a key role in reducing trade conflict among nations, promoting efficient trade flows and reducing transaction costs. It has been of particular value to countries like Australia that lack economic negotiating clout. Trade is important to Australia's economic prosperity but, since we account for just one per cent of total world trade, we have little bearing on the prosperity of most other nations. The MFN rule has nevertheless allowed us to benefit automatically from the trade deals of others in a way that does not happen in regional or other preferential trade deals.

Australia's interests have also been well served by the upgrading of the dispute settlement mechanisms within the WTO, overcoming the previous anomaly in which offending countries had the power to veto the outcome, and most did. Australia has accordingly been very supportive of the multilateral trading system and has made an important contribution to framing the rules and coverage of both the GATT and now the WTO. However, Australia has not been a conventional participant in multilateral negotiations. For many years, our main export interest—agriculture—was essentially off limits, providing little scope for reciprocal concessions, so we were forced to think about the domestic implications of reducing our own trade barriers, and we pioneered tools of analysis to help us with that. This turned out to be an important advantage, as we were among the first countries to act on the recognition that a country gains most of all from reducing its own trade barriers, regardless of what other countries do. Australia's achievements in this respect have been substantial with, as you know, average effective manufacturing tariffs falling from 36 per cent to five per cent over the past three decades. These reductions have brought their own gains in efficiency and consumer welfare, but they also created competitive pressure for the reform of other sources of inefficiency within the economy, including in public utilities and other economic infrastructure and in labour markets.

The upshot has been an economy characterised, since the early 1990s, by historically strong productivity and income growth, and an almost unprecedented capacity to withstand external shocks. Moreover, Australia's pursuit of the domestic gains from unilateral liberalisation has not precluded us from participating in multilateral liberalisation efforts, where we have been able to enter into agreements to bind our tariffs at lower rates—such bindings being the real object of WTO reciprocity. The biggest problem we face as we enter the business part of the Doha round is that most other countries do not approach trade negotiation in this way. They typically see the gains coming from other countries' concessions, with only costs from their own. The very process of reciprocal liberalisation within the WTO can encourage such a view.

There is a fundamental need for a more balanced and informed debate within WTO member countries about the benefits, as well as the costs, of reducing national barriers to trade. In the absence of more information about the costs of protection to the wider community, sectional interest in those countries, whether they be American steel millers, French cheese farmers or Japanese rice growers, will continue to meet with success at the cost of their own economies, as well as ours. This is clearly a domestic issue, residing in domestic institutions and domestic politics. Even so, there may be scope for Australia and like-minded countries to exert some influence.

One avenue that Australia has already tried is to sponsor research on the costs of protection to our trading partners. An important early effort in that vein was the Red Book on the domestic costs of the CAP, which you may remember was produced by the Bureau of Agricultural Economics back in 1985. It had an impact but its influence on Europe suffered from its association with a foreign interested party, namely us. However, we could seek to have more such work done within international agencies—some has been done but not enough—or we could sponsor collaborative work with researchers within relevant countries, akin to the so-called global study that the Centre for International Economics did some years back.

A second avenue for improving foreign acceptance of the benefits from reduced protection is institutional and was put forward in a submission to this committee by Bill Carmichael and Ron Duncan last year. It is based on Australia's own experience in reforming its Tariff Board to undertake a greater role in assessing the costs of protection and promoting public awareness of the trade-offs in different policy choices. An attempt was made to develop a WTO accord on such so-called domestic transparency processes during the Uruguay Round but it got sidelined during moves to create the trade policy review mechanism; there may be scope to revive it. Clearly, there is much at stake for Australia in the Doha round—the agenda for the round is broad and covers the key areas of interest to Australia. This breadth can be very useful. As has already been indicated, in reciprocal negotiations where countries seek to use gains in foreign access to build domestic support for liberalisation, it is important that the scope for trade-offs be as wide as possible.

Agriculture does indeed remain a priority issue for Australia, as well as for many developing countries, but it should also be a priority for the most protectionist developed countries—the EU, USA and Japan. Such protection clearly hurts us. It is focused on the products in which Australian farmers are competitive on world markets, like beef, wheat, sugar and dairy, but these policies also impose major costs on the protecting countries. Productivity Commission staff have estimated that liberalisation of post-Uruguay Round agricultural trade barriers would provide a \$US50 billion boost to global welfare. The bulk of these gains would accrue to North

America, Europe and Japan through a better allocation of their resources, but there would also be significant gains to Australia and New Zealand through higher export prices.

The Uruguay Round achieved little more than tariffication of agricultural protection, but this was nevertheless a welcome advance in transparency. We now know, for example, that Japan's rice protection amounts to a tariff of 390 per cent. Tangible benefits will now require reductions in those tariffs, including temporary tariff quotas, as well as in production subsidies and export subsidies.

If we downplay the USA's recent actions and pay more attention to its words—reversing the usual rule—things do look more promising this time round. The gains to Australia from the implementation of the US agenda would be substantial. Some back of the envelope figuring puts them at roughly \$US40 billion—80 per cent of the total gains potentially available. However, the US offer is very firmly conditional on others coming to the party and the EU is not emitting much enthusiasm at this stage. Moreover, the EU has sought to establish linkages with other complicated areas of the negotiations such as environmental labelling and geographical indications.

It could be that in this development round the big three might be encouraged to offer concessions if developing countries and other agricultural exporters like Australia can exert collective pressure. Whether or not this happens, however, will inevitably still depend on the perceived quid pro quos. In this respect, a desirable feature of the Doha round is not only its breadth but also the single undertaking nature of the final outcome, allowing scope for trade-offs across sectors. For example, service is an area of particular export interest to developed countries; it is also an area of trade where developing countries have the highest barriers and could make concessions that not only would be valued by others but also would be of considerable benefit to themselves.

Again, recent modelling by commission staff, while still highly experimental, indicates the potential for global income gains of over \$US100 billion annually from the elimination of post-Uruguay Round barriers to services trade—some \$US2 billion a year of which could accrue to Australia. That said, liberalising services can be even more politically fraught than goods trade, given the equity and the other non-economic considerations that are often involved and the fact that barriers to trade are often embedded in domestic regulations which restrict competition from any source.

However, where increased competition is found to be appropriate domestically, treating foreign service providers equally, or national treatment, will generally bring additional benefits provided it is not out of step with domestic liberalisation. As you may know, Australia's own barriers to services imports are generally relatively low with the exceptions of maritime services and some professional services, particularly legal services. Commission research suggests that some of the highest barriers overseas are in banking and telecommunications. These are areas where Australia has very low barriers of its own and would seem well placed to benefit from improved access to foreign markets.

While barriers to trade in manufactures are generally low in developed countries, there are exceptions such as in auto and especially TCF—textiles clothing and footwear. Further liberalisation in OECD countries would not only bring direct benefits to Australia but also

indirect benefits from the income gains to developing countries from enhanced TCF exports. Information available to the commission's current inquiry into post-2005 automotive assistance in Australia confirms that the highest barriers to our automotive exports remain in developing countries. For example, Thailand and Indonesia have tariff rates of 80 per cent, and Malaysia—again the outlier—on 300 per cent.

APEC commitments for developing countries do not really bite until 2020, but in the meantime the Doha round provides an important opportunity for achieving some liberalisation in those markets. It should be said however that the WTO's special and differential treatment provisions for developing countries are not conducive to progress. In what has been labelled the 'development round' it seems counterproductive to perpetuate the myth that allowing developing countries extra scope to maintain their own trade barriers is somehow prodevelopment. A perverse outcome for developing countries is that they have also experienced special and differential treatment in developed markets particularly in the TCF sector. Australia needs to support their efforts to remedy this discrimination in the Doha round.

I have noted that Australia has had an important influence on the evolution of the multilateral rules and, indeed, this influence has been disproportionate I think to our economic weight. We have been very well served by Australia's representatives in Geneva. One area in which Australia could make a further useful contribution in the Doha round is article 24, which is intended to constrain preferential trade arrangements but has been quite ineffective.

The proliferation of bilateral agreements involving key trading partners such as the USA, together with delays in the WTO, have led to a more accommodating stance on RTAs by Australia. In a world of trading blocs the cost of exclusion could be substantial. However, it is also in Australia's interest to see WTO rules adopted and enforced that would prevent the formation of RTAs—regional trade arrangements—that would be harmful to Australia whether as a third party or as a participant. How best to achieve this is problematic. Stronger and clearer provisions relating to the need for elimination of barriers to 'substantially all trade' among the members of such an agreement would seem a good starting point. If such deals are truly to be building blocks rather than stumbling blocks for multilateral liberalisation, it would also be desirable to require that any such arrangements are eventually made open to other WTO members on the same terms.

Given the lack of progress in this area this is probably a slim hope, but resistance to any such opening provisions would be revealing about the real intent of such deals. Of course the best safeguard against any harmful RTAs would be successful liberalisation within the Doha round itself since the potential for significant trade diversion is reduced as general trade barriers fall. As in the past, Australia needs to assess and proceed with its own reforms where they yield domestic benefits without being hostage to progress elsewhere. The challenge is to get other countries to do likewise. Thank you. That concludes my opening remarks.

CHAIR—Thank you, Mr Banks. That was a very interesting presentation. Maybe it would be worthwhile for you to do a PowerPoint presentation to the full committee at some stage with Dr Dee so that we can go into more depth. I found that particularly interesting. Perhaps we could start with questions. Mr Grey, as you know I recently visited Geneva and talked to the WTO people there including the Indian ambassador to the WTO who was somewhat less optimistic about the outcome of the Doha round. His concern was with developed countries and their lack

of give in relation to developing countries and the various trade-offs that had been promised in the past that had not been delivered. In particular, he was concerned about TRIPS—trade related intellectual property aspects—and the health aspects of the production of generic drugs in developing countries and the insistence by developed countries on adequate returns on the R&D expenditure that they had to put in in terms of the development of the drugs. To what extent do you see that will impact on the Doha round?

Mr Grey—I am more optimistic on that particular issue which is due for resolution by the end of this year. There was a sort of in principle agreement that there was a genuine issue of concern for developing countries, or least developed countries, taken at Doha and there was agreement that the so-called ‘flexibility gap’ in how generic drugs were treated was something that needed to be looked at, and the end of this year was set as a deadline. Discussions are continuing on that issue. There seems to be genuine goodwill on all sides and we remain reasonably optimistic. It may not happen but we are reasonably optimistic that we will get a solution.

As you know, put simply, no country is against the concept of providing for cheaper generic drugs particularly to least developed countries that may be suffering pandemic situations, and there is a provision for them in that case to compulsorily license the drugs and produce them. Some countries of course cannot produce the drugs themselves and therefore it is a question of the terms under which other countries can produce and export all these necessary drugs to least developed countries. There is some tension between that very worthwhile objective and other major developing countries, some of which have an additional intent, which is to develop significant generic drug manufacturing industries in their own right. Getting a balance between the humanitarian elements of it and the commercial element of it is what is being talked about. The discussions certainly have not broken down and I think there is a reasonable prospect to get an outcome by the end of this year on that issue. The Indian ambassador was right to highlight it and, in terms of setting the overall mood and atmosphere for the Doha round, it is an important issue

CHAIR—In terms of the question of the passing of the Trade Promotion Authority Act by Congress, do you think that will assist America’s involvement in the round and perhaps some opportunities for significant concessions?

Mr Grey—It has made a huge difference. I think that failure to pass the TPA this year would have certainly slowed down the progress on the round. It would not necessarily have brought it to halt but it would have slowed it down. We have already seen evidence of that. The United States has put forward a comprehensive and ambitious proposal on agriculture, which would be difficult in a situation where the TPA was continually being stalled. We expect the United States administration would be much more active in the negotiations as a result of the TPA having passed.

CHAIR—Mr Gosper, in your briefing of the committee you mentioned that the whole question of nomenclature was also significant in terms of the round. Has any progress been made in that regard or will that also be a barrier especially in the agricultural area?

Mr Gosper—No, Chair, but I think we are talking about the issue of extended protection for geographical indications from wines and spirits to food and other products, if I understand you

correctly. We are doing a lot of work on this issue. Essentially, this is an issue that concerns us because it would extend a higher level of intellectual property protection of the sort that is currently provided to wines and spirits, to food and other goods. It could affect, for instance, our ability to use names that are now commonplace for our food producers in other parts of the community—for example, names like mozzarella cheese or parmesan and so forth. It is a problematic issue for us because it is an agenda that is pursued not only by the European Union but also by a number of developing countries who often have interests that reflect spurious analysis of intellectual property issues or quite narrow interests. For instance, the interests of India in heightened protection for basmati rice or Egypt in heightened protection for Egyptian cotton. They are national names, not regional names and therefore cannot be geographic indications. But they have, nevertheless, positioned themselves alongside the European Union as part of that issue. So it makes it even more difficult for us to push back the Europeans on this issue.

We are working not only in Geneva to give some heightened consciousness of the issue and to build coalitions but also with key developing countries to enable them to have some better understanding of their own interests in this issue. We have done a lot of work recently with Kenya which has certain interests in respect of coffee to get to the bottom of their particular problems and to underline to them that this issue of heightened protection for geographical indications is not a solution for them and it presents certain dangers. What it is all about, of course, is giving European producers some commercial advantage for their export products in many other markets.

Senator COOK—I find the written brief very useful. I find Gary Banks's presentation, 'Towards opportunity and prosperity'—which we have a copy of—delivered to the Melbourne Institute in April a good presentation of issues. I would welcome an objective paper coming from that which talks about what the issues are without necessarily forming an opinion on them and which sets out the arguments for and against on the issues of trade and labour standards, and trade and the environment. I think that they are matters that in public debate get covered but without necessarily the clear reasons being well understood as to why they are on the agenda.

I also want to pick up the point made by Mr Banks about the need for informed debate, and support it. We are dealing here with an area in which the arguments are counter-intuitive. They are not obvious to people. In fact, the wrong conclusions are obvious. As representatives of the electorate, that gives us a particularly difficult task in articulating what the net benefits are and how we illustrate those benefits. I have one other quick comment before I ask Mr Banks and Mr Grey questions. The other thing that I think would be valuable is more discussion somewhere about this mercantilist perception that exports are good and imports are bad and that somehow there is a calculus in respect of that. Australia removed its tariff protection unilaterally—and not because of trade negotiations—because when we were in government we believed that to be the right thing to stimulate the economy rather than sit around a table and trade off elements of protection in exchange for that being traded off elsewhere. My questions are based on our terms of reference and what our role as a parliament is.

Mr Grey, since Seattle, the public scrutiny of the WTO has increased and confusion about its role equally has increased. Can you point me to any statement which sets out clearly what Australia's negotiating mandate is? What do we want to achieve in the Doha round? What are our goals? How do we put in context the size of the task that we have set ourselves and the

prospects for that task so that there is an understanding of what this country wants, how difficult is it, and what are the likely strategies to achieve it?

Importantly, in any negotiation there are always choices that you have to make. Who makes those choices, and what are the significant choices we face? For example, yesterday I was lobbied on the trade in services on the GATS issue where considerable concern was expressed by the lobbyist about the prospects of public education and public health being jeopardised by those negotiations in exchange for doing a deal on agriculture. I think in your remarks you referred to an agriculture-services dichotomy—I do not put it any higher than that. If there is such a choice in trying to get an agricultural opening, who makes it and on what criteria is it made?

Mr Banks, let us talk about some of the common confusions here. You talk about RTAs, but we are talking in public discourse about free trade agreements. It seems to me that 'free trade agreement' is the wrong name and that it really is a preferential trade agreement that we are talking about. Does the language of a free trade agreement mislabel what is in fact a trade diversion agreement? At the end of the day, under our Constitution, the executive will sign off on the Doha Round but parliament will debate bills consequential upon the settlement. Does the Productivity Commission have any studies under way about the comparative advantages to the Australian economy of FTAs in relation to the point you have made in your own remark about the primary significance and overwhelming importance of multilateral negotiations?

Mr Grey—To answer the first part of the question, I think we probably try to deal with presenting the issues and making them available for debate and discussion in a number of ways. At the broadest level, the best way of bringing it together is probably through the TOOS statement—the trade outlook objective statement—which is of course a public statement. The minister conducts it in the parliamentary context. We ourselves, for example, prior to Doha put out an issues paper which looked at the main issues as we saw them coming up for the Doha Round. We have also provided background material—and continue to do so—on all the major agreements of the WTO. They are readily available on the web site.

As I mentioned at the outset, we provide weekly updates on key issues, where we have got to, what the problems and key issues are and who has been presenting papers. Copies of papers are readily available. On the more complex issues such as dispute settlement, we tend to provide monthly bulletins which again go into detail about exactly what is happening in those particular areas. So I think there is a great deal of publicly available information these days as to what is actually happening.

You talked about a dichotomy between services and agriculture. I am not sure that that was the point I was making. I was really making the point that at this stage you cannot get a large outcome in one area of the round without having it balanced by a large outcome elsewhere. This goes back to the whole issue of the role of developing countries. Essentially, developing countries are looking for outcomes in the round in areas of market access interest to them—agriculture and, to a lesser extent, TCF. So that is one of their big demands. If you cannot deliver a big outcome for them in areas of special interest to them then the ability of developed countries who want access in the services area, for example, is significantly weakened. It was the interdependence that I was pointing out to you, rather than any sense of competition or tension between the two areas.

In terms of trade-offs, that is still a long way in the future. There is no suggestions of trade-offs at this point and I would not expect that to occur really for some time into the future. We of course discuss the strategy and the approaches we are intending to take with the WTO Advisory Group and also with TPAC, but particularly with the WTO Advisory Group, and we have an agricultural trade consultative group. We are talking daily with individual sectoral areas in the agricultural area and in the services and other areas. So I think, frankly, there is a pretty extensive process of debate and discussion.

You mentioned GATS, the General Agreement on Trade and Services. That has been a major concern for some time. We have tried through various means to get the message out as to what the GATS does and does not do. We produced a quite useful one-page document earlier on in the year, a facts sheet. In some ways we have gone to fairly heroic lengths by, for example, talking to talkback radio people in Sydney to try to explain—

Senator COOK—Heroism indeed!

Mr Grey—what was involved, because a lot of these issues seem to run through the talkback radio network.

CHAIR—Do you want to name the ones you spoke to?

Mr Grey—Not at this stage.

CHAIR—Shame.

Mr Banks—Thank you, Senator, for your questions. On environment and labour standards and their links to the WTO, as you indicated, my remarks at that conference at the Melbourne Institute were quite brief. The commission had a more elaborative treatment of those issues in a submission that we did to DFAT a year or so ago prior to the Doha Round itself. Indeed, there is a staff working paper which has a more extended treatment again, which I will make sure you get a copy of.

Senator COOK—If that could be available to the committee, I think that would be appreciated.

Mr Banks—It would be a pleasure to make that available to the committee. Clearly, the issues are very complex. Often what seems like a sensible objective and a useful means of achieving it turns out to be more complex, and generally trade barriers and trade actions are rather blunt instruments for dealing with issues to do with environmental problems. There is a question of how effective they would be in some areas of concern in relation to labour standards. So we have a more elaborative treatment of that, looking at the various issues involved, and I would be happy to make that available.

On the question of the benefits from each country's own liberalisation, as you would appreciate, this is an issue that the commission feels quite strongly about, having been involved in the battle for hearts and minds in Australia over a long period of time—with others of course—in its various configurations. And we know how hard it has been in Australia and, indeed, it is always easy to go backwards—it is a constant effort to keep what, as you said, was

a counter-intuitive proposition, and to keep some understanding of why at the end of the day it does benefit us to liberalise ourselves.

The commission has been involved in some initiatives in this area. Apart from doing work domestically, we have been involved in some training initiatives with officials from developing countries to help them understand how they can analyse their own trade barriers and so on. Indeed, my colleague Philippa Dee is involved in a project in which we are co-sponsoring with the USITC a seminar on non-tariff barriers as part of the APEC process, again, to encourage an understanding of how these operate and how their effects can be understood.

In relation to the issues of RTA versus FTA versus PTA and all of those other acronyms, you are quite right, Senator, no matter what you call them, all of them will involve some trade diversion. That is inevitable. I guess the sixty-four dollar question is: does trade expansion outweigh trade diversion? You generally cannot have one without the other. That is what makes these things so interesting—if I can use that term—in a policy context, because there is a range of considerations. But when you look at the hard economics of it, it is very hard to tell in advance before you do the numbers how these things will turn out.

The important dimension of that of course is how comprehensive the liberalisation is between the two countries concerned. It matters who is excluded from these deals in terms of other countries but it also matters what is excluded from these deals in terms of particular goods or services. A case-by-case assessment is needed to understand how those things pan out.

Senator COOK—I think in your paper you say something about non-economic issues like political considerations being a judgment on whether you might proceed to conclude a free trade agreement.

Mr Banks—Historically, when I looked at this some time ago—and things may have changed—it seemed clear that political and strategic considerations tended to loom larger than pure economic considerations in the sorts of deals that had been done at that time. Certainly it is an important factor in what deals get done and how quickly they get done. I guess the point I was making in my opening remarks is that with all that in mind, with the potential for trade diversion and for Australia to suffer at the hands of trade diversion occurring through other agreements, it is important to try to get the WTO agreement rules clarified and strengthened in this area. The two dimensions I mentioned were, firstly, to ensure that the provisions about ‘substantially all trade’ have greater clarity and meaning and, secondly, to ensure, if possible, that these things can be multilateralised in time, and that is very hard. As I said, it would be a litmus test of these agreements themselves if there were a requirement that down the track other countries should be able to have access to those agreements on the same terms as the countries themselves. That would be a real test of whether they were intended to be building blocks for multilateralism and would be a sensible way to go, I think.

In terms of the commission’s work in this area, in relation to FTAs or preferential agreements versus multilateral agreements, we have some work under way. We are doing some empirical analysis of a range of regional agreements—whether we call them free trade agreements or preferential agreements—and how they have stacked up in terms of trade creation versus trade diversion. I might just ask my colleague, if you like, to elaborate briefly on some of that work that we are doing, which I think should be available within a month or two.

Dr Dee—We have not examined in detail any of the proposed RTAs that our colleagues from the Department of Foreign Affairs and Trade have mentioned. We made this a strictly historically exercise, looking at agreements that are in place at the moment or that have been established or expanded over time. A lot of past studies have found that on balance these things have tended to create more trade than they have diverted from third parties. For technical reasons, which I will not go into, we find a lot of those findings a little bit unconvincing. People have not been very careful at looking at what has happened over time and they have not been very careful at looking at the before and after effects. They have tended to look at these things at one snapshot point of time and have said, ‘Okay, it is done this and it has done that.’ We have been able to spend a bit of time building a dataset that would allow us to look at these things over time and be more careful with that before and after comparison. We find that in fact the benign conclusion is reversed on the trade side at least. These things have tended to be more diversionary than they have been trade creating.

If you want to understand why, the best example I can give is the NAFTA agreement. Because these agreements are preferential, you have to have rules about whether your goods qualify for free entry into the other market. In the case of NAFTA, these rules are written out—detailed product category by detailed product category—and they go on for hundreds of pages. If this is the baggage that a free trade agreement brings—think about a 300-page book of rules for one agreement and then about all the overlapping agreements stacked on top of each other—you begin to understand why these things perhaps are not creating as much trade between trade partners as they sometimes make out.

We have found, however, that in terms of their impact on investment, which is an issue which has not been looked at very much empirically, there tends to be a bit more good news there. To the extent that I can put an intuitive explanation on that, I think a lot of it has to do with the fact that the non-trade provisions of these agreements to do with investment and with services often have been a lot simpler than the trade provisions and often not even particularly preferential. For example, we think about the agreement that our DFAT colleagues are talking about with Singapore. One of the issues there is enforcement of intellectual property rights. You cannot deal with that on a preferential basis. But if we can get action on it on a non-preferential basis through a regional trade deal, that would be quite an achievement. So there is a bit of a difference in story there on the investment and the trade side, but the trade side we find is not a very happy story.

CHAIR—Thank you. You confirm the fact that it would be great to have you back and expand on these areas with the appropriate PowerPoint.

Mr HAWKER—I would like to follow on from the points Senator Cook was raising, Mr Grey and Mr Banks. To go back to a point in your opening remarks, Mr Banks, I think you said something along the lines that lack of progress in agriculture—and you expanded on it again—would affect negotiations in other areas. Coming back to what Mr Banks was talking about regarding the difficulty in getting the intellectual arguments across and the fact that often the right argument is seen to be counter-intuitive to what people think, I recall when the Red Book went out it seemed to create a lot of interest and a lot of effort was made in Europe to try to promote it. I gather, listening to its promoter anyway, he did get a lot of interest and the more controversy he stirred up, the bigger the audiences he could find. I am just wondering whether it would be worth trying to do another exercise along those lines. I think the opportunity to really

reinforce that exercise ought to be in the current performance of the Australian economy, which clearly demonstrates what a number of years of reform can achieve in these areas. When you look at our current economic performance and at our projected economic performance, in the back of the *Economist*, I would have thought we have got a pretty powerful message there. I am wondering whether there should be more effort to use that as a lever to promote the ideas that you are talking about and to gain greater support for it.

Mr Grey—That particular analytical approach to encouraging or building greater support for trade liberalisation, or acceptance for trade liberalisation and its benefits, I think, has its role—and certainly the Red Book. Similar studies were done for the United States and for Japan. Their successes in terms of the impact on policy probably has not been as dramatic as we would have hoped at the time, although it certainly contributed to the internal debate.

At the end of the day, the real problem is that difficult politics come into play. Certainly from my experience in Japan there are many Japanese, including senior Japanese officials and politicians, who are very well aware of the damaging effect on their own agricultural sector and the economy as a whole of their high levels of agricultural protection. But the political system basically does not allow for more rational outcomes.

In the case of Europe, obviously a lot of work is being done internally within Europe on the same issues by various European think tanks and universities and I think the climate has changed over a period of time to being significantly more liberal in terms of agricultural liberalisation. The politics are moving a little more kindly in that direction as well. We certainly contribute to that process.

There are other ways of doing it, which we try to do with our own DFAT in terms of our own resources. For example, in Europe we do have other allies and we try to work with organisations, which are not naturally allies for us elsewhere, on trade liberalisation. For instance, we are working with the World Wildlife Fund and Oxfam in Europe. We oppose some of the positions which they take elsewhere, but in Europe they are strongly critical of the intensive agriculture and the role of the cap and what it does to the environment in Europe. We work with them to try to promote the cause of agricultural trade liberalisation and such in Europe. There are different ways of doing it. The analytical work is certainly helpful and it is necessary to have it as an underpinning of it, but it is obviously not enough in its own right.

Mr Banks—I also recall that when the Red Book was being promoted in Europe, the story—and I do not know whether it was apocryphal—was that the director of the BAE at the time, Andy Stoeckel, found there was ‘no room at the inn’ when he tried to find forums to give presentations on the costs of the cap to European consumers. In the end, I think he gave his first presentation in a room that the OECD had provided in Paris, possibly preaching to the converted—I do not know—but some journalists, like Martin Wolfe of the *Financial Times* and others, picked up the story and it got a certain amount of coverage.

The problem, as I indicated in my remarks, is that it is seen very much, in terms of the public debate or the political debate, as being an interested point of view from another country that clearly would benefit from liberalisation in Europe. To that extent its political influence is probably diminished, even if its intellectual credentials are quite good. That is the problem in a way. The intellectual argument has generally been won in all countries, among those that think

about such matters. The problem is that it is not having a bearing on the actual political forces that determine outcomes. Secretary of State Schultz in the USA was famous for saying that all trade policy is essentially national or domestic, and I think that is true. At the end of the day, countries will give what they feel they can achieve domestically.

That is why I also made the comment in relation to Bill Carmichael's work. To some extent the real solution is institutional and finding a way of embedding domestic processes which lead to trade policy outcomes or protection or industry assistance and force public scrutiny of the trade-offs. That is why I mentioned the experiment that Australia had with the conversion of the Tariff Board from an institution that essentially calculated margins of disadvantage and gave Australian manufacturers the tariffs they needed to an organisation that looked at the costs of protection and tried to weigh up the costs and the benefits and bring various stakeholders into the process. That is a very hard thing to do.

There was an initiative in the Uruguay Round and the FOGS group to try to get a code on such procedures—essentially, I suppose, converting tariff commissions to institutions with a slightly wider mandate to do that. I agree that having the intellectual argument is not enough; it has to have a direct bearing on the policy making process, and that is quite hard. However, simply getting the information is a start, and that is very important.

I also mentioned that one way of trying to overcome the 'they would say that, wouldn't they, because they have an interest' phenomenon is to get researchers within those countries involved in doing work of that kind. There may be a role for Australia or the Cairns Group, again, to help sponsor work globally with researchers in every country doing work for their own country, and I think that work would have a higher credibility within those countries.

Mr HAWKER—The point I was trying to make though is that we must have a much higher credibility factor on this very argument right now because of the current performance of our economy.

Mr Banks—Yes, I think that is right. Australia has come a long way and, as I indicated in my remarks, I think we have the results to show for it. Typically, countries do not learn from each other's experiences. It is very hard to sell your experience to another country because each country sees itself as so different. I think the Australian story is getting into the OECD and other international fora where it is clear that we are outperforming most other countries, which has to do with what we have done on trade and a range of other reforms. Bringing that information to bear in a way which says to other countries, 'Hey, we should do what they're doing' is quite hard. Again, probably the international agencies are a good forum for that. In our own area, probably the work that is going on within APEC provides an opportunity to retail some of that information.

Senator O'BRIEN—The debate in the EU about delinking subsidies from production is very interesting. I would like a view on how important that is if it does feed into the Doha round or, indeed, whether it is unilaterally pursued by the European Union. I would like a view as to how important that would be to the issue of world markets, in particular commodities. The other issues relate to the Doha round, what, if any, changes are likely to the rules relating to the sanitary and phytosanitary protocols, the quarantine barrier and the enforcement of the rules in the Doha round.

Mr Grey—I think the moves which were foreshadowed by EU Commissioner Fischler to reform CAP as part of the mid-term review, in principle, are welcomed. We have been arguing for decoupling of some form of European support from production for 20 years or more now. So, in that sense, it was a very important step. Over time it will alter the nature of the CAP and the nature of European agriculture as well. The other element is that it does not at this point of time involve any significant budget reductions. While delinking support from production is a good first step, if you are still providing support at extremely high levels the production impact can be masked quite effectively. Gary Banks might have done some work on this or looked at this more closely. It is a good first step but there is still more work to be done.

The next opportunity to significantly reduce the budget does not come until 2006 when the current budgetary arrangements cut out. So the immediate impact on trade would be less than, for example, the sorts of proposals which are being suggested by the United States in the context of the Doha round. I will check this with Mr Gosper, but I believe there is no proposal at this stage to reopen and renegotiate the SPS agreement. There is general satisfaction with the way it is operating or at least a realisation that a better outcome would not be possible.

CHAIR—I would like to thank you all and to compliment you on the professionalism of your presentation—I thought it was outstanding. Thank you for coming. We look forward to having both Mr Banks and Dr Dee back at some stage. It is a fascinating topic and we would like to learn more. So if you could work on a PowerPoint presentation in between time it would be excellent.

Proceedings suspended from 9.45 a.m. to 10.01 a.m.

GALLAGHER, Mr Peter William, Principal Consultant, Inquit Pty Ltd

HOWARD, Mr Lyall, Deputy Chief Executive Officer, National Farmers Federation

MALES, Mr Warren Peter, General Manager, Trade and International Affairs, Queensland Sugar Ltd

CHAIR—Welcome. The subcommittee prefers that all evidence be given in public, so should you at any stage wish to give any evidence in private you may ask to do so and the subcommittee will give consideration to your request. I now invite Mr Howard to open the discussion on agriculture and negotiations, followed by our dairy and sugar sector representatives before we proceed to questions.

Mr Howard—Thank you for the opportunity to give you an overview of agriculture and the Doha Development Round. It is certainly good news that we have a round. It was at the second WTO ministerial conference in May 1998 that ministers decided to prepare the ground for a new round, but it took 3½ years of talks about talks before the negotiating agenda was finally settled in Doha last November. After 45 years of global trade talks, it was the last round that was the real watershed for Australia. As Dr Clayton Yeutter, who was US trade representative at the launch of the Uruguay Round, on the opinion page of the *Australian Financial Review* two weeks ago, said:

In the Uruguay Round we stopped a few agricultural trade distortions in their tracks, and slowed many others. That was progress, for it had never been done before.

This is true. Before the Uruguay Round, Australia had failed to make any headway at all in liberalising agriculture. In the Tokyo Round from 1973 to 1979, for example, we went in complaining about agricultural tariffs and subsidies but were not taken seriously because Australia refused to liberalise its own industrial tariffs. By 1983, Australia had floated the dollar and embarked on a process of unilateral tariff reform which gave us negotiating credibility in Geneva for the first time ever.

But history told us that we needed friends. So in 1986 we formed the Cairns Group, which became the most unusual, cohesive and effective coalition of countries ever seen in multilateral trade talks. With the Cairns Group, Australia made the transition from being an almost irrelevant small player in the Kennedy and Tokyo rounds to being a player that punched above its weight in the Uruguay Round. The result for that effort was the first ever Agreement on Agriculture. The Agreement on Agriculture made cuts in export subsidies, cut tariffs and imposed some disciplines on domestic subsidies. Regrettably, the succession of crises it took to reach this agreement meant that there was little time, energy and patience left in which to make the agreement watertight.

We knew at the time that the Agreement on Agriculture was a foot in the door and that we would have to wait until next time to complete the job. Next time has arrived and we have a big job ahead of us. During the implementation period of the Agreement on Agriculture, the loopholes became apparent. Countries and regions like America, Europe and Japan may have

lived up to the letter of the agreement but certainly not its spirit. OECD research shows that total support for agriculture today is as high as it was 15 years ago. The Doha Round is Australia's opportunity to write a new agreement on agriculture and close some of those loopholes.

It would be nice to think that now the round has started it will be all plain sailing. The Uruguay Round took twice as long as originally intended and was certainly not plain sailing, so there is no reason to think the Doha negotiations will be any different. The first imperative to making this round a success is leadership from America. The health of the multilateral trading system depends a great deal on the attitude of the United States. No global trade round has been concluded without American leadership, Doha will be no exception. In May of this year, America took a big step backwards in trade policy leadership through the passage of a farm bill that was inconsistent with the objectives of the Doha negotiations. How did this happen? Senator Richard Lugar summed it up well when he said:

In this election year, neither ... political party wanted to risk being labelled as the anti-farm party.

Many of the tightest congressional races this November are being waged in the farm belt. Even if many law-makers do not understand what a loan rate deficiency payment is, they know perfectly well that their farmers vote.

Three months after the passage of the farm bill, the Americans took a big step forward. President Bush won trade negotiating authority from the congress, which President Clinton had lost in 1994. The passage of the trade promotion authority bill does not, by itself, promote free trade or undo the damage of the farm bill but it does give President Bush the chance to prove himself as the free trader that he claims to be. The Americans took another step forward when the administration presented its proposals for agriculture in the Doha negotiations. Over five years, the Americans propose to eliminate export subsidies, to slash tariffs and to cut trade-distorting subsidies. It is a bold proposal which calls for big cuts in agriculture spending by Europe and Japan. This is exactly what the Doha round should be about. With trade negotiating authority in hand and a bold proposal in the WTO, America is back in the game and looking like working with the Cairns Group to make this round a success. The actions of the Cairns Group will now be critical.

The National Farmers Federation is lending support to this process through two key initiatives. The first initiative was launched at the Sydney Cairns Group ministerial in April 1998 and has continued at each subsequent ministerial. It involves the NFF hosting a parallel meeting of presidents from the peak farmer organisations in the Cairns Group countries. Called the Cairns Group Farm Leaders, this group has become an integral part of ministerial meetings. The farm leaders meet with Cairns Group ministers formally and socially during the ministerial and present a statement to ministers at the opening ceremony. The message to the world is that industry and government in the Cairns Group speak with one voice. The next farm leaders and ministerial meeting is in Bolivia in October.

The second initiative by the NFF was the formation of an alliance with a Washington think tank called the Cordell Hull Institute. Chaired by Dr Clayton Yeutter, the Cordell Hull Institute is dedicated to the achieving agricultural trade liberalisation in the WTO. The objective of the alliance is to hold a series of high-level trade policy roundtable meetings around the world to

build support and consensus amongst business leaders for substantial liberalisation of agriculture. The first roundtable was held in Airlie House in Warrenton, Virginia, in May. This meeting of 40 trade and agriculture specialists was strongly supported by Australian agribusiness through funding and participation, and it was strongly supported by the Australian government through the participation of the deputy chief of mission and the minister-counsellor of agriculture from the Australian embassy in Washington. The next Airlie House meeting is in Brazil in October. NFF will continue to work with the Cairns Group and American leadership that want to see reform of the global trading environment for agriculture.

Mr Gallagher—Thank you for the opportunity to appear here today. I would like to talk about the opportunities for Australia's dairy industry in the multilateral trade negotiations. The dairy industry is by far the largest food processing industry in Australia, with a turnover of \$8.34 billion. It is larger, as a food manufacturer, than beef or wine or soft drinks, pet food, beer, seafood, pork, chicken, sugar, confectionary, flour and bakery products. The dairy industry is one of the largest employers in rural and regional Australia. As Australia's largest processed food industry, it is also Australia's largest processed food export industry. It has performed better in export markets over the past decade than most other agricultural export industries. Almost six billion litres of milk from the total production of over 11 billion litres now goes to export. Most new production is destined for export markets, so on historical growth rates we expect exports to rise by more than 50 per cent to over 10 billion litres by 2010.

The continued profitability and growth of milk production depends on meaningful trade reform. If there is real market reform over the next decade, world market prices will rise and prices will be less volatile. The price and volume effects of this reform would probably see Australia's export values double from today's levels. Sustainable world market growth and higher world prices depend on access reforms even more than on the elimination of export subsidies. Lower barriers would see the whole world market expand. World prices would rise towards the EU and US wholesale prices, making it easier for the governments in those countries to pursue their current reforms: cutting domestic subsidies and export subsidies.

The Cairns Group pressure for these ambitious market access goals is essential. Although the aspects of the US proposals to which Lyall referred are welcome, they may delay the reform of dairy markets for many years. Meaningful changes in the world dairy market depend crucially on the expansion of quota access as well as bringing down peak tariffs and cutting export subsidies. The Cairns Group must press for minimum access tariff quotas to be rapidly expanded, because this will bring up the world price, making it easier to secure the elimination of export subsidies and reducing the need for high domestic support payments. The dairy industry plans to be present at the Bolivian meeting of the Cairns farm leaders in October to pursue, in concert with industries in Latin America and New Zealand, the global liberalisation of the world dairy market.

Mr Males—Thank you for the opportunity to appear before the committee this morning. Like the dairy industry and agriculture more broadly, the sugar industry is working very closely with the Australian Minister for Trade, Mr Vaile, his department, the Cairns Group and through the global sugar alliance to raise the profile of sugar in international trade talks, be they multilaterally, regionally or bilaterally focused.

The Australian sugar industry was instrumental in the creation of and chairs the Global Alliance for Sugar Trade Reform and Liberalisation. The principal objective of the global sugar alliance is to secure positive, progressive and meaningful reform of the world sugar market by ensuring that sugar is included as an important element of the agricultural trade agenda and treated equally and fairly with other agricultural commodities. The No. 1 issue for the Australian sugar industry is market access. The Global Alliance for Sugar Trade Reform and Liberalisation was established in Seattle in November 1999, when a group of the world's major sugar producers, both exporters and importers, met in Seattle and agreed to join forces and commence an effort to elevate the importance of sugar in agricultural negotiations. The 10 members of that alliance are Australia, Brazil, Canada, Chile, Colombia, Guatemala, Honduras, India, South Africa and Thailand. Recently, we received an application from Paraguay to join the group.

The global sugar alliance represents more than 50 per cent of world sugar production and more than 85 per cent of world raw sugar exports. By reaching an agreement to collaborate on trade distorting issues, agreeing common objectives and working closely with trade and agricultural ministers in the Cairns Group, the global sugar alliance has been successful in elevating the profile of sugar in trade negotiations. It has developed proposals and positions designed to make a constructive contribution to the next stages of the negotiations and keep sugar at the forefront of the WTO agricultural agenda. We have discussed these with Minister Vaile, his departmental officials and Cairns Group ministers and have taken them to specific audiences in Washington, Brussels and Geneva. We will be in Geneva again in September and will next meet with the Cairns Group in Bolivia on 17 October.

I turn to some of our key messages. One of the key shortcomings of the Uruguay Round agreement for our commodity was the aggregation of disciplines. That process meant that, for individual commodities—especially sugar—the disciplines were modest. To avoid the inequities of the Uruguay Round outcome and to ensure that sugar is treated equally and fairly in the agricultural negotiations of the Doha Round, the global sugar alliance supports an integrated approach that addresses the three pillars of trade policy: export subsidies, market access and domestic support. We support a formula approach to the negotiations to produce commitments that are implemented on a product-specific basis and an implementation plan that includes discernible, measurable steps towards the agreed outcome over a short three- to five-year implementation period.

On market access, we are looking to achieve substantial increases as a means of improving the agricultural markets, and this is through a combination of tariff reduction and quota expansion. On export competition, we are looking to eliminate all forms of export subsidies, including export credits, and once again looking for discernible, measurable steps towards these elimination targets over a specified period. On domestic support, we are looking to achieve product-specific reductions in all trade-distorting support, with no exceptions.

I would like to draw your attention to the fact that, while the Uruguay Round agreement was a useful start and is a useful starting point for the Doha Round, the global environment is changing. The Uruguay Round was confirmation of minimum access volumes in the US and disciplines on the European export subsidies. These disciplines restrict the options available to the US and EU policy makers and are beginning to bite. Without the disciplines there is no doubt that the US would be importing less sugar and the EU would be exporting more sugar

with the aid of subsidies than they are presently. In fact, this year the European Union may need to reduce its domestic quotas by as much as 500,000 tonnes to stay within its WTO export obligations. Might I add that Minister Vaile has recently announced that Australia will join Brazil in taking joint WTO action against the EU's use of export subsidies. This action is fully supported by the Australian industry and the Brazilian industry. We understand that the Thai industry also fully supports it and is talking to its own government with respect to taking the action forward. Other members of the global sugar alliance have also indicated the support of their industries in the action.

Other factors, too, are prompting change. Under NAFTA, the US must increase access for Mexico. By 2008, Mexican sugar producers will have full access to the US market. The US also plans to negotiate free trade agreements with a number of countries. It is likely that several of the sugar-producing Central American countries and Australia will seek improved access to the US market for a range of agricultural products, including sugar. The US is seeking access to a range of markets for its own agricultural exports. Enlargement of the European Union to include eastern European countries will place agricultural policies in that part of the world under significant pressure. The European decision to allow least developed countries access to the European markets will add further pressure. For sugar, full access for LDCs is expected in 2009.

The ministerial declaration launching the Doha Round reconfirmed the ministers' commitment, without prejudging the outcome, to comprehensive negotiations aimed at substantial improvements in market access, reductions of—with a view to phasing out—all forms of export subsidies, substantial reductions in trade-distorting domestic supports. It is important that these dynamics are recognised as the agreements are finalised. The agreement for the Doha Round is expected by 1 January 2005, the implementation period thereafter. With the implementation period so far away, it is important that the changes occurring between now and then are taken into account, rather than simply using the Uruguay Round outcome as a take-off point for future disciplines.

Significant changes to world sugar policies are not expected to occur for at least five years; but, as I have noted, the pressures for change are mounting. WTO negotiations will add to this pressure. As Lyall mentioned during his remarks, the Uruguay Round agreement on agriculture was achieved because of the fundamental tension between the EU and the US on a broad range of temperate agricultural commodities—and this was supported by the activities of the Cairns Group. Unfortunately, this tension did not exist for sugar. The consequence was that the outcome for sugar was much diluted compared with other commodities. In the interests of fairness and equity, and to address the concerns of developing countries, this must be addressed during the Doha Round.

It is equally the case in the current negotiations that no fundamental reform will occur unless we drive the case for change. The Australian sugar industry is acutely aware of this and is determined to continue to work closely with Minister Vaile, his department—through the global sugar alliance and the Cairns Group—and others to ensure that sugar is treated equally and fairly in the Doha Round as well as in regional and bilateral trade agreements. To conclude, I think it is important, as I have mentioned, that the trade agreements include a fully specified timetable and action plan to ensure that substantial and discernible gains are made in each of the three pillars of the agreement on agriculture over an agreed time period and to re-emphasise the points that these disciplines should be applied on a product-by-product basis.

CHAIR—Thank you very much. We will now proceed to questions.

Mrs MOYLAN—Mr Howard, earlier this week our Trade Subcommittee met with Angela Ellard, Director and Counsellor of the Trade Subcommittee of the US House Ways and Means Committee, which you would understand is the pre-eminent committee in this area. It became obvious to most of us in that committee—certainly to me—that there are tensions between Australia and the USA. Those tensions have arisen over the importation to Australia from the USA of grapes, apples and a number of other agricultural products. Mostly these have been blocked over what I think are legitimate quarantine issues. Yet we have seen the passage of the farm bill in the USA, which appears to me to be massive in terms of blocking global free trade compared with the minnow of apples, grapes and a few other agricultural products. What is the NFF doing to highlight and demonstrate that this is a very unequal balance? If that is indeed a real tension—which I understood it to be from what Ms Ellard said—what are we doing to try and balance the ledger and highlight the fact that the trade bill is a monster by comparison?

Mr Howard—That is a big question and there are a lot of aspects to it. I also met Angela Ellard. She raised the issue of SPS and the tension between Australia and the US. I explained to her that I thought this was a total red herring and it has been manufactured by the American Farm Bureau Federation because they have nothing else to throw at us. We are right. They know that they are in the wrong with the farm bill, and they are desperately casting around for something.

The disappointment about this tension is that it was Australia and the US that fought long and hard in the Uruguay Round to make sure that the sanitary and phytosanitary agreement was based on strict scientific principles. It was the Europeans who wanted to introduce so-called consumer concerns, animal welfare and nonscientific factors into the SPS agreement, and Australia and America fought hard to prevent that happening. Now we seem to have some tension between us over this, but I think largely it has been manufactured. Australia has the most transparent, consultative process available to make these judgments.

As I explained to others, if you make the short trip over to the Blue Ridge Mountains in the Shenandoah National Park in Virginia and go to the park rangers' interpretive centre and have a look at the impact of gypsy moth on the forests of Virginia, the description in that interpretive centre says that, at the height of summer, the defoliation from gypsy moth is so great that it looks like the dead of winter. I said to Angela, 'We don't want the glassy-winged sharpshooter out here doing that to our Eucalyptus forests.' That is all it is about.

Mrs MOYLAN—I totally agree with you on that. I have fought battles on behalf of my electorate about grapes and apples, and the glassy-winged sharpshooter was one of the major concerns—and that is a major problem in the USA. So our blocking, if you like, of the importation of certain products has been based on quarantine issues and public concern about the introduction of pests and diseases into Australian produce. But I do not see there being a lot of public defence of Australia. I wonder whether NFF might take a stronger role in putting up Australia's point of view on what is a major imbalance and a situation where, for our smaller producers in those other agricultural sectors, it is a serious issue in terms of risk. We must be absolutely certain, before we allow importation of those products, that those risks are not going to threaten our sectors. Can NFF take a more prominent role in putting forward Australia's case?

Mr Howard—We are certainly making very strong behind-the-scenes representations in America and we have made public statements defending our quarantine system and the reasons for it. Perhaps we need to be more visible so that it is seen by people here. But we have been taking a very strong position on this because we do think it is a total red herring.

Mrs MOYLAN—What capacity do we have, considering the way we have worked with the Cairns Group, perhaps to ally ourselves with other countries, particularly European countries, to put up a stronger fight against bills such as the US farm bill?

Mr Howard—Yes, you are absolutely right: the US farm bill is about domestic politics. Observers in Washington who have watched this process for many years said that the debate on the farm bill was the most acrimonious ever. A lot of information came out to explain the damage that it was causing. For example, the General Accounting Office said that American consumers were paying an additional \$1.9 billion annually in higher food costs because of the sugar program. The influential Republican think tank, the Heritage Foundation, published a report showing that the annual bill for the farm bill was \$4,377 per household. The International Dairy Foods Association explained that the dairy program in the farm bill imposes an expensive regressive milk tax that would force milk drinkers to pay more than \$2 billion a year in higher milk prices.

The problem is, as Senator Lugar again explained, that the focused advocacy of a small number of farmers in a local district or state has more influence than arguments about the broader wellbeing of all Americans. What we have to do is educate more about the cost to Americans of their own farm bill. Working with the friendlies on the inside and, again, the Airlie House process that we have started is partly about that. We are thinking about and laying the groundwork now for the 2007 farm bill.

CHAIR—Just on that point, do you have a lobbyist in Washington?

Mr Howard—No, we do not have an employed lobbyist.

CHAIR—Have you ever thought about that?

Mr Howard—We have had one in the past, yes.

Mrs MOYLAN—I do not think the story is told often enough of the history of the reduction of tariffs and global trade. America was at the forefront of that, and Australia embraced that a decade or so ago. We have certainly benefited economically from that decision, and I know that NFF were at the forefront of driving that on Australia's behalf. But there certainly has been a very high social cost in many parts of rural Australia. Perhaps some of those historical points need to be highlighted more strongly, both at home and internationally—and certainly in the USA.

Mr Howard—That is a good point. I was talking to Richard Haire, the CEO of Queensland Cotton, yesterday. He is making a presentation in Washington in a couple of weeks time. He will be talking about the adjustment that the Australian dairy industry has gone through and how that adjustment process was gone about here. The dairy industry has gone from strength to strength.

Mrs MOYLAN—And the sugar industry is now confronting that, Mr Males.

Mr Males—Yes.

Senator O'BRIEN—Mr Howard, thank you for that presentation. It is interesting that you present us as a leader in the field on the basis of leading by example as a deregulator and free trade country in reducing protection. One issue on which I would like a comment from you and Mr Males is that of restructure packages. Let us use sugar as an example because it is on the table at the moment, if you will excuse the phrase. The introduction of a levy to restructure the sugar industry obviously would have to be placed on imported product; otherwise the 15 per cent of our sugar that we do not export would be under pressure from imported sugar, against which currently there is no tariff. How do we cope with the dilemma of trying to assist our industry to restructure, maintain our credibility in this very important round of negotiations to free up trade on agriculture and not prejudice the sugar industry or other domestic industries and our credibility at the same time? I think that is a fairly fundamental question that agricultural lobby groups need to answer.

Mr Males—Thank you, Senator. You raise an important issue for the sugar industry. You are quite right when you say that, if a levy is applied, it would need to be applied across all consumption, both from domestically produced sugar and from imported sugar. I think the key to the arrangements being canvassed is that they go towards the long-term structural adjustment basis for the sugar industry to ensure that it is there for the longer term. One of the options that people seem to be putting forward is an arrangement similar to that applied for the dairy industry. If that is the case—and I understand that the dairy arrangements are entirely consistent with Australia's international obligations—I do not see any difficulties.

Senator O'BRIEN—But it does not apply to imported dairy product. It is only the fresh milk that the 11c a litre applies to, not to imported dairy product.

Mr Males—It just happens that, in the case of dairy, no milk is imported because of the characteristic of the product. Sugar is a product of a different character. Quite clearly, if the levy did not apply to imported sugar, there would be an incentive for some to import sugar. As you point out, there are no tariffs in place on sugar at the moment, although Australia's WTO binding would enable it to apply an import tariff of up to \$70 per tonne and remain in compliance with its WTO obligations.

Senator O'BRIEN—What sort of money would that raise? We have 15 per cent of our production and whatever is imported. Obviously we cannot levy these charges or apply this levy to the export at 85 per cent currently of our sugar production. We are looking at a value that is probably considerably less than the national dairy market, I would think. I am just trying to get a picture of how we are going to raise a significant amount of money from this levy at \$70 a tonne.

Mr Males—It is not for me to comment on the nature of a proposal that may or may not come to pass. But I can say that the size of the Australian domestic market for sugar is in the order of 950 to one million tonnes of sugar consumption. A levy applied to that quantity at whatever the basis was would simply raise the revenue equivalent to the amount of the levy and the tonnage involved. Beyond that, I do not think it is for me to comment.

Senator O'BRIEN—That is a fair comment. The issue of the effective imposition of a tariff on imported sugar differentiates this from the dairy area. Mr Howard, will that be a difficulty that we face in discussion with, for example, the United States about our free trade credentials where we are reimposing a tariff on a commodity we have removed a tariff from?

Mr Howard—If you do not mind, I will hand over to Peter Gallagher because there is an issue here with the dairy check-off in the farm bill that he may want to comment on.

Mr Gallagher—I think you are asking whether we could do it—

Senator O'BRIEN—No, we probably can do it.

Mr Gallagher—Yes, we probably can.

Senator O'BRIEN—I am asking how it will affect our credibility in the negotiations. That is the issue that I wanted to raise. I directed it to Mr Howard because he is from a peak farm body. He would need to consider the interests of all commodities, not a particular commodity. That is why I directed it to Mr Howard.

Mr Howard—That is right, and I have got both of my members sitting on either side of me.

Senator O'BRIEN—It was not designed to be an easy question; it is not an easy question.

Mr Howard—That is why I am ducking it.

Senator O'BRIEN—If you want to take it away and have a considered response, I am quite happy with that. But it is a very difficult situation. The fact that you need to take it on notice confirms how difficult that is for us.

Mr Males—I think one of the issues of importance in considering this particular proposal—not that there is a firm proposal yet in the public domain—

Senator O'BRIEN—Is there one in the private domain?

Mr Males—I understand the government is considering things but the nature of those deliberations are well beyond our knowledge. Any restructuring package that is provided—and I understand that the Prime Minister has made it quite clear that the package would be for restructuring—would be quite different from the type of support that is provided to sugar producers elsewhere in the world.

The Europeans and the Americans each receive support in the form of elevated prices. Price support is recognised by one and all as the most trade distorting form of domestic support that there is. A one-off package aimed at structural adjustment falls under quite separate elements of the trade rules. The package that would be applied—if such a package is applied in Australia—would be of quite a different character and nature from those policies—

Senator O'BRIEN—I am not questioning how we perceive it; I am questioning how they would perceive it. You are presenting the argument to me that we would need to present. The question I am asking is about perception, not entitlement, and whether we are doing a lot less than the others, because clearly we are. There is no question that we are going to embrace the sorts of production subsidies that I would have thought we are railing against in the United States and the European Union.

Mr Males—The question of perception is something clearly that we do need to manage.

Senator O'BRIEN—With the dairy industry, you have got some fairly upbeat figures with regard to market penetration. One of the issues that we have been looking at recently with the beef industry is its market diversity and the propensity to target the most lucrative market, perhaps to the detriment of trade in other markets. What is the picture like with dairy in that regard?

Mr Gallagher—I think firms in the dairy industry and the manufacturing cooperatives target any market where they can make the best returns. Often that is, as you say, the most lucrative first. But unfortunately, we cannot get enough access to the most lucrative markets. Our biggest market is Japan. Our second biggest market is the Philippines.

The key for us in these negotiations is to see effective increases in the access. What happened last time in the Uruguay Round was that we got a framework, as you know, for increasing access. Now we have to make that framework actually work. The Americans are focused on export subsidies. We think it would be a good idea to eliminate export subsidies too; we are strongly in favour of that. But what really works over the longer period of time is not export subsidy reduction; that is essential to get back to fair competition but it does not deliver the price benefits over a long period of time. What really delivers is growing the whole market. That access increase is what is most important to us, and that is what we are really focused on in the Cairns Group and in these negotiations.

We are a bit like the beef industry in that respect, as you said. Where we can get access, we do extremely well. For example, just as a result of the pitifully small amounts of access that were increased last time in the Uruguay Round, we have increased our cheese exports—and cheese is the most valuable dairy product exported—to Europe by 500 per cent from 1995 to 2000, and we doubled our cheese exports to the US. In other words, we filled the quota availability that was there. We think that if we can increase those access quotas significantly in this round it would liberalise the market, and we are pretty sure we could fill the quotas. We can realise those opportunities because of the growth in production that is happening.

So, yes, we go for the highest priced markets. The sad fact is that the European expansion—that expansion by five times—was not at European prices because by the time you get into those markets the rents are eroded by the way in which the access is administered and by the prices that they have to pay. We have to compete in those markets against New Zealand and other producers, including those in Eastern Europe. Canada and the United States are getting into Europe. So the prices we get when they open up are not what you would hope they would be, but we are very keen to see those markets, particularly in Europe and North America, open up on the tariff quota side.

Although we are delighted that the US has joined the game now with a strong proposal on market access, if you look at that proposal closely what it has proposed on the tariff quotas—the things that really bite—is only a 20 per cent increase. We want the Cairns Group to get way out on the other side of that and say to the Americans, ‘Look, you’ve got to do a lot better than that. We’re with you but we want a much bigger increase than that.’

Mr NAIRN—I was going to ask about the dairy industry as well, and Senator O’Brien has touched on part of what I wanted to ask. Rightly, Mr Gallagher, you pointed out what I think is a gold medal winning performance by the dairy industry over the last few years—the last five years particularly—in export. I have seen the benefits of that in my area with Bega cheese. Would you like to make some comments beyond what you have just said? I appreciate that the real key is access and that if we had that access I think the dairy industry would absolutely boom, very quickly. Dairy deregulation has been in place now for a while; would you like to comment on the effect that is having on the future export prospects? In particular, how would the relationship between Australia and New Zealand affect future negotiations—with New Zealand now investing in various Australian companies?

Mr Gallagher—Mr Nairn, I agree with you: Bega is doing particularly well. Maurice Van Ryn is a very clever commercial operator and he has done some terrific deals there. We would expect to see that company go from strength to strength. Deregulation is one of the things that has helped Maurice to do that. We are talking about deregulation of drinking milk in the Australian market; it was the last part of the Australian market to deregulate. Deregulation has taken the government out of the commercial pricing mix in Australia and has strengthened the commercial side of the industry, including strengthening the production businesses that are supplying the milk. Fortunately for us, because we are open to world prices, in the year of deregulation—the year 2000—we were able to take advantage of some of the highest prices for milk and milk products that we had seen in a long time.

We were lucky to find that deregulation went better than it might otherwise have gone, for reasons of the market. But most of the Australian industry has been open to the market and open to the world market as the principal driver of their receipts for a long time. Deregulation of the drinking milk market really took the last element of price regulation out of it. How has it affected the companies? I think it has focused the companies on performance, both at home and abroad, even more sharply. How has it affected their shareholders, the farmers? They have done better because their companies are doing better. Certainly some farmers have taken the adjustment package and left. That has happened dramatically in the dairy industry for two or three decades. It was not brought on by deregulation. Deregulation, in fact, because of the adjustment package, has helped some farmers to leave the industry in ways that were not available previously. None of the cows have gone out of business—they are all still there producing milk. So deregulation has left the industry growing and stronger and more sharply commercially focused.

As for New Zealand investment, the investment in Bonlac was, I think, very welcome to Bonlac shareholders and to the Bonlac company when it happened. They had an opportunity offered to them from Fonterra to restructure their financial situation and to take up new opportunities globally in their joint marketing venture with Fonterra and to restructure the way in which they address the domestic market—again, the Bonland enterprise, with the strong participation of the Bega cheese company through their packing activities. The truth is that

Australia and New Zealand have always been rivals in the dairy industry, and we are still strong commercial rivals externally. But the opportunity for integration on a fair and commercial basis is going to be accepted by dairy firms today and tomorrow from not only New Zealand but also, I hope, elsewhere in the world. We have seen quite a bit of investment here from foreign companies—Parmalat, Danone as well as Fonterra—over the past few years, and I hope we are going to see more.

Mr NAIRN—With respect to export markets, is the involvement with New Zealand in Australian companies opening up some more prospects as well?

Mr Gallagher—I act as an adviser to the Australian dairy industry. When the trade committee meets and the companies and the farmers meet around the table, some of them are wholly owned, like the Murray Goulburn Cooperative; some of them are partially foreign owned, like Bonlac Foods; and some of them are wholly foreign owned, like Kraft and Nestle—and all of them process Australian milk and all of them are helping the Australian milk industry grow. We have been fortunate that we take a perspective in this industry where we look at our opportunities commercially, we know what these negotiations can do for us—in fact, they can do more than anything else to open up that market opportunity for us—and we welcome foreign investment.

Mr NAIRN—Mr Howard, in your opening statement you said that over five years the Americans propose to eliminate export subsidies/tariffs and cut trade distorting subsidies. What about quotas? Where does that fit in the priority with the negotiations that take place not only in any free trade agreement but also with things like the WTO Doha Round? If you take the beef industry, the big issue for our processors of late has been the issue of the American quotas and the way in which they have been absolutely adamant that they would not allow any quota provided to other countries to be shifted across, even though those countries are not fulfilling their quotas by a long shot. So where does that fit into the negotiations?

Mr Howard—We are a lot more ambitious, and I expect the Cairns Group proposal to be a lot more ambitious than the American proposal. The American proposal is a good step forward, but TRQ expansion of 20 per cent is totally inadequate from our point of view, as Mr Gallagher has explained. We expect a lot better in terms of market access than the Americans have put on the table so far. The good news is that we have started to see some real proposals on the table. Their June proposal of 2000, which this is built on, did not contain any numbers and it was vague. This is an improvement on that but we want to see more. I believe the Cairns Group position would be further out on the liberalising perspective than what the Americans have put on the table so far.

Senator COOK—I have two essentially quick questions. As has been said, Angela Ellard was here earlier this week—I think she met your organisation. I will not verbal her but, as I understood what she told us, dairy and sugar are essentially no-go areas for an Australian-US FTA. So my questions are: do you agree with that? If you do not, briefly, why not? If these markets in the United States do not open, does that break the FTA as far as your industries are concerned? What is your preferential way of proceeding for liberalisation through the FTA or the Doha Round? That is my first question. My second question is specific to the sugar industry.

Mr Males—Senator Cook, thank you for your question. Is sugar a no-go for the FTA?

Senator COOK—From the American side.

Mr Males—From the American side, I would expect that to be their opening position. From the Australian side, as you might expect, we take a slightly different stance to that. FTA has the word ‘free’ in it. We would expect that to apply to agriculture; we would expect that to apply to sugar within agriculture. Why is that achievable? We believe that it is very achievable. During my opening remarks, I mentioned some of the changes that are occurring in the world sugar market. I referred to the changes that are going on in Europe with respect to the EBA proposal and with respect to the enlargement to the East. There are changes also going on in the US sugar market. Mexico, under NAFTA, already has access to 250,000 tonnes of sugar to the US market. That is expected to increase as the tariff on Mexican access declines to 2008, and in 2008 Mexico will have totally free access to the US market. The North American market will be structurally different in 2008 than it is presently.

We also have on the table—and both Lyall and Peter have referred to this—the US negotiating proposal in terms of its commitment to the Doha Round. That proposal sees a maximum tariff of 25 per cent for agricultural commodities. It also envisages additional market access. I agree with both my colleagues that those market access commitments are quite modest but, nonetheless, they are proposals. In the same period, the US is expected to commence negotiations on FTAs with the Central Americans and continuous discussions on the broader FTAA—the Free Trade Agreement of the Americas. Given the dynamics that are going on in the market, there is no doubt that the present US sugar policy will come under even more pressure for change than it is presently under.

As Australia begins to negotiate an FTA with the US, we need to have an eye for the future rather than the past or even the present. With the best will in the world, I expect the negotiations on an FTA will take some little time to come to a conclusion. That could bring us at least to the commencement date for the implementation of the Doha Round of 1 January 2005, or perhaps a little later. So we will be very close to the 2008 period at least by the time FTAs with Australia have begun to be implemented. There are all those pressures. I guess the short answer is that the world is going to be entirely different in five to eight years time than it presently is. Certainly the world of the US sugar regime will be quite different. As Australia enters those negotiations, we should have an eye to the future rather than the past.

Mr Gallagher—I think I give about the same answer. That is, what the American commodity groups understandably say—and the House ways and means committee probably reflects this—is that the price gap between us and the United States right now is huge. But that price gap is actually going to shrink. If we go into an interim agreement for an FTA, under WTO rules we can be in it for up to 10 years. Over 10 years that price gap is going to shrink because US prices are dropping—incredibly, even in the dairy industry. Of all that money they put into the farm bill, most of it in the dairy industry is going into a deficiency payment system which does not actually affect the price, and their price projections are going to fall. Similarly, in sugar we are looking for projected prices to fall domestically, and the world price, under the conditions of some sort of positive outcome of the Doha Round, will go up; so the price gap is going to shrink, making it more feasible.

You asked a second question about whether we should do it, given our multilateral objectives. I really do not see any conflict. Not only do I believe the government when they say, ‘Look, we

can manage the resource issue'—and I am going to hold them to that!—but I think that the two are not inconsistent to the extent that we are choosing a road into the future. We cannot really see where it leads in the end, but, if we choose a road that leads to liberalisation, we are not likely to go very wrong.

I think in the past we have seen FTAs used as squeeze plays during the end part of a multilateral negotiation. You will recall, Senator, that that was happening even before the Clinton administration got into power. They were using APEC and NAFTA as the squeeze play with the Europeans at the end of the Uruguay Round. I would love to see that happen in this case. Suppose we get to 2004 and we are in the endgame of the Doha Round, which is supposed to end in 2005, and the Australian and the US governments say: 'Look, we are not only going to do this partial liberalisation. We are going to eliminate barriers between us, not only in agriculture but in everything else, such as services.' I think that would have a salutary effect. I do not think it is inconsistent at all. I hope they do it. Maybe we will get somewhere further down the track on APEC as well.

Senator COOK—No agreement without dairy and sugar?

Mr Gallagher—Absolutely not.

CHAIR—Do you have any comment, Mr Howard? This will test your diplomatic skills.

Mr Howard—The analysis done by the Department of Foreign Affairs and Trade by the Centre for International Economics shows a \$4 billion gain to Australia. Most of that comes from agriculture, dairy and sugar. The government has talked about the opportunity to grasp hold of that \$4 billion, so I cannot see any way other than to get a big package on dairy and sugar.

CHAIR—Good answer.

Senator COOK—I would like to ask a sugar question; it is a very quick one. The *Australian Financial Review's* editorial today is about your industry, Mr Males; I am sure you have read it. It makes an interesting article. It really advises removing what I think it describes as an incipient move towards protectionism and starting to rationalise industry more effectively. I think that is what the editorial is saying. For these trade negotiations, despite the bipartisan support for a single desk, is it a lead weight on your ability to push for openings in other markets while we sell through a single desk in Australia? And why should Australian motorists pay for ethanol in their fuel if they do not want to?

Mr Males—As we mentioned earlier, the package of structural adjustment that appears to be under consideration at the moment for the sugar industry is something that we need to think about in terms of our trade negotiations. It seems to me that the small package that may or may not be given to the industry is very small compensation for the significant impacts that the policies of others have on the world sugar market. Those impacts have been brought to bear on the Australian industry simply because we are fully exposed to the fluctuations in the world price. All sales of sugar, whether they be in Australia or for export, are priced against the New York No. 11 sugar market. The only exception to that comment is the small amount of quota

access, some 87,000 tonnes, that we have into the US market, and that is priced in relation to the US domestic price.

Given that exposure, and given that all of our competitors, particularly those in the US and Europe, enjoy very significant domestic price supports, none of the adjustment pressures flowing into the world market from present overproduction around the globe are translating themselves into an imperative for production adjustment in most other places. Certainly the countries where those pressures are manifesting themselves to the greatest extent are countries like Australia with the largest exposure. The adjustment package that is being talked about appears to be a small compensation, a small assistance along the way, to manage those adjustments so that our industry can move forward on a much more competitive basis than it presently is and get through the present downturn.

In relation to the single desk, as you are aware, the Queensland government, in the formation of Queensland Sugar Ltd, removed the majority of the statutory link with what was the Queensland Sugar Corporation. Queensland Sugar Ltd is now a company wholly owned by the growers and the millers in Queensland—it is not a statutory body. It is true that it continues to be the single desk exporter of sugar out of Queensland—it is not the single desk exporter of sugar out of Australia. Sugar exported from Western Australia is not exported under the banner of Queensland Sugar Ltd, nor is sugar that is exported from New South Wales or white sugar that is exported by Sugar Australia, Bundaberg Sugar, the New South Wales milling cooperative or others.

It is not fair to say that Queensland Sugar Ltd is a single desk. It is not fair to say that it is a statutory body—it is an industry owned company. The structure of that company is not terribly different from many of the agricultural marketing bodies in the United States. Certainly, we believe that when marketing arrangements and state trading activities come under scrutiny in the WTO negotiations, the scrutiny should be on the basis of those businesses' activities in the market and the trade distorting nature of those activities. Queensland Sugar's activities are not trade distorting. We would certainly encourage our government officials, once those negotiations start to turn the lights on the USA's own state trading enterprise, to look at the one which is perhaps the most distorting of all, and that is the Commodity Credit Corporation. Its activities in the market are significantly more distorting than any of the activities of the Australian so-called single desks.

CHAIR—Thank you very much. That concludes questioning on this session. I thank you for the time that you gave us and also the extensive and well-researched responses. They are quite useful for us.

[11.12 a.m.]

DEE, Dr Philippa Susan, Assistant Commissioner, Trade and Economic Studies Branch, Productivity Commission

DRAKE-BROCKMAN, Ms Jane Elizabeth, Convenor, Australian Services Roundtable

FINDLAY, Professor Christopher Charles, Professor of Economics, Australian National University

HAWES, Mr David Charles, Group General Manager, Government and International Relations, Qantas Airways Ltd

LARKIN, Mr John Terence, Assistant Secretary, Services and Intellectual Property, Department of Foreign Affairs and Trade

CHAIR—On behalf of the Trade Subcommittee, I welcome the witnesses to the table. Thank you very much for coming here today. It is interesting to have here today David Hawes, who is now the General Manager of Government and International Relations with Qantas but who was a former negotiator on behalf of Australia at the WTO. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private you may ask to do so and the subcommittee will give consideration to your request. Do you have any comments to make about the capacity in which you appear today?

Prof. Findlay—I have come to talk about some of the research and indications that we have been doing on trading in services.

CHAIR—Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. I now invite Philippa Dee to open the discussions on services negotiations, followed by Professor Findlay, Ms Drake-Brockman and Mr David Hawes, if you so wish, before we proceed to questions.

Dr Dee—I would like to spend a bit of time describing some work that the Productivity Commission has been doing, along with colleagues at the Australian National University, to support Australia's efforts in the GATS negotiations. What we have been thinking about in the Productivity Commission is the sort of information Australia will need in order to conduct the rounds of requests and offers that are now under way in the services negotiations. The first round requests were placed at, I think, the end of June this year. For Australia to make good requests, it needs to know about services trade barriers in other countries. Is John Larkin going to be speaking at all?

CHAIR—He is not on our list.

Dr Dee—He would be better placed than me to describe the efforts that the Department of Foreign Affairs and Trade have been making to collect information about barriers to services

trade in other countries. They have had an extensive round of consultations with various services groups in Australia, talking to them about the difficulties that they have faced in foreign markets and collecting quite detailed specific information about market access barriers and putting that into a form to formulate their requests. On the whole, we felt that the Department of Foreign Affairs and Trade was well placed to collect information to support its requests.

What about offers? I think what we need when it comes to offers is a sense of what our own market barriers are at home and also how they stack up against the requests that we are making of other countries. This can be a little bit difficult because here you need to assess, for example, the relative importance of some licensing or qualification requirement in the legal profession compared with restrictive trade arrangements in maritime. How do you assess the relative importance across sectors of what we are being asked in one sector relative to what we might offer in others? It is really the offer phase when you need to get a sense of the relative importance of barriers within sectors and across sectors. This is where we thought the Productivity Commission could help.

We have had a three-phase approach to our research here. I have a paper here that summarises this fairly succinctly, which I will leave with you. The first phase is obviously just to collect our own information about what market access barriers are here and what they are overseas. We know that there are some pretty difficult market access barriers—for example, in banking in countries like Malaysia, in telecommunications in countries like Indonesia and in maritime in countries like Korea. We also know that, in some of those sectors, Australia's barriers are not very high, but we do have a significant market access barriers in maritime and legal and accounting services. So our first step was to simply collect qualitative information about barriers to services trade here and overseas.

The second step of the research that would help to put this information in perspective was to try to estimate the impacts that these barriers were having on the economic performance of firms in these particular industries—what were these market access barriers doing to the price of banking services or telecommunications services in the countries that they were affecting and what were they doing to the quantity of services that were being delivered in those countries? Then when we were feeling particularly experimental—I think that was the word that Gary Banks used—we did some economic modelling to figure out what the economic impact might be if we started getting rid of some of these trade restrictions.

We are not yet in a good position to do detailed evaluations of banking versus telecommunications versus other individual services sectors. The reason we are not yet in a good position to do that is that it takes a lot of time to get enough of the information on all of the sectors. It is very important here to be comprehensive in the picture you are getting. Even though we are still not at the end of this stream of research, there are some general lessons that we have learnt that I think are important to know about, even at this early stage in negotiations.

The first lesson we have learnt is that services trade barriers are big, and getting rid of them is going to generate some big gains. What is the order of magnitude? We think there is at least as much in services as there is in agriculture and industrials put together. But if you have been around in trade policy circles long enough, that should not surprise you. The fact that there are

gains from services trade liberalisation should not justify the expenditure of Australian taxpayers' money on the research we have been doing; that is telling you the bleeding obvious.

What has not been so obvious, and something we have learnt about as we have done this research, is that, although there are some gains at the end, there are some real tricky dangers in how you get there. Let me spend some time spelling that out. In goods trade, we are used to thinking of the market access barriers as being things that discriminate against foreigners. Tariffs discriminate against foreign providers. In services, you have got also up for negotiation in the GATS what I have been calling market access barriers, which are things that affect anybody's ability to enter a market. They do not have to be a foreigner; even domestic new entrants can be affected by these market access barriers because these are barriers that prevent any new entry into the market. If you like, they protect the current incumbent firms against new entry by anybody, and they are up for negotiation too.

Also up for some negotiation is what are called domestic regulatory regimes that support activity in various service sectors. A good example is in air passenger transport, where Australia has rules and regulations about the allocation of airport landing slots. That is a fair step away from the issue of whether we allow foreign airlines into Australia to offer services in Australia but it is not difficult to see that if our method of allocation of airline slots is not fair in some sense, then simply letting foreigners in will not do anything. If they cannot get access to air landing slots, it will not work. That is an example of what we are talking about in the domestic regulatory regimes that underpin activity in these services sectors. This, to some extent, is up for grabs in the GATS negotiation too.

Our research has shown that in the services area this discrimination against foreigners is not the main game, it is not where the big gains are. In fact, there are some positive dangers in liberalising access to foreigners before you have got the other two things sorted out. If you let foreigners in before you have got your general rules and regulations governing competition in that sector sorted out, then what you are risking is the danger of simply taking some monopoly rents and handing them over to a foreign monopolist. You do not even keep them at home; you just hand them over. The real gains and the real game is this market access stuff and the domestic regulation that supports it. The discrimination against foreigners is secondary and it is not what we should be jumping in with first. This, in a sense, should not come as any big surprise.

Also documented in this paper is that we went back through the Productivity Commission's catalogues of microreforms in Australia. We went back through the compendiums that we had of what Australia has been doing over the last 20 years, and we categorised what Australia had been doing in four sectors, under the headings: national treatment, which are things we have done to remove discrimination against foreigners; market access, namely things we have done to free up entry into a sector by anybody; and domestic regulatory regimes, which are things we have done, for example, in banking to get our prudential regulation right and to set the rules of the game. Let us look at what the priorities in Australia have been to date. National treatment measures: three pages worth. Market access measures: seven pages worth. Domestic regulatory regimes: 11 pages worth. So we have been doing it already on our own—not in a multilateral context; just unilaterally—because we recognised what would be good for us. In a very real sense, the story is the same in services as it is everywhere else. It is what you yourself do at

home that matters most. It is about not just eliminating discrimination against foreigners but eliminating discrimination against your own domestic new entrants. That is what matters.

We have learnt a second thing, and to some extent this is a bit obvious. It should be obvious but it is not. When I got a chance to talk about this in Geneva and I listened to the services trade negotiators themselves, it was clear that even they did not really quite fully grasp this. This is the difference in the political economy between services negotiations and trade negotiations. When we are talking about eliminating tariffs, we know it is good for us but we have a big fear that, if we get rid of tariffs, it will be a threat to that domestic industry—that the domestic industry will face tougher foreign competition, it will lose employment and get smaller. That is very difficult politically. But think about what is happening in services. If your barriers are barriers to any new entrant and you get rid of those barriers, your service sector can get bigger. You are talking about barriers that are artificially keeping this sector too small. If you get rid of them, you are making it bigger. In a sense, there is a subtle shift in the political economy of services negotiations that, although a lot of people find it very—

CHAIR—Could you give us an example of what you are talking about? I think it is interesting about that particular industry.

Senator COOK—Services is 81 per cent of GDP. I think that is in the notes.

Dr Dee—Yes.

Senator COOK—How much bigger does it get?

Dr Dee—Australia does not have this anymore in the banking sector, but a lot of countries have a fixed number of licences for banks: ‘There will be five banks in this country.’ We have had close to similar things in the past—absolute restrictions on the number of operators, absolute restrictions on whether they can be domestic or foreign owned, absolutely designed to protect the incumbent firms from extra competition. In a lot of sectors, we have got rid of those, but in some sectors you could think about it. There are qualifying regulations. You could think of some of the qualifications requirements in the professions that would similarly have the effect of restricting entry. The political economy here is a little bit different. It is more fraught in the sense that the trade negotiations are getting perilously close to very domestic issues, but they are less fraught in the sense that the threat to the local industry from liberalisation is not quite the same as it has been in the goods sector.

To conclude, what we see from those lessons is the same sort of thing that we have seen in the goods trade: the main gains come from what we ourselves do. It is important to teach ourselves and others that this is where the real action is. I think there are some opportunities in the GATS negotiations for Australia to show some leadership not only in what we ask others to do but also in what we offer ourselves. Remember, we should not just be talking about discrimination against foreigners but be offering some real market access measures that affect domestic entry as well as foreign entry, and we should be thinking about our domestic regulatory regimes as well.

CHAIR—Bear in mind that we would like to also allow time for questions. I found it very interesting, but we need to also allow time for questions.

Prof. Findlay—I have some follow-on points that have come out of this joint work we have been doing with the commission. I thought I would say something about three points: the nature of barriers to trade in services; the effects of reform; and the strategy for managing the reform and its links to the GATS process. With regard to the barriers to trade in services, Philippa's remarks have made it clear that what we are dealing with here is a very diverse mix of policies and impediments. They are often very difficult to assess and some of the research that we have been trying to do is to gather this qualitative information together and convert it into something that is comparable. Liberalisation is not about removing things like taxes at the border; it is more about achieving a transparent and less restrictive regulatory regime that covers all the modes of delivery that are relevant to services. Services people move and provide the service—sometimes they set up; sometimes they provide services from home without moving.

There are a lot of modes and there are a lot of different types of impediments. Various types of regulation are often the main barriers to doing the business. So, all these service sectors are affected by various rules of governments about who can do the business and, if you are going to do the business, how you do it. There are rules about whether or not you set up. Some governments actually require you to set up whereas some services exporters would prefer to manage the business from their home base and not be required to have an establishment in the market they are trying to serve. You might hear a lot of people say, 'We want market access and that means we want the right to establish.' But also the right to not establish is an important issue.

One side point is that the complexity of these barriers and the range of them mean that there are often a lot of set-up costs involved in getting into a foreign market. The burden of those costs is large relative to the size of small businesses. So we are talking about impediments that are relatively large burdens for relatively small operators. In other words, there is a big gain for them in having a more transparent, open environment.

The other point about managing the change is one that Philippa stressed to you: the sequencing of reform. It is really important and it is also relevant to the FTA agenda, which we might come back to later in your questions. Opening up an otherwise restricted sector to foreign participation can, as Philippa pointed out, simply transfer some of the profits to foreigners and leave us no better off, if not actually worse off. So the challenge is to try to deal with these barriers to doing business that face all of the entrants—the foreign ones and the domestic ones. It is important to stress that this argument does not say, nor does the GATS process demand, that we want to get rid of regulation altogether. We are not on about total deregulation. What we are on about is getting the right regulatory structure in place: a regulatory structure that treats all the potential suppliers in an even-handed way and which is designed to solve the problem that would otherwise exist if the market were operating unregulated, but does not impede entry by anyone—either domestic or foreign.

So there are three points in this part. The first point is the nature of the barriers. The second point is the sequencing issue. The third point is that what we are on about is not no regulation; it is getting the right regulation. The second set of points is about the effects of reform. Philippa has mentioned the sorts of reforms that the Australian economy has seen. Those reforms have had some very important effects in Australia: adding competition in the domestic market, increasing the incentives to operate efficiently, and removing impediments to the adjustments that have to go on in production processes and the way that businesses are organised.

The research that has also come out of the commission indicates that those reforms are associated with the surge in productivity that we have seen in Australia over the last decade. Not only is there that link between reform and productivity growth, the channel through which that effect operates is the service sector. In the first half of the period it was through the infrastructure sectors like electricity, gas and water, but more recently it has been through sectors like wholesale trade, construction, transport and storage.

We all have little anecdotes about how people we know who run small shops now order their goods and get them delivered in extremely sophisticated ways compared to the ways that they bought cartons and stock previously. Those anecdotes are examples of the processes that are going on here. There are nice examples of the returns for reform. There is very real evidence about the significance of the gains here. The gains are not only in the service sector; there are also important implications for other sectors, including other export sectors.

What I am trying to stress in this effects of reform point is that intersectoral effects are extremely important. The success of the agricultural sector—the fresh food people, if you like—depends on having an efficient service sector in place. My colleagues who want to export education services online depend on having an efficient telecommunications sector in place. These examples also point to the observation that we are not just talking about services feeding into exports of real things; there is also an important interaction within the service sector itself. The capacity of the service sector to increase its share of exports depends on the efficiency with which the intermediate products are provided. There are two points from this part: firstly, the very real evidence of the gains from reform and, secondly, the intersectoral effects.

The third set of comments was about strategy for reform. This is all terrific, but some of the issues we are talking about here are pretty tough, such as designing competition policy and foreign investment policy, and in immigration the recognition of standards and qualifications. We are looking at sectors where there is a lot of public provision, including in infrastructure. One of my favourite topics is the international air transport system, a very highly regulated and a very important supplier of services to other sectors in the economy, including tourism and the cargo people. There are a lot of big issues here. We have a strong interest in getting these things right, as I have tried to argue. We expect the returns to continuing reform to be high. There are important links between our progress on these issues and our work in the international trade policy institutions.

The international negotiations that we are participating in provide us with a chance to benchmark our own regulatory systems with those of other people. It is in our own interests to do so unilaterally; it is not going to be left up to us because in the request and offer process we are going to be confronted with it anyway. Our trading partners are pouring over our regulatory arrangements, just as we have been pouring over theirs in our research. The additional upside to this process of figuring out whether we are at the frontier in terms of regulatory design is that it is sometimes easier to marshal the constituencies in favour of reform while you are talking about access to foreign markets at the same time. Some of these regulations definitely have a protective effect, whatever their original motivation. People who are going to be confronted by that change are going to resist it but, at the same time, if we can point to new opportunities that are being created for them and for others that makes this process easier. There are concerns in the community about opening up these markets to competition, both domestic and foreign, and this framework that I have been talking about provides us with an opportunity to explain that

the target is about the even-handed application of the right regulation—not removing regulation altogether where there is a serious issue of market failure.

To go further, some of the issues in world services trade require some explicit cooperation with our trading partners. For example, with some matters of standards recognition you need to know what your trading partners are doing—how their engineering qualification system works. You need to form a relationship with them and understand how their process works so that you can decide whether you are going to recognise it or not. I think one of the most interesting sets of issues here is in the management of competition policy. There are a lot of competition policy issues that are going to require coordination. Other people's choices on competition policy will affect our markets as well as theirs. We could look at some examples later if you are interested, but I think air transport is going to be a good example of that. The bottom line is that there is no doubting the benefits of unilateral action. Our own experience shows that, but the cooperation that we are involved in through the WTO process gives us a framework for dealing with some of these tough issues that are challenging our global services businesses.

Ms Drake-Brockman—The Australian Services Roundtable is a newly formed business grouping. It is designed as a peak services sector body. It brings together a very large number of different sectors from financial services, through all the professions—accounting; law; engineering; architecture; health education; tourism, which by itself is enormous; the information technology and telecom sectors; transport; logistics; distribution; audiovisual; media—and all the various business services. So, while it is a newly-formed grouping and our membership is growing every day, it has the potential to become a significant body.

It is perhaps worth saying why this grouping has been formed and why it has been formed now. There was in the past a Coalition of Australian Services Industries which disbanded a couple of years ago on the eve of the Seattle WTO ministerial. This group has been formed with the commencement of the Doha Round, so the round itself has been a major driving force for the sector to get together. There is not only the Doha Round but also the fact that Australia is negotiating a number of free trade agreements. The content of these agreements is largely non-agricultural and largely, in fact, in the services sector. There is a sense that in the round there will have to be some sort of quid pro quo, as Peter Grey put it—some kind of trade-off between agricultural and services issues. The EU is the world's largest service provider. Australia is a net importer of services from the EU. The EU is of course at the heart of the agricultural debate, so there is a sense in the services sector that it needs a voice now for interlocution with government to ensure that it is properly consulted as these trade-offs are considered.

The various services sectors also see here a genuine opportunity to pursue another round of domestic deregulation which, as the Productivity Commission has pointed out, is a necessary prior step to opening up to foreign competition. But, in the view of the sector itself, it is also fundamental to determining export competitiveness. The services sector industries all feel that their export performance, their global competitiveness, is currently constrained in various ways by a string of different government regulations. The round is of course an opportunity to move that domestic agenda hand in hand with the international trade liberalisation agenda.

There is another reason for the grouping to have formed recently, and that is evidence that elsewhere in the world private sector services bodies are playing quite a role in the negotiations. Certainly that is true in the United States and in the EU. There is a sense that trade policy focus

in Brussels and Washington is quite heavily oriented to services issues and a sense in the sector here that it needs to inform itself, inform the community, inform government and be a player. The statistics are in front of you, and maybe I do not need to go through them, but they are quite striking, with services now accounting for 76 per cent of GDP, which is a very significant increase over the last decade. For example, when the GATS negotiations began in the Uruguay Round, that was not the case in Australia. It has been largely driven by what we call the knowledge based services. Services firms account now for 67 per cent of Australian firms that export, services account for 23 per cent of our total trade, employ 81 per cent of the work force—

CHAIR—Ms Drake-Brockman, in your comments, could you try to focus on—

Ms Drake-Brockman—On the round?

CHAIR—Yes, because we do have some very keen questioners here.

Ms Drake-Brockman—There is a sense in the sector that the government is championing agriculture, but the data on the importance of the sector to the Australian economy speaks for itself. We need to ensure that there is a balanced negotiating agenda across all issues in the round. I do not need to focus on the nature of the barriers. Professor Findlay has already talked extensively about those and the fact that eliminating them is politically difficult in many cases. We are talking about some of the hardest issues: privatisation of Telstra; funding for higher education; immigration policy, which affects business, visitors, students and tourists; our postal monopoly; our Foreign Investment Review Board; our health policies and competition policy. None of these issues are easy, but they are all part and parcel of the Doha Round agenda. The sector essentially is focused on achieving global best practice, which means it is keen to see progress in all of those areas in Geneva.

One final point is that the investment regime in Australia and elsewhere in the world is an inherent part of the services trade agenda in the GATS because, as Professor Findlay pointed out, under the four modes of service suppliers, establishment is an important one. Investment policy is part and parcel of this negotiation. So is competition policy written into the GATS agreement because, in the case of services, so many sectors have monopolistic structures and government ownership. Both of these issues—competition and investment, which figure themselves independently also on the Doha Round agenda—will be of relevance to services sector liberalisation.

Mr Hawes—By way of opening I will set aside aviation matters and make a couple of points based on my involvement in the negotiations that produced the General Agreement on Trade in Services, which is now hooked into—part of—the World Trade Organisation. There are a couple of things worth noting in that regard. The agreement that resulted, which is a framework of rules and disciplines, is in some respects largely untested. It is being tested. It was eight years in the negotiation and drew, for purposes of experience or reference points, on a lot of the principles that were embodied in the General Agreement on Tariffs and Trade, which was decades old. But I think the negotiation took place at a time of increasing realisation of not only the importance of having efficient services sectors as part of your domestic economy but also the important and growing role of trade in services.

The complexity, which was reflected in the negotiation and outcome of the agreement, was obviously influenced by the fact that the measures that the agreement deals with or the measures which impact on trade in services—whether they be rules, laws or any other measures, as the agreement states—go to operation of the domestic economy, as well as being seen as trade measures. That has meant that the liberalisation task is more difficult in some cases. It also was responsible for the fact that while national treatment in dealing with trade in goods is a general obligation in the GATT it is not in trade in services. It is one of the factors, along with market access, which forms part of the progressive liberalisation agenda. It was only a few years into the negotiation of the basic set of rules that the participants in the negotiations could begin to see the architecture and the implications of not only the set of rules but also attaching liberalisation commitments to them.

That is why the Uruguay Round itself produced what would be regarded as a very modest set of commitments by countries in what are attached to their national schedules, which became part of the formal obligations of the agreement itself. That is probably why those commitments were fairly modest; in some cases representing little more than a standstill of the sectors which contributed commitments on market access and national treatment. So the extent of liberalisation that actually occurs—or, if you like, the removal of barriers to market access and national treatment—within domestic economies may be well in advance of the actual commitments that have been entered in those schedules. In a way, you can look back and probably see what we have today in that agreement is likening to where the GATT was perhaps in the 1950s and 1960s. It is very early stages yet.

The other thing that the negotiators back then had to deal with—and I think Philippa touched on this in a way—was inadequate knowledge of the various forms of measures that impacted trade on services. Even industries themselves were not quite sure what to ask for. They were not entirely clear of the range of barriers and the impediments that they faced in foreign markets and the consequences of applying a general set of rules to those sectors. There was a lot of need for sectoral testing as the negotiations proceeded.

In conclusion, I note the time line we are talking about here. The discussion about whether there would be a multilateral agreement on trade in services, with universal sectoral coverage, really started in about 1984 or 1985—before the round was launched. When it was launched, as part of the deal to get developing countries to accept that this could be part of the future multilateral framework of agreements, a decision was set aside until the conclusion of the round on whether or not the outcome on services would be part of the multilateral framework and whether it would be joined up with the entire results of the round. Confidence in it developed as the round proceeded, and that is why today it is part of the WTO. But in terms of its liberalising effect, or the result of commitments, it is still very, very early.

CHAIR—Thank you very much, Mr Hawes. Mr Larkin, I understand you do not wish to make a statement but that you would be part of the team, at the request of Dr Dee, for support. I am sure she needs no support. I thank you all for your input and presentation. Now I invite Mr Hawker to open the batting on questions.

Mr HAWKER—Thank you, Mr Chairman. I endorse what you just said. I think there has been an extremely valuable input to today's inquiry. I think you all touched on some of the issues relating to services in trade, in as much as having to look at what some of the barriers are

within Australia and also linking that with the importance of benchmarking compared to other nations. I was wondering whether you might like to expand on that point. We have seen a lot of reforms in Australia—and you mentioned competition policies as one example. Where do you see the reforms within Australia that will lead to these great opportunities for services to be able to compete overseas? In terms of your benchmarking, where are we vis-a-vis some of the other nations?

Dr Dee—I will leave with the committee a document which has a useful little one-page chart. It also appeared in the Productivity Commission's submission to the DFAT hearing on the Doha Round. It summarises the results of our research on a selected number of services sectors and looks at what Australia's ranking is against some of the other countries we looked at.

We are pretty good relative to other countries in sectors like banking and telecommunications. There is no doubt about that. We are pretty competitive in architecture and engineering services. Those are two professional services that also tend to be fairly open, not just in Australia but in most other countries. Where we have got significant barriers that remain in sectors like maritime, legal and accounting services. Those are judgments that are made just by looking at market access and national treatment barriers. These are the things that either discriminate against foreigners or affect entry more generally.

What it does not cover and what we are still working on jointly with our ANU colleagues is putting into focus the importance of this underlying domestic regulatory regime. In a lot of service sectors, there is still more to be done there. We have had a rather striking example recently of how we might not have got our prudential regulation quite right in the insurance field. You can think of several examples like that where there is more work to be done on the domestic regulatory regimes. As Jane Drake-Brockman has already pointed out, the service sectors themselves feel that is where the main action will be if we are going to improve their ability to compete on foreign markets. I will ask Christopher to elaborate more on his perspective on this.

Prof. Findlay—Looking at the research and comparing these measures of impediments is one way of getting an idea about where we sit, and Philippa has summarised some of that. Another way of getting an idea about where we sit is to see what other people are coming to us for. The one interesting list of requests that we have seen through the Internet so far is from the Europeans. Scanning through their list of requests that they are apparently proposing to make to Australia, you can see a lot of the infrastructure sectors still in there.

They make remarks about the way that we manage our telecom sector and some of our infrastructure sector, including water. So these are the areas we are coming to in the COAG program of reforms, but they have still been lagging in others. There were some requests in relation to maritime—quite a substantial discussion in the request—and also postal services, where a lot of economies are doing some quite interesting things about the way they manage their postal system. We have done a lot of work, but there are still areas for further change.

CHAIR—Dr Dee, for the record, could you indicate the title of the publications and the page number?

Dr Dee—The publication is *Trade and Assistance Review 2000-01*, which is put out by the Productivity Commission, and the page number is 45.

CHAIR—Thanks very much. Mr Larkin, would you like to add any comments to Mr Hawker's question?

Mr Larkin—I do not think I can comment on domestic policy impediments. The broad comment I would make is that when you compare our schedule of GATS commitments to those of our major trading partners I think ours stands up very well in terms of its openness and transparency.

Senator COOK—I wonder if can be a bit visceral. This morning I had a whinge that we poor politicians have to put up with in the trade debate the counterintuitive nature of tariffs and protection. We have to represent those views to an electorate that automatically assumes their value rather than sees through the distorting nature of them. So we have a difficult job. There is no point in us complaining because no-one is listening to us.

The second whinge I have is that the language of trade is impenetrable for ordinary people. I recall standing on a street corner in Seattle in 1999, when the riots were on, being addressed by a protester: did I know what the bastards were up to in GATS? I watched the face of all the bystanders, who were completely puzzled and flummoxed by this, and then heard an outraged presentation that this was the same as—to quote another swearword in this debate—the MAI.

What can you tell us from the position of your lofty expertise about the types of political decisions that confront this sector? As I said, I was lobbied yesterday about the dangers that our public health system, our public education system, our public ownership of water supply and so forth face and that they may, by virtue of GATS, be forced into private ownership and owned by foreigners. That is a debate all of us are going to have to face because it is a gathering argument. If I may say, for a trade junkie like me, this has been one of the more absorbing sessions of the day. But this is the public position that we are going to have to deal with more and more. As a broad question, at the most visceral level of this issue, I invite some comments from the top table.

Prof. Findlay—If you imagine that conversation, one way of approaching it—and tell me if you think this would work with the audiences that you have been dealing with—is to recognise that the first thing about the GATS, and this has been stressed in the various fact sheets and other things that are around, is that under the agreement there is no obligation to do everything immediately. This is a bottoms up thing so you can list what you are going to make commitments to. The first thing to do is to change that perception: we have signed this agreement and that means that we have to do all these other things. What we will do depends on the outcome of this process that we are going through. I do not think you would want to leave it there. You would want to say that it does not mean we will do nothing, because we know from experience that continuing to manage these reforms has big effects on our performance. Why are we growing at four per cent instead of three per cent? It is because of a substantial body of reform in the last decade. There are real numbers associated with these processes that we are talking about.

The second aspect of the conversation could address this issue: what is it that you are concerned about? Is it the foreign ownership which is the problem, or is it the things that the foreigners might do? What is the nature of the problem that would emerge in the market if it were open—

Senator COOK—Professor, I think the rejoinder to that question is that in Australia we have a public and a private education system. The public system exists to provide access to educational opportunity for people who cannot afford to access the private system. If you reduce the scope of, or do away with—I am trying to represent the argument—the public system then you introduce inequities and unfairness.

Prof. Findlay—Sure. What I am trying to argue is: let us get to the main goal. The main goal is equity, so let us figure out what the most efficient way of achieving the equity goal is. Why does achieving the equity goal have to be tied to the public provision of the service? If the goal is equity then give resources to the people who you wish to target those resources and let them operate in the market and choose the provider that they are interested in. You could then have as many prime providers as you like. You could have public providers continuing to operate and private Australian providers as well. It seems to me that it is possible to disconnect the nature of the supplier from the policy target that you have in mind. I think that is going to be a common element of this debate. The manner of response is to be clearer about what the policy target is and what the most efficient instrument for getting to that target is.

Dr Dee—I think Peter Grey made a very brief comment this morning about the extraordinary efforts that the Department of Foreign Affairs and Trade has gone to in order to dispel some of the myths about the Doha Round, particularly in the area of services where the myths are more rampant than almost anywhere else. There is the myth out there that GATS means you must privatise or GATS means you must give up on any equity goals. One of the things that needs to be stated very loudly and very often is that GATS does neither of those things. Indeed, when we categorised some of Australia's efforts over the last 20 years, an awful lot of them involved reforms to ensure the better operation of our government owned enterprises. We did not privatise them all straight out—some of them are still very firmly in government hands—but we have gone to a lot of effort to make sure that, while they are in government ownership, they operate more efficiently. We have gone to a lot of effort to make sure that where we have equity aims that are met by mechanisms, such as universal service obligations, those universal service obligations are run in as efficient and transparent manner as possible. We do not have to give them up.

Ms Drake-Brockman—These myths are not only here in Australia. They are in all our trading partners as well. They are particularly problematic in the developing countries. It is hard enough for us debating privatisation and foreign ownership where everyone wants a bank, a phone, water, electricity, a school and a hospital next door, but in the developing countries it is a very much harder question because many of those basic services do not yet exist.

I want to make the point that in the current round of GATS negotiations there are in fact only 20 countries that have made requests in the negotiating process. They are the OECD countries and very few developing countries, which is a real problem. The way in which we address this problem needs to be more broadly than just here in Australia. We need to be actually doing some serious work in promoting these ideas internationally rather in the way we did the Red

Book in agriculture, for example, before we will see the developing countries become prepared to engage as real negotiators in the GATS process. Until we do have that, our chances of the big gain on both agriculture and services could remain pretty elusive.

Senator COOK—Part of the problem is that this faceless organisation, the WTO, is running our lives. Who makes the decision as to what we sign up for in GATS and to what degree we sign up for it? When are those decisions being made publicly so that they can be seen to be debated, considered and resolved and therefore bind a community in a democratic structure and give voters some feeling that they have some control over their lives? That I think is the essential element of this debate.

Mr Hawes—The dilemma you are referring to is one that has certainly grown over the years as the WTO, as it now is, has grown. I was reflecting only the other day that someone who was involved in Australian trade negotiations internationally 20 years ago would have dealt with market access issues; 15 years ago they would have dealt with some market access and subsidy issues. Today you can summarise the role of that person as trying to maintain social cohesion in an era of globalisation. Part of the reason for that is that we are not just dealing with the barriers relating to tariffs, quantitative access and so forth; we are looking more and more at domestic policy issues in an increasingly globalising world. An understanding of this particular body, the WTO, is important. When the voices against it are louder than those for it, in terms of the significance to the community and the economy, it is a very distorted debate. Clarification and understanding cannot go far enough in that area.

One of the greater challenges for the people who today are doing the job that I was involved in 10 years ago is they have more and more to cope with in the way of consulting—and also in being seen to consult—and in giving all interested parties opportunities to input views. Ultimately, these are choices for governments through the sorts of processes that they also follow when they make decisions about what is happening in relation to regulations in the domestic economy. Making those decisions in a transparent way, and explaining the reasons for them, I think, goes hand in hand with trade policy decisions as well. I can see quite readily that it is a larger consultative challenge, and particularly in this sector.

CHAIR—Thank you, David. I think there were a couple of good quotes there, including: debating social cohesion in an increasingly globalised world. We might use that somewhere along the line.

Mr Hawes—I think it has been used.

CHAIR—I would like to throw in a couple of questions. Firstly, to Dr Dee and Ms Drake-Brockman: you may have been here when the three people who were at the past forum talked about the potential free trade agreement with the US. At the conclusion, they said, ‘Without sugar and dairy products, there would be no free trade agreement with the USA.’ What are your views on that statement? Professor Findlay might comment, too.

Ms Drake-Brockman—With my services convenor hat on, I would have to say that, to the extent that this issue has been discussed by services industry representatives, there is a very strong feeling that the main game is the WTO round in Geneva, and there is a real concern about resources and attention being distracted from that game. It is already very difficult for the

industries to learn and understand about what is going on in Geneva. It is already a distraction just to have to put in a submission to DFAT on the services interests—for example, in the FTA negotiations with Thailand. There is no doubt that, in putting in a submission like that—although there are services barriers which the sector would like to see addressed—the sector realises how it stands up relatively against what one can achieve potentially in Geneva. It is completely insignificant. So a distraction of resources for a very—

CHAIR—For the FTA with the USA?

Ms Drake-Brockman—With the United States, which is obviously a very dominant market. We are a net services importer from the United States. Only three per cent of that huge services sector in Australia is exporting. Some services subsectors feel vulnerable on a number of different grounds to competition from United States service providers. On the professional services side, in the audiovisual sector, and obviously in the postal and courier areas, there are a number of real concerns that Australian companies have about what an FTA would mean. There is also a big sense, in the ICT sector in particular, that they need to benchmark to global best practice, wherever that is located. Productivity is increasing so rapidly and the IT revolution is moving so quickly that we cannot be sure that best practice is located in the United States. Ultimately, the competitiveness of the knowledge based sectors is going to depend on moving.

CHAIR—That is sounding somewhat protectionist.

Ms Drake-Brockman—No. Some services sectors are sceptical that there would be gains available from an FTA with the United States that are not available in Geneva. The sector wants to benchmark to global best practice and does not want to close itself off from global opportunities.

Prof. Findlay—I am not relaxed at all about the complementarity between the FTA strategy and the WTO strategy. There was discussion before about, ‘Let’s set off down the road. We think it is heading towards liberalisation and, as we set down the road, we will end up there.’ I think that is naive. I think the choice of the road matters. The outcome depends on the path that you choose. Choosing an FTA path has a big impact on the attitude of people who are involved to taking that next step, which is to go beyond the FTA; to go to full multilateral liberalisation. The FTA path offers them preferential access to an otherwise protected market. It changes their attitude to the full-scale liberalisation, and I think there is a real risk that that strategy undermines what has been a very strong political force within Australia towards using the multilateral system. I see a real risk of fracturing that force, even within sectors which were previously very strongly in favour of the multilateral process. My colleague on my left has been working on the trade diverting effects of FTAs and how significant they are, and that is a big part of the calculus about whether they are worthwhile or not. Also extremely important in the analysis of FTAs is the political diversion effect on the WTO process.

The second point that I am really concerned about in FTAs—which is kind of the flip side—is the sequencing issue that we were talking about earlier. That involves saying, ‘Okay, let’s have a preferential agreement,’ and what you are doing is deciding which sequence foreign suppliers are going to come into your market. A lot of the markets we are talking about are service sector markets. The extent of competition is pretty imperfect, and someone who is in there often has a strong advantage compared with someone who is sitting outside wanting to come in. You will

have examples of that spring to mind when you think about telecoms or air transport or other sectors with this sort of production process. So there are big competition policy issues there. My concern is that we will be stuck because of this sequencing issue with second-raters established in their own market, and that is not a desirable outcome either. It is a variant on the point we were making earlier about handing the profits to foreigners in otherwise restricted markets.

Given these concerns, it is going to be really important to bundle this FTA strategy if we are going to follow it—it is not one I would prefer, but if the game is on, if you like—and be extremely articulate and clear about what principles you want to see applied to these FTAs when they are established and negotiated. Those principles include things like, 'Let's get the expectation right; the sun is going to set on them; they are going to be multilateralised at some point in the future.' Another very important principle is comprehensiveness. I would be very keen to make sure that we do not sign an agreement which is not comprehensive; otherwise, it will undermine our effectiveness in the main game—which to me is still the WTO.

CHAIR—Dr Dee, would you like to comment?

Dr Dee—I will perhaps answer a slightly different question from the one you asked. I will first make an observation that there was a question I did not hear in the previous session when the participants at the table were discussing the prospect of getting an expansion of tariff quotas for products like beef into the US market under an FTA. The question that did not appear to be asked or answered was whether they thought that was going to be at the expense of tariff rate quotas granted to other countries or whether it was going to involve a genuine expansion in the total quota size of the market.

The other observation I would make is that the US has demonstrated its willingness to make proposals that involve significant reductions in its own export subsidies, and even more significant reductions in the subsidies for the US and Japan. But its multilateral offer on tariff quotas—which was claimed was where the real action is—was a lot less generous, and I really have to wonder whether that US is going to really concede anything on that difficult issue in a bilateral forum ahead of any action on a multilateral level.

CHAIR—Mr Larkin, do you have any comments?

Mr Larkin—Mr Grey made a statement about our broader strategy and the relationship between the multilateral trade agenda and the bilateral trade agenda. I would not want to add to that, but I would note that, in terms of an FTA with, say, the USA, there would certainly be strong offensive interests we could pursue in such areas as professional services, transport, financial services and telecommunications. So we certainly would be on the front foot in a lot of sectors.

I would also note that in terms of the relationship between the multilateral agenda and the bilateral agenda the bilateral approach does give you the freedom to pursue different ways of drafting the agreement that are not available under the multilateral level. For example, our free trade agreement with New Zealand, CER, is constructed on a negative list basis under which everything is assumed to be liberalised unless you list certain reserved sectors. It does provide scope for more aggressive liberalisation approaches. That is a benefit.

CHAIR—Do you want to make a final statement and say how you plan to liberalise air agreements, David?

Mr Hawes—Could I add an observation. Since the early 1980s, when the results of the then Tokyo Round, which concluded in 1979, were implemented, we have implemented the results of one multilateral trade round in 20 years. So I tend to favour walking and chewing gum. You can do both. In fact, in the area of aviation it is progressive liberalisation under a web of bilateral agreements. In terms of economic rights—a hard right so called—aviation is for the moment excluded from the WTO under the terms of the Air Transport Annex. I am not as worried as some people about multilateral or bilateral. The United States is a huge economy. If there are advantages seen in being able to liberalise and secure greater market access opportunities there, I would dread to think that we would just close our eyes to that possibility hoping for change at the end of the Doha Round in 2005 and you wait for another few years and by 2012 or 2015 you are implementing the results of the round after that. I think we could be short-changing ourselves in terms of the opportunities.

As to what you do domestically in terms of your own liberalisation to ensure that not all of the benefits are enjoyed by inefficient United States firms—if that is the worry—that is a solution that you also have in your own hands. You do not have to wait for commitments made in trade rounds. These are national policy choices. They are not driven by what is demanded of us by our trading partners or what we commit to. So I think we need to keep a bit of a balanced view about trade agreements and trade liberalisation possibilities. I do not think it is an either/or—I think there is room for both.

CHAIR—Thank you. Senator O'Brien.

Senator O'BRIEN—Dr Dee, you seem to be indicating that outcomes in terms of increased market access for commodities under a free trade agreement with the United States are far from guaranteed. I thought—perhaps you can correct me if I am wrong—that under the NAFTA agreement there is just such increased commodity access mandated. Is there some reason we should differentiate a US-Australia FTA from the NAFTA in that regard? Equally, aren't the Mercosur and Andean communities interested in getting a piece of the action in terms of the commodity markets that we aspire to, and what are the risks in not pursuing that?

Dr Dee—The point I was making is that I think we need to be very careful about how we get our preferential access into the US market and at whose expense it is coming. I take your point about NAFTA, but I think that the difference is that we are contemplating an FTA with the US within the context of a multilateral round. That was not so much the case with the NAFTA agreement. It is just going to make it a bit more difficult for the US to be making significant bilateral concessions in politically difficult areas.

Senator O'BRIEN—You could make a case for the alternative, which is that, if they were minded to hold out the hope for success in the multilateral, setting an example in the bilateral and saying, 'This might just be available to everyone' is equally likely. I am not sure that is the case but you could argue that.

Dr Dee—That would be a good outcome of a bilateral then becoming multilateralised. That would be terrific.

Senator O'BRIEN—I guess I am being the devil's advocate. I am not necessarily arguing which case is right; I am just putting the propositions at this stage. Ms Drake-Brockman, your organisation seems to come to this argument on the basis that you believe you need to be inside the tent because others are there and their interests are being attended to, and your group feels that they need representation in case something happens. That is the way I took your submission when you presented it. Is that a fair way of categorising your group's interest?

Ms Drake-Brockman—No. In terms of the WTO, that would not capture the full interests of the group. The group wants to be much more active in the services negotiations. Our government is being active but the negotiations are very difficult. For example, we do not know exactly what the Australian government has requested. We have seen some of the things that have been requested of Australia, so of course the industry has a vital interest in observing and participating in the entire process. What you say is a correct way of capturing the view on the FTA front. The Singapore negotiations are all about services. The industry cannot afford to not monitor what is going on.

There is a real view that it is very difficult to negotiate, let alone implement or enforce, a bilateral deal on services—just as it is in intellectual property, which was mentioned earlier. In the health sector, would you have a queue for Americans in Woden hospital, just as we have a queue at the border for different passports? How do you do it? If it is so difficult, what are we it doing for? Why aren't we in Geneva? There are a variety of views within the services sector; there are many diverse sectors involved. But, particularly when we come to people movement issues, many subsectors are pretty worried about queues of people in different sectors from different nationalities. It does not necessarily make much sense in terms of a customer base for services.

CHAIR—We are meant to finish at 12.30 p.m. but Mrs Moylan and Mr Nairn would like to ask some questions. So, with a view to the time, I invite Mrs Moylan to begin.

Mrs MOYLAN—I will try to be quick. I was talking to one of my colleagues—I am not sure if it wasn't the chair—just the other day about some of the issues that Dr Dee raised regarding the difficulties to be confronted with standards and training levels. Professor Findlay also raised this issue. This is more of an observation or a point that someone made to me: is Australia going to move into an era, particularly in the engineering services, in which we will see the kinds of situations that have happened elsewhere in the world, where buildings and bridges have collapsed, causing serious injury? Obviously, issues like that have to be grappled with.

My question is: what have we learnt from the entry into the general agreement on trade in agriculture and manufacturing based industries? What have we learnt from that and, particularly, is it possible to achieve the entry of our service sector into the GATS agreements without the major social upheavals that we saw in the manufacturing and agricultural sectors? From my observation, the social cost was never factored into the productivity and efficiency gains. I wonder whether we have actually learnt anything and whether we are going to take that into account as we proceed to enter the GATS in the services sector.

Dr Dee—On the question of standards and bridges and buildings collapsing, an important point is that a lot of the sensible action is not to do with harmonisation of standards at all. We are not talking about Australia adopting common standards for buildings with Malaysia,

Indonesia or any other country. A lot of the action on standards is to do with mutual recognition. We are not even talking about our recognising their standards and their recognising us. We are talking much about mutual recognition—again, the language; trade negotiation is awful.

Mrs MOYLAN—What does this mean to the average person?

Dr Dee—The jargon term is ‘mutual recognition of conformance assessment’ which means that I trust you to check that your goods and services meet my standards before you send them here.

Mrs MOYLAN—What control do we have over that? Do we have our bridges or buildings collapse and 100 or 200 people die and then go back and say, ‘This wasn’t up to standard.’ How do we do this before the event?

Dr Dee—If it is a question of enforcement of a given set of standards, that is a different set of issues as well. Obviously, we in Australia have a keen interest in ensuring that our standards are enforced. Presumably, if we let foreign operators in, we have to think carefully about organising the same enforcement of the standards when they are operating as when we are. There clearly will be some challenges for some countries imposed by services liberalisation which will force them to think far more seriously about their enforcement of standards and their whole standards regimes than we have. Australia, in a lot of cases—with the arguable exception of a few examples like insurance—has its regulatory and standards regimes reasonably in place.

Mrs MOYLAN—Public confidence is shattered by events like that.

Dr Dee—Absolutely.

Mrs MOYLAN—Who wants to have an operation on their brain by a brain surgeon where there is no determined qualification standard and we just say, ‘We will enforce certain standards of performance once they are actually performing.’ What comes first here?

Dr Dee—There are a lot of overlapping issues that we need to think about with services regulation. Christopher Findlay talked earlier about some services sectors wanting the right not to establish in a foreign country. They want to be able to operate cross-border. But in a lot of sectors, the argument given for maintaining the right that people do have to establish is so that there is a corporate legal presence in the country that can be held accountable. It is a jurisdictional issue. It establishes a body in the country that can be then bound by the enforcement regulations, the laws and so forth and it gives you a much greater handle to ensure that you can enforce your regulatory regimes. We will have to think, service sector by service sector, whether we want to maintain the sorts of regulations that give us the surety of regulation and enforcement or whether we can afford to be more liberal because perhaps there are other ways of doing it. You are very right: there is a set of overlapping detailed issues that will need to be thought through on a sector by sector basis.

In terms of social upheavals and whether there are lessons to be learnt from agriculture or manufacturing, I am sure there are, but as I pointed out before, to the extent that services liberalisation is about attracting foreign investment, we are talking about prospects for services sectors growing through this process, not necessarily shrinking.

Mrs MOYLAN—Yes, except for the point that you have made that we could open up overseas markets to the prejudice of our own domestic marketplace.

Dr Dee—If we get the sequencing wrong, there are some very real dangers there. That is why it is important to think about getting the sequencing right.

CHAIR—I saw you writing a prompting note, Ms Drake-Brockman, did you want to share it with us?

Ms Drake-Brockman—Governments do not move to treaty status obligations on mutual recognition of conformance assessment until there has been a great deal of confidence built up within every sector, whether that be lawyers talking to lawyers around the world, or accountants talking to accountants around the world, or our testing laboratories getting to know testing laboratories elsewhere in the world. One of the biggest problems in the Asia-Pacific market is that the standards and conformance infrastructure, the testing laboratories, sometimes does not exist in some of our trading partners, so there is a prior step which is helping get that infrastructure established and up and away.

Mr NAIRN—I was going to make the comment that my personal experiences were that the level of export of services was inversely proportional to the domestic economy at the time. One of the biggest problems that the services sector has had is that it goes wandering off overseas trying to get into markets but, as soon as things are good back home, it is much easier to work at home so you forget that and then another few years later try again. But that was just in passing. I was confused, Ms Drake-Brockman, reading an article in the *Bulletin* about the establishment of the roundtable and your concerns about being left out of it as far as the negotiations went. You said:

Until the sector has a voice, it remains at risk of being ignored, or being lower down the priority list than it should be. Our industry is at risk of losing out to global competitors who are much more closely focused on potential gains from the new trade rounds.

You are saying you are concerned that as part of the agricultural type of negotiations we are likely to say, 'Let's open up a few other things services-wise into Australia without complementary things such as trade-offs for agriculture.' Is that your concern? I was not sure whether you were trying to say that we already have a fairly liberal situation within Australia and it is the other way that we want it, but we do not want to make ours more liberal to help out agriculture, for instance.

Ms Drake-Brockman—I think that there are four aspects to this. The No. 1 key issue is transparency, the issue that was introduced in the discussion earlier. The sector does want to ensure maximum transparency in the process in Australia of determining our negotiating priorities and determining the final shape of the package that the government signs on to. The sector wants to encourage greater transparency. There is no representative from the services roundtable, for example, on the WTO advisory group. There are one or two from subsectoral services groups, but the sector's voice—

CHAIR—Aren't you on that, Mr Hawes?

Mr Hawes—I am on the Trade Policy Advisory Committee; it is a parallel body, but it is not the one that is dealing directly with the negotiations.

Ms Drake-Brockman—There is no question that the voice of the sector is less than more traditional trade policy voices in this country. There is a feeling that the trade policy decisions should be made on the basis of the underlying economy and the shift in the economy is not fully understood by policy makers and the statistics gathering is still very poor. Trade in health, IT and tourism are all massively underestimated in our Bureau of Statistics publications. We do not feel as a sector that the economic importance of the sector is fully understood. Elsewhere in the world this is not the case. Elsewhere in the world, services providers are working very closely with their services negotiators—for example, FedEx or Chubb in the United States work very closely with USTR to determine what the US government is seeking in Geneva and in free trade agreement negotiations. We feel as an industry grouping that we need to be equally active.

CHAIR—Just on that point, Ms Drake-Brockman, are you pushing to have a minister responsible for the services industry?

Ms Drake-Brockman—The group feels that the appropriate audience for the sector's concerns, in addition to Mr Vaile, is cabinet.

CHAIR—You continued today the very strong input that we have had in terms of this inquiry and we thank you for that. We really appreciate that and, also, some of the provocative views that you have provided. Thank you for your input today; it was very useful and thought provoking.

Proceedings suspended from 12.41 p.m. to 1.28 p.m.

BURROW, Sharan, President, Australian Council of Trade Unions

CHAIR—I welcome Ms Sharon Burrow, appearing on behalf of the Australian Council of Trade Unions. We prefer all evidence to be given in public, but should you at any stage wish to go in camera then please let us know and we can do that. Although the subcommittee does not require you to give evidence on oath, I advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. I invite you to make an opening statement which we will then follow up with some questions.

Ms Burrow—Our submission goes to the question of general principles in whatever trade negotiations or arrangements are entered into by the Australian government. It talks about greater transparency and openness and goes to the question of the current negotiations under the General Agreement on Trade in Services, and I want to come back to those issues in particular. It clearly takes you to the question of regulation and particularly to cultural values and finance. We are concerned about some of the potential issues of sovereignty around questions of culture. I will come back to GATS, because I have a few things to say about that.

Regarding the WTO dispute processes, I think the government is aware of our view that it ought to be opened up at least to access for presentations from NGOs. We have no doubt that this is one of the most powerful committees in the world, albeit a little slow to respond to dispute lodgment, but we believe nevertheless that civil society's voice should be heard at the point of evidence. It would not be too hard to get a list of endorsed non-government organisations with global credibility and stature that could provide a research base that would be instructive for such a disputes panel. We are concerned with regard to a number of agreements currently being negotiated—and of course, more broadly, regarding the round itself—that the disputes panel may give priority to free trade above other issues if there are not exemptions, particularly for the services base which I will refer to in a minute. We would argue that the Australian government should strongly advocate a disputes process which recognises the principles enshrined in UN agreements and, as I said, is based on greater openness and transparency with access for civil society.

There is no doubt that we are concerned about the new areas, particularly government procurement. The Australian government is not presently a signatory to the voluntary agreement on government procurement which was a part of the Uruguay Round. We believe that this would prevent the use of government purchasing policy to assist local industry development and so should be strongly opposed. Above all, this issue in particular should be debated very openly in the community. At the moment there are some dreadful examples of local development where there is not one piece of local content and it is doing nothing for jobs and investment in Australian product.

CHAIR—Do you have an example of that?

Ms Burrow—Yes. The current Alice Springs to Darwin railway is a classic example where most of the steel—in fact, I think, almost all of the steel—involved in the project is sourced offshore. So it is of vital interest to the Australian public that these issues are debated and that major contracts are scrutinised. Within the current working group discussions between

employers, unions and government in regard to steel issues generally in the wake of the US there are, I hope, significant arguments being advanced about questions of dumping and local content, so we could do a lot there ourselves without worrying about the WTO. That issue around government procurement is a vital one for Australian jobs, and we would argue that a vigorous debate before any decision is taken is necessary.

The same goes for competition policy. Our domestic experience of antimonopoly provisions under the Trade Practices Act suggests that they are at best relatively weak and generally ineffective. We would argue that, until the recent spate of public debate, most of the competition policy in Australia was aimed at public enterprises and service provision, and we have seen that the orthodoxy of privatising or contracting out utilities is not driving a competitive pricing base for consumers and is causing some genuine concerns about quality and, indeed, about health services.

Regarding development issues, we support the increased technical assistance and capacity building for developing countries in the WTO and would support any strengthening of special and differential treatment provisions. However, we are absolutely opposed to the orthodoxy growing up within the diplomatic trade forums that trade and aid are somehow mutually exclusive. There is absolutely no argument for that, and we would point to the recent debate between finance ministers and development ministers at the global conference about the need for governments to see aid as a domestic policy investment in terms of, if nothing else, infrastructure development that makes possible specialised trading access and access to markets in developing countries.

I will not go on too much about human rights, labour rights and the relationship with the ILO. Suffice to say this is an ongoing debate. It leaves us absolutely without any rational understanding about how governments can argue liberalisation of capital, of product and of services but not of human rights, labour standards and environmental protections. It does not make any sense that we would give the corporate world so much power that they can rape the environment, they can trample human rights, they can ignore freedom of association or any decent core labour standards and make as much profit as they are able but governments representing people around the world see their only role is to promote profit for corporations and not to promote rights of the people of the nations with whom we trade or who trade with us.

I would just take a slightly longer time on the question of the GATS negotiations because it is our view that the general public is simply not aware of the potential consequences. I am not trying to suggest that the sky is falling in tomorrow, but there is no doubt the lack of debate and the lack of government transparency is of increasing concern around the globe and in this country. You know as well as I do that the 144 governments are engaged in negotiations around services trade under the General Agreement on Trade in Services. As part of the Doha Round launched at the fourth ministerial conference, we have seen that work run just a little faster. At the end of June 2002, WTO members had to table requests to other WTO members concerning which service markets should be opened. This phase, you know and I know, continues until 31 March 2003, which is the deadline for WTO members to indicate that their response to the requests are either in the affirmative or in the negative, or to make offers of specific trade liberalisation in specific areas, or part thereof, of service sectors.

There is a huge budget provision in services around the world. There is no question that the corporate sector is looking at the public sector budgets of current government services. If you take any one of the major areas like health, education or utilities, you can see why it is attractive to the corporate sector to push these initiatives. There is a naivety, in my view, and we saw it debated at the World Economics Forum in New York, where the Western world thinks that it is going to reap the benefits of profits from services because they can do them better than developing countries and the trade-off for that is some small liberalisation in agriculture. I know the views about agriculture across both parties in government, and our advice to the agricultural sector is also to be careful what you wish for because gains in one area could mean very grave losses in emerging agricultural developments or, indeed, in areas protected by quarantine laws and the like. I do not profess to be an expert in the agricultural area, although I think agricultural communities are again being denied the kind of transparency of public debate. If there was genuine, open and factual research about winners and losers in this sector, they would be very interested.

What I do know a lot more about is the question of public services. We believe that with regard to the provision of public services, such as health, education and essential public utilities—but we would go to the issue of vital communication structures and the like, some of the finance regulations; those things that our communities depend on for vital services—we ought not allow the inroads into our service base that other nations would want to occur. In return, we propose that we do not take a naive approach—that is, one that suggests that we can make enormous profits from the service base of developing countries—given that I believe they are far too smart for that. They know the value of service infrastructure and of controlling their own skills base, utilities base and their own health provisions, but they also know that they can add to that already in the context of using what is available in the more developed nations of the world.

I want to simply point out the seriousness of Europe's ambit claim—and we know it is an ambit claim. If Europe was serious and Australia was naive enough to provide agreement to remove the national interest test—which can be used to stop foreign companies from taking control of a domestic firm and which was, of course, the rule used to block Shell's takeover of Woodside Petroleum last year—there would be effects on many areas in our communities. We could agree to the following: to remove the foreign ownership restrictions on Telstra shares, now capped at around 15 per cent; to remove the requirement for at least two directors of a public company to be residents; to open Australia Post to competition; to remove foreign ownership restrictions in Optus and Vodafone; to open water services to more competition; to remove restrictions on professionals from overseas, such as lawyers and accountants, being able to work in Australia with no thought to the quality benchmarks. I might add we are not opposed to foreign labour but we are opposed to a deregulation with no quality benchmarks that give people public guarantees. And of course there is a question of investment in Australian jobs and the standards that we should be achieving ourselves—or to open motor liability insurance, workers competition and the like.

I pick out those examples from a whole range of possibilities that the ambit claim from the European Union could result in and say to you that no legislator, in my view, no negotiator for an Australian government and no parliamentary representative of democratic constituencies will be able to justify making decisions on the basis of executive government—or treaties legislation which goes through the parliament with bipartisan support, or even dominant government

support—if there is no community debate. And it must be a community debate based on sound research and provision. You know that there is a great fear around the world about water—access, ownership and quality—and it is indicative, I think, of people standing up and saying, ‘There are fundamental roles for government who should retain sovereign rights.’ Of all of those, essential utilities and public services are at the heart of what makes for a nation that continues to value the rights of its people and to support the aspirations of people through public services. So we have grave concerns across the spectrum.

If you go to other nations and you see the development of discussions and the analysis of trade agreements already put in place in return for great promises about jobs, growth and development, then you will see that a lot of that orthodoxy is mythical, that it is not being held up once the facts are looked at and communities are consulted. So we would urge absolute caution and public interest first. You will not find the trade unions opposed to globalisation, but you will find us opposed to corporate globalisation. You will find us opposed to signing away trade rights where we do not have commitment to look after people’s interests, whether it be environmental concerns, labour standards or human rights. We do not believe that a world that is driven by the corporate excesses that we have seen from our own and other nations in the last three months is a world that people are interested in. They are actually interested in democratic globalisation where people matter, where economic and trading rights are kept in balance with those of the sovereign rights of nations and, of course, democratic rights and freedoms for individuals.

CHAIR—Thank you very much. I ask Gary Nairn to head up the batting.

Mr NAIRN—As an aside, you have used the example of the Alice Springs to Darwin railway as an example of the lack of local content with all the steel. My understanding of that was that it was not so much that it was a cheap price from overseas but that the local price was absurdly high and that Australian companies almost acknowledged to the point that they were not all that interested. They gave Australian companies a really open door to find a way in, but there was not a great deal of interest.

Ms Burrow—I do not think you will find that is the view of the steel manufacturers, at least not the view they put to us. It is certainly not in our interests, given that it is some of those manufacturing sectors where communities are most under stress through loss of employment opportunities, apprenticeship possibilities for young people and generally a secure working future. We could debate the issue of that in particular, but let us do it by getting the parties in a room and working out what went wrong there. It would be incredibly instructive to know why it is that one of the most major developments in Australia for a very long time has not generated spin-off investment and jobs in other domestic supply sectors. We could do this for almost every major project, and you could argue whether or not cost competitiveness with a straight pricing regime versus some of the potential return to the economy and to taxpayers and to people might not generate a premium on local content rules that gives us a much greater capacity to analyse economic and social benefit. We would love to do that work with governments who are interested in sustaining and renewing communities. Our plea to you is, when you are looking at the rules of the multilateral trading system, or those of you in government engaged in bilateral negotiations, think these things through and debate them. You will not find unreasonableness. You will find difficult, tough questions that make people justify why they think they are going to take this path as opposed to the path of protecting national interests.

Mr NAIRN—I am interested in your comments because I remember speaking to a number of people about it and I was really surprised at the seeming lack of interest to get involved from the Australian providers. That was just an aside, and I am interested in your comments.

Ms Burrow—If you talk to BHP or Smorgon, I do not think they are going to give you that response, particularly in the current environment.

Mr NAIRN—Talking about not having public services as part of the GATS agreement, you acknowledge that things like health, education, water and postal services are not listed—Australia has not listed them—but you are concerned that they will. Are you talking about all public services or just some public services?

Ms Burrow—We are not opposed to debating the issue of trade in services, but there is no public debate. I will talk about the agricultural sector again. Because I am not an expert in agriculture I have tried to disaggregate this sector in particular discussions with groups like Women in Agriculture and tried to look at where the winners and losers are. There is no research that has been done with an honest eye as to what effect an impact in one sector in terms of liberalising trade will have in another sector where the impact might be a negative one. This is not about making global judgments one way or the other; it is about saying, ‘Let’s debate why it is that Australia would want to open up services in a variety of areas.’ If the government thinks that it is necessary, important or valuable to do so, let us have a fair dinkum debate with the community, not one that is based on some notion that somehow all trade liberalisation is good and all public sector or public sector protection—not necessarily even public sector delivery—is bad.

Mr NAIRN—So you are not saying it is some public services or all; you are leaving that open.

Ms Burrow—We do not believe public education, public health, postal services and utilities across the board should even be talked about. When you go to the question of finance, we already have a partly deregulated environment, but when you look at some of the licensing and regulation implications from the current negotiations then we would say beware. Let us have a debate about whether some of the technical licensing requirements can actually open up a whole spate of opportunities for other nations and close down some emerging developments for Australia. That is the level of detailed debate that we would want to get into. The trade unions are not opposed to jobs and investment—that is our core business—but we are opposed to saying, ‘Let’s sell out the nation because on a global principle the dominant view of Western governments is that this is a good thing.’

Can I just give you an example of that. I had this private conversation with some of the trade negotiators in the EU. I said to them, ‘You are always telling us how terrific the skills sector and education developments are in the European Union. Why would you want to open them up for access to other nations to come in and run your educational services?’ The answer was, ‘We’re not going to do that.’ I said, ‘Then why are you engaged in these debates?’ ‘Well, we believe that we will provide quality services to developing nations and that will be good for us because it will be a return on capital and intellectual property investment.’ I said, ‘Do you really think developing nations are so open and generous as to ask you to come in and make a profit from their people and take it all back to your own nation when they know that in a knowledge

economy to compete on the basis of knowledge and skills is actually an investment in future economic growth and social opportunity?' They just sat there as if saying, 'We think we'll win the day.' We actually have a view that that is about the next round of economic imperialism. That is not about a global world where people have rights and are assisted to develop to the point of being a civilised global environment.

Mr NAIRN—You mentioned that you believe there should be community interests represented on the government's WTO advisory group. Do you have any suggestions on what types of groups ought to be there?

Ms Burrow—You have some representation already on the WTO advisory group. It includes unions and I understand a number of industry sectors. But we do believe that people representing environmental and human rights concerns ought to be included, because it is definitely our view that it is not simply about trade and economic development: this is about the shape of the kinds of global governance structures that impact on people's lives.

Mr HAWKER—You have got Environment Business Australia and the Council for Overseas Aid already on the advisory group. Wouldn't you get some representation through that?

Ms Burrow—We are not being overly critical of the government's advisory group. It is actually one of the more consultative groups that the government has in place in any sector. It was simply a notion that it should be broadly based, not a deep criticism. I would not concern yourselves too much on that front. We are more concerned about the WTO disputes environment and the advisory structures to the WTO itself, where it appears that governments—or often the bureaucracy, I have to say, not even governments—take on an executive government function of their own with no recourse back to public debate or decision. Hence our argument about opening up the disputes process for expert input. We are not talking about unsustainable and uncontrollable processes of evidence-taking, but if the UN and others can endorse appropriate NGOs and recognise their expertise that evidence ought to at least be available to those making decisions around major disputes. We would also argue that you make sure that the disputes process is streamlined. If you take the steel issue here, you may very well complain to the WTO, but two years down the track the damage is done to an industry and associated communities.

Senator COOK—Sharan, I was very interested in what you were saying about GATS. I am not clear, though, about exactly what is being asked to be done. It seems to me that the argument is about transparency, and I would like to develop that from a public policy point of view. The questions are: when are the key decisions made and by whom and with what public exposure and input? Does the ACTU have a view about how that could be managed in relation to GATS?

Ms Burrow—Tell me if I have it wrong, but I think there are two bits to the question. The first is that we believe the WTO conference should amend as necessary the terms of the GATS agreement to formally exclude such centres from all further GATS negotiations. Ironically, as you might recall, we had this argument with Mike Moore when he was in the position of director-general. There have been some robust discussions about whether or not adequate powers were provided for nations to—without using the technical term—exempt public services

from negotiations and the capacity where governments might make foolish decisions to rebuild public services, without fear of dispute or compensation requirements.

We do not believe those guarantees are there, and we believe they ought to happen on two fronts: firstly, at the conference itself; secondly, the government should stand up and say to Australians, 'It is not the intention of this government to open up and put at risk sovereign rights to provide public education services, health services and others, and this is the way we are going to do it.' That is what we want to know: what do you see as the rule that protects public services for Australians and how are you going to apply it? I would argue that, for every argument that I have with people, there is another set of ambiguities.

On the second question—that is, at what point do you open up the debate—the time is now. There are claims all round the country and all round the world, and the only way the nation's demands are known is by activists groups, like the ACTU, environmental groups and community groups more broadly, digging around and consulting appropriate bodies, or when the press likewise does some investigative journalism. There is not a lot of it, I might add, but there is some evidence that people are becoming aware of the debate. So we would say that the time is now. What is wrong with governments openly posting the ambit claims, as I call them, from other nations and what is Australia's position? I do not know what it is. What is the transparent position of the Australian government with regard to what it wants from the GATS negotiations?

Senator COOK—We were given a fact sheet today which is a summary of the government's position, and there is some material in our folders of related statements made by the Minister for Trade. The fact sheet says:

However, the **nature and extent of these commitments under the GATS are strictly a matter of choice for member governments**. Member governments can choose not to make commitments in a particular sector. They can also structure their commitments so that they can discriminate between foreign and domestic suppliers or limit the degree of market access.

For example, Australia has made no commitments on **audiovisual services** and has made extremely limited commitments on **health services** (relating only to podiatry and chiropody services). On **education**, we have made commitments only in relation to **private** secondary and tertiary education, and English language teaching services.

And it goes on to describe that in a little more detail. They are the commitments that have been made. Do you object to those commitments, or are you worried that those commitments might be extended without consultation? As a member of the ICFTU, the ACTU has many European affiliates. The EU has lodged, as you have described it, an ambit claim on GATS. I think there are now eight Labour, Socialist or Social Democratic governments in the EU compared with seven Conservative governments—but it might have switched with the Dutch election; I am not sure.

Ms Burrow—Probably switching.

Senator COOK—In essence, you have got governments to which unions can have access in the majority in the EU. What discussions have you had with your international counterparts in Europe about the GATS issues?

Ms Burrow—We in fact have a common position on the current round inclusive of GATS with all of the European unions, and indeed the American unions and others through the ICFTU. So you will not find the aspirations that I put forward to be in isolation of other unions. Let me make two observations. On the question of access to what you might call, I suppose, ‘progressive’ European Union governments, there is no doubt that their policy positions around a range of issues including labour standards remain intact. But if you had seen what I would call the ‘corporate bullying’ going on, and some intergovernmental bullying going on too, particularly from the US prior to the trade round and now post it—I think it is the TPRM process where we could still have some access to dealing with labour standards—you might question that. But, while this was an EU position, suddenly they are very reluctant. We say that you cannot have a corporate world that is dominant without a civil society that has equal rights, and that is what we want to put on the table: a question of balance.

In regard to your first question about provision of access to secondary and tertiary private education, we have got an education funding bill in the House here at the moment. Already we have two private university concerns, or indeed Catholic university concerns, and if they were actually legislated for as well as being treated as public universities then you would protect yourself in terms of investment—and the bill has two or three or four others from Queensland, which we would argue are not universities by any definition or benchmark. They are about to get public funding from the government.

What is the protection—it is a rhetorical question, I suppose, back to you—when international corporates want the same treatment for their own educational services as we provide for private tertiary or secondary education? Let me tell you, if the latest estimate figures are to be believed, we are talking in private schools alone about another increase of about \$800 million. What is the protection against demands from the international sector by corporate service providers for equal treatment? I would argue with you that, even if I were not opposed to the first, which we are cautious and concerned about, I would certainly be concerned about wiping away the protections that might look like they are there now simply by extension.

CHAIR—Thank you very much for your presentation today and answering questions. We appreciate your coming.

[2.05 p.m.]

GALLAGHER, Mr Peter William, Principal Consultant, Inquit Pty Ltd

CHAIR—On behalf of the Trade Subcommittee, I welcome Mr Peter Gallagher. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give evidence in private you may ask to do so and the subcommittee will give consideration to your request. Although the subcommittee does not require you to give evidence on oath, I advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. I invite you to make a short opening statement before we proceed to questions.

Mr Gallagher—Thank you, Chair; I will be very brief. I had the pleasure of appearing earlier this morning on behalf of the dairy industry. I am appearing today on an issue which is certainly of interest to the dairy industry, although I am not specifically speaking on their behalf on this issue. As a trade consultant, one of my clients for several years has been the World Trade Organisation itself. I produce for that organisation training manuals and documents which they use for training in developing countries. Recently I prepared some material for them on dispute settlement and on intellectual property. It is that background on intellectual property which was the basis for the invitation today. One of my current activities—and this is the one the dairy industry has been interested in—surrounds the issue of geographical indications, which I believe is of interest to the committee.

Geographical indications, as you probably know, are a form of intellectual property, not dissimilar to trademarks. They have become an issue in international trade because, under certain conditions, some geographical indications become effectively non-tariff barriers to trade. That is certainly the interest to the dairy industry. An example of a geographical indication that is a trade barrier—whether a good trade barrier or not is debatable—would be the registration of the word ‘champagne’ or ‘Scotch’ for whisky which, in the European Union, are geographical indications that are registered and which you must be entitled to use, as you would be entitled to use a trademark. Countries exporting whisky that they wish to call ‘Scotch whisky’ to the European Union must have the authority to do so. In other words, they must have the authority to use the geographical indication, the conditions of which are that whisky must be made in Scotland to be called Scotch. Or, indeed, sparkling wine has to be made in the region of Champagne in order to be called champagne. The use of these names as trademarks is not a problem for the dairy industry—that can be generally said—or, indeed, for most other Australian food industries. However, there are certain conditions under which I believe, and these industries believe, that the use of those names does become a burden on international trade. That is what I am here to talk about today.

The multilateral trade negotiations launched in Doha had a very brief set of proposals for negotiations on intellectual property. There were really only two issues. One of them concerned a technical problem with the patent system, which appeared to cause problems for developing countries having access to patented medicines. That issue was very quickly dealt with in the WTO, and I believe that the statements and decisions that have been made on that issue in the WTO have essentially neutralised the problem for developing countries and for the WTO

membership at large. The second group of issues being debated in the negotiations concern an international list for registration of existing geographical indications. That is being negotiated. It was in fact agreed in the last round of negotiations that such a list would be put together, and the terms under which that registration is to be done are being debated now in Geneva. Those are very important discussions in which Australia is taking a vigorous and very well thought out role.

The issue that most concerns me is not actually on the negotiating table at the moment. That issue concerns the possible extension of the system of geographical indications. I said earlier that geographical indications can, in some respects, be considered as white trademarks. You register a name which is registrable, just as a trademark must be registrable, under conditions which are not very different from those sorts of trademarks. Generally, you cannot register a trademark that is a word or a sign that is in common use. Similarly, in most countries, you cannot register a geographical indication that is already a word in common use, is part of the language, is being used or was previously registered as a trademark in good faith.

However, in the case of wine and spirits, governments decided in the last round of negotiations that they would create a form of super geographical indication. That form of super geographical indication goes further than the normal geographical indications. Normally, in the case of a trademark, they exist to perform an essential function of consumer information. They exist to ensure that consumers are not misled about the origins or the manufacture of a product.

Most geographical indications exist for a similar reason. They exist to ensure that people who are buying champagne, for example, know what they are buying is a sparkling wine made in the region of Champagne, or that when they buy roquefort cheese it is a cheese made by the traditional methods in the area of Roquefort in France, from unpasteurised milk that is probably very bad for you but tastes good.

The super GIs that were created for wine and spirits, however, have a more extraordinary function. Under the rules, they must be protected. Governments must make it possible to protect the use of those names and reserve them exclusively for the owners of the mark, whether or not consumers are being misled. In other words, the underlying purpose of geographical indications has been thrown out in the case of wine and spirits. In these cases, even though a consumer knows perfectly well that the wine they are buying described as, for example, 'Champagne type' or 'Made in the champagne method', or 'Like champagne' or even 'Phoney champagne', is not really champagne from the Champagne district of France. But you may not use that term; you may not use terms even like 'Phoney champagne' on a label in Australia or anywhere else in the world where the European Union wishes to protect the use of that name.

There are exceptions to this super GI and, in fact, the United States have applied those exceptions much more vigorously than we have in Australia. The exceptions allow governments to decide not to protect super GIs where the word has been in common use, where it has been registered in good faith as a trademark earlier. In Australia, the wine industry—these super GIs apply only to wines and spirits at the moment—decided that it was in their commercial interests to agree to the protection of the super GIs, just as the European Union sought.

They agreed, going back now almost a decade, to comprehensively embrace the European proposal that no-one should be able to use words like 'champagne' unless the wine came from

Champagne and to forfeit its use and even forfeit the use of words like champagne in Australia. The reason they agreed to that was for the obvious reason that this rule is applied in Europe, and the European wine industry made it clear that they would never again get access to Europe unless they agreed to the European wine industry's agenda. If you speak to the Wine and Brandy Corporation today, you will find that they probably regret having done that. It has certainly been a valuable opportunity for them. I do not think they had any choice, but I do not think they like it.

It turns out that the ambition of the European Union, in this case, was not to have just a little bit of the rope but a very long piece of the rope. They have now gone on to say that they want to extend the super GI ambition into areas of traditional expressions and prevent companies in other parts of the world not only from using the word 'port'—which is Portuguese—but from using words like 'tawny' which is a colour that they say is a traditional expression describing port and therefore potentially misleading to consumers— and even if it is not potentially misleading to consumers they want to protect it. How can they get away with this if governments do not agree? They get away with it by preventing countries from exporting to their market.

As I said, there are no negotiations going on on the extension of the super GI system from wine and spirits to other products, but there is no doubt that there is an ambition there. And tucked away between the lines of an obscure piece of the language coming out of Doha is the potential that the European Union needs to start those negotiations. Under the implementation provisions, it is just possible that they could get this thing on to the table. And what do they want to extend it to? They want to extend it to sausages, dairy products, meat products and vegetables. In fact, some developing countries, and possibly the European Union itself, want to extend it to things like carpets and handmade products—anything of traditional manufacture.

We are talking about a lot of money here. We are talking about global industries in the case of food industries. We are talking about industries in the 'New World', as the Europeans would say—and Europeans would call us part of the New World, no matter how ancient the country is. In the United States, Australia, North America and Latin America all of our food industries grew out of that European colonial expansion. Of course we use the language of food that we brought from Europe. What else would we use to describe those products, which we make in exactly the same way that they made them? Yet they want to reserve for themselves, as the originators, bits of that language that we should never be able to use again, whether or not consumers might be misled by their use—words like 'Brie', 'cheddar' perhaps, or 'Emmenthaler' and all sorts of words that we use to describe common cheeses.

One of the first things that the settlers did in Australia when they arrived here was to milk the couple of cows that had survived and make some cheddar cheese. Cheddaring is a very common activity. It is how we describe the way you make that cheese that we call 'cheddar'; it is the process as well as the final result. So we in the dairy industry are concerned—and I think many Australian food industries are concerned—about the potential for extending this super GI. And we are concerned that there is a backdoor way to do that, because the registration list that is now being discussed in Geneva and is part of the negotiations—and it has already been agreed that they should talk about this—opens up the possibility that third countries will do the same thing as the Europeans have done.

How? Let me give you an example. What if the Europeans, finding no other allies in the agricultural negotiations, induced the Japanese—who do not actually produce any of this stuff—to agree that ‘cheddar’, ‘Emmenthaler’ or ‘mozzarella’ should be protected words? If they did that there would be no skin off the Japanese nose. Then we would find it hard to export that stuff not only to Europe but also to Japan and elsewhere in the world. Obviously, the Europeans have a very generous and widespread system of aid and relations with developing countries. It is by no means impossible that this could extend to them as well, and effectively these names would become trade barriers. It would not do us any good, even if we could say to them, ‘Look, we’re going to plead the exception in Australia and not agree to register these words in Australia because they have been in long-term use.’ I do not believe it does the food industries in Europe much good either. I think this is something that can be achieved by the normal use of trademarks. I do not think they need to undertake these extraordinary measures. I have a paper here, which I will leave with the secretariat of the committee, which I will be giving at the World Dairy Conference in Paris next month pointing out that the use of this language is a sort of linguistic colonialism. That is really what it is. It does not, in my view, offer them sustainable commercial benefits in addition to those that would be available in any case using the established trademark system. Chair, that is a statement of my concerns. I would be delighted to respond to any questions that you may have.

CHAIR—Thank you, Mr Gallagher.

Mr HAWKER—Is this in the agreement or the Doha ministerial declaration? Where is it?

Mr Gallagher—No, there are no negotiations directly on this issue at the moment. The extension of these super GIs is not being negotiated. What is being negotiated is the creation of this registration list for geographical indications, in which countries which register a geographical indication will put it on to the list, telling other governments that they are required under the provisions of the intellectual property agreement to make it possible to protect that registration globally.

Mr HAWKER—Going back to the wine industry, with champagne, burgundy and all of those things: looking back 10 years, has it actually helped them or hindered them?

Mr Gallagher—They tell me it has helped them. They say that without that agreement they would not have been able to sustain their growth in European markets—the Europeans would have cut them off at the knees. In that case, you would have to say, ‘That has helped you.’ It is a sad admission, in my view, that they were forced into this and they have accepted it reluctantly, but it has been helpful and it has helped them in the markets.

CHAIR—But what about the other side of it where last year Australian wines were the No. 1 sellers in British supermarkets?

Mr Gallagher—That is why it has helped them. I think there is no doubt they have made money. They would have been in a terrible position if they had not been able to comply with the European regulation.

Mr HAWKER—I understood the question was: has it helped the Europeans? What the chairman is saying is that Australia seems to have gotten around it anyway.

Mr Gallagher—Has it helped the Europeans? I think there is no doubt that it has helped those industry groups that own the piece of language now, because they can stop other people using that piece of language. If you want to call a wine champagne, you cannot in Australia, you cannot anywhere in Europe and this will spread elsewhere in the world. Has that helped them? Absolutely. It has really reinforced their brand, if you like. But the price we have paid is equivalent to a trade barrier. What if they extend it to other food products, food products that we would not register as a trade mark? You could not register ‘cheddar’ in Australia as a trade mark. But, if they apply a geographical indication to it, it will cut off our market in Europe and it may cut off our market in other countries, at least if we call it ‘cheddar’. What else are we going to call it? We will certainly lose that consumer recognition if we cannot call it cheddar. May I clarify that that name is not actually currently being claimed by the European Union.

Mr HAWKER—But, to take another example, Jacob’s Creek is the biggest-selling wine in the world, I believe. So it does not need to say what it is, other than ‘Jacob’s Creek wine’.

Mr Gallagher—Are you saying that we could benefit from geographical indications?

Mr HAWKER—No, I am saying that it has not necessarily excluded us. That is what I am asking.

Mr Gallagher—No, it has not. But you cannot call any of the Australian sparkling wines ‘champagne’; you cannot market them as that. I think they would like to stop us using words like port and sherry and various other common terms for wine. Certainly, their ambitions in the dairy area are very similar. There are common terms which they would like to stop us using. They cannot actually stop us using it in Australia. We can plead exceptions; those exceptions exist. But, if you are in the food industry these days, you are in a global industry where you need to be able to sell globally, and it will become a rule spread throughout the world that Europeans own bits of this language.

Mr NAIRN—It is interesting, though, that in common day language you never call a bottle of champagne a bottle of ‘sparkling wine’. We still call it ‘champagne’, don’t we?

Mr Gallagher—Yes, we do.

Mr NAIRN—With that registration, what are they trying to do? Are they ultimately trying to achieve a ban on the use by people who produce something similar but from a different area or is there an agenda to have a registration so that an Australian cheese company could then pay a fee to still sell a cheese called ‘mozzarella’ or something? Has it ever gone down that line at all?

Mr Gallagher—I am not aware of them going down that line. The origin of these things is usually in small regional associations who have owned these words and these terms, and they have the political clout in Europe to create large numbers of these registrations. I am not arguing against the registration as such; I am saying that if they use those registrations as trade marks under the normal international provisions for the protection of trade marks, which include exceptions where the mark is used in a way that does not mislead—except in the case of certain very well known marks—which already exist as a process for identifying products in a way that helps consumers to identify the origin of a product, we would have no problem with it. We do not want to use ‘parmigiano de romano’. You are never going to get that made in Australia. But

do you get cheese called parmesan made in Australia? Yes, you do. We cannot export that now to the European Union. We are going to find this increasingly closing down some of our commercial opportunities. It is not the standard GI but the extension to the super GI that worries us most, because in that case you may not use it even if you are not misleading a consumer.

Mr NAIRN—The big problem is in those areas where there is no obvious alternative. I do not think that it has affected our champagne industry at all, as we have shown, because there is an alternative, whereas it would affect some of the cheeses if you could not have a parmesan style cheese or something like that.

Mr Gallagher—You may not. That is right.

Mr NAIRN—That is the biggest risk, isn't it? As you said, it has not hurt our wine industry at this stage.

Mr Gallagher—The extension to traditional expressions is, however, causing a lot of difficulty. Remember that, because the Europeans have kept moving the goalposts on this issue, they have not actually finalised that agreement that they started to negotiate 10 years ago. So they are still living under the uncertainty of what might happen in the future. The uncertainty is also affecting the general debate. We do not know for certain what names in the dairy industry the Europeans are going to claim. We are concerned that their ambitions are frankly unlimited.

CHAIR—Thank you very much, Mr Gallagher, for the second time today. We appreciate your presentation. I am sure you would be a very good after-dinner speaker at a lot of food and wine functions. We appreciate your input today. It is quite a serious issue and, hopefully, it will not disadvantage us as they go for super-super GIs.

Proceedings suspended from 2.28 p.m. to 2.39 p.m.

REDDEN, Mr Jim, Policy Director, Australian Council for Overseas Aid

ATKINSON, Mr Jeffrey, Advocacy Coordinator (Trade), Oxfam-Community Aid Abroad

CHAIR—Welcome. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give evidence in private you may ask to do so and the subcommittee will give consideration to your request. Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings in the respective houses. Before we proceed to questions I understand you will give a PowerPoint presentation.

A PowerPoint presentation was then made—

Mr Redden—Thank you for this opportunity to present to you. I begin with an overview. As the chair said, we would like to start with a PowerPoint presentation of about 30 minutes, to be followed by questions and discussion. I was fortunate enough to go, on behalf of ACFOA, to the last WTO meeting in Doha as part of the official delegation, facilitated by the Department of Foreign Affairs and Trade. What we hope to present in the next 30 minutes is a post Doha scenario of what we believe are the current development issues facing developing countries, what is the key trade context in which developing countries are currently operating and why we believe it is important for Australia to be strongly aware of the needs of developing countries and how that impacts on Australia's national interest. At Doha I met with a large number of developing country governments, and Jeff in his capacity as advocacy coordinator with Oxfam-Community Aid Abroad also has considerable contact with developing country governments on trade and aid related issues. The first slide is titled as an overview of poverty and globalisation. It is in Australia's interests to address the crisis in international development through appropriate trade, aid and foreign policy.

Mr Atkinson—This next slide, titled 'The crisis in development' gives us a general overview of the situation in some of the neighbouring countries in Asia, in particular India and Cambodia. There are a couple of points to note here. In countries such as Indonesia, poverty has got worse—rising from 15 per cent to 27 per cent from 1996 to 1999. In a country like India, while there has been some improvement, we still have a situation where 86 per cent of the population still exist on less than \$2 a day. It is likewise for Cambodia, Thailand and the Philippines. Although there is a lot of talk about the Asian economic miracle, we are still talking about a high level of poverty in these countries.

The next slide is titled 'Low income countries'. It basically looks at the question of foreign investment. In this slide, the purple marking shows debt service payments and the yellow marking shows aid. I draw your attention to the dark purple line, which indicates foreign direct investment. I want to make the point that that is a recent phenomenon. While the economic development that we have seen in Asia dates basically from several decades beforehand, the upsurge in foreign direct investment only dates from the early 1990s. So we had economic growth in Asia before we had an upsurge in foreign direct investment.

I will make a few points from a very interesting report which has just been released by UNCTAD regarding LDCs—least developed countries. This slide is headed ‘2002 UNCTAD LDC report: Asia-Pacific LDCs’. Most LDCs are in sub-Saharan Africa, but there are a number in our region. They are Nepal, Bangladesh, Laos, Bhutan, Burma, Solomon Islands, Samoa, Vanuatu, Kiribati, Tuvalu and, more recently, East Timor. The next slide has an interesting quote from that UNCTAD report under the heading ‘Resource constraints’:

Between 1995-1999, the average per capita income in the LDCs was US\$0.72 a day and the average per capita consumption, US\$0.56 a day ... This would leave an average US\$0.15 per person per day to spend on private capital formation, public investment in infrastructure and the running of vital public services, including health, education, administration and law and order.

In other words, while we hear a lot of talk about the need for poorer countries to get their governance act together, they are supposed to do so on 15c per person per day, which is a severe resource constraint.

Mr Redden—I want to mention very briefly some of the history of trade liberalisation to further acquaint you with how developing countries are seeing the progress or the rapid transition to a trade liberalisation regime and what we believe are some of the legitimate concerns that they have. Point one, under the slide on trade policy and history, is that trade liberalisation is still advocated as though it is a panacea equally applicable at all times and in all places. We note that it was not until 1846 that Britain really began to lower her trade barriers, after nearly a century and a half of protected industrialisation. Britain, France, Germany, Australia and especially the United States all developed their domestic industries behind tariff walls and often with below market rate loans and with government subsidies. Australia’s first two governments were elected on a protectionist mandate. The Asian tigers have all used measures which were anything but free trade to industrialise. Many of the measures they used would now be banned under WTO rules or soon will be. Many developing countries were prevented from developing policies by colonial policy. Now developing countries are told to liberalise rapidly. Developed countries are kicking away the ladder they themselves used in earlier years throughout history.

The point that ACFOA is making here is not that we are in any way opposed to the benefits of trade liberalisation. We are just pointing out the pace of trade liberalisation and how modern developed economies have gone through that transition period and in some cases taken 50 to 100 years to have a secure and efficient modern economy. There is a point here about the much talked about comparative advantage. Comparative advantage should not be thought of primarily in static terms. When we are trying to work out the potential advantages of trade liberalisation we also need to consider long-run dynamic change. Static analysis may suggest a certain dollar gain from liberalisation at a certain point in time but what it cannot show is what long-run opportunities may be lost through premature liberalisation. Having currently weaker industries wiped out by powerful competition, the pace of liberalisation and what it does to comparative advantage are views and concerns that are shared amongst many developing countries. The slide ‘Some East Asian lessons’ shows that trade policy needs to be determined by a national development strategy and developing countries need time to develop coherent trade and development national strategies.

Measures to support industries can work and have worked. But a reciprocal control mechanism or performance based reward system is essential—that is, temporary protection and

subsidised credit, duty free inputs et cetera, given in exchange for investment in productive capacity, research and development productivity gains and local content. The diversification of economies is essential for stability and growth. An example from South Korea is the Pohang Iron and Steel Company. The history of this company goes back to before 1973 when the World Bank refused them a loan because they wanted to begin to strengthen and build the steel industry. The World Bank refused that loan because they felt that it was only encouraging protectionism. However, the South Koreans went ahead. You can see the various phases that they have gone through. By having credits for their industry and various other protectionist measures South Korea has been able to grow into today's world leading crude steel producer and exporter. In 2000 the company was privatised. It is a case in point of how the South Korean economy, often pointed to as a shining example of trade liberalisation and the benefits thereof, has in fact advanced under initially protectionist borders.

Mr Atkinson—The other point about that slide is that the World Bank's original rejection of that loan was on the basis that South Korea had no comparative advantage in steel making. And basically what they did was to set about gaining such a comparative advantage. So a central point there is that comparative advantage is not a static thing—you may not have it today, but you can develop it—and a country should not be discouraged from taking up certain things because they have no comparative advantage at a certain point in time.

Mr Redden—An interesting question for us is: if the United States and Germany or Australia were at the stage of industrialisation today that they were up to in 1850 or if South Korea and Taiwan were today where they were in 1955, would they be able to develop and industrialise, facing current WTO rules and already powerful industrialised competitors?

I now want to turn to a few comments about corporations, investment and migration. I will skip over the slide on trade and investment because of time and because it is covered later. So I will proceed to the next slide on corporations and investment. There is really one key point I want to make here. In the WTO meeting in Doha, the very powerful influence of transnational companies over governments and their decisions made at Doha was very clear. The best example is the influence of pharmaceutical transnational companies, who were able to exert very strong influence over the United States government in the discussions around the TRIPS agreement and, in particular, the access of poorer communities in developing countries to affordable medicines.

ACFOA believe that there needs to be constraints and reasonable regulation and accountability of transnational companies, especially those that abuse their market power through unfair monopolies and transfer pricing practices. We believe that it is only fair that they have reasonable regulation. The key point here—the third dot point—is that mechanisms that set international standards for transnational companies, such as the OECD guidelines and ILO conventions, must be strengthened so that both the workers and communities in developing countries have some protection from some of the vagaries of the very powerful transnational companies that can abuse their market competition and undermine some of the trading initiatives and future benefits that might be afforded to a developing country.

On investment and migration, one main point, from the perspective of most developing countries, is that if the more developed countries of the world are going to make a major push in future meetings for the liberalisation of investment then why not push for the liberalisation of

labour? The second dot point highlights that, from 1820 to 1914, 60 million Europeans emigrated, for example, to the US and in the 1880s, 8.58 per cent were born overseas. Poorer countries do not have this pressure valve any longer for migration. So if Australia supports the Europeans in the view of, 'Let's push strongly ahead with rapid liberalisation of investment policy,' then you can expect developing countries to say, 'Well, let's be fair—let's also have rapid liberalisation of labour policies.' The slide on foreign direct investment leads into some brief points I want to make about the relationship between trade, aid and foreign direct investment.

Mr Atkinson—One of the points to be noted in this slide is that, while foreign direct investment has increased markedly in the last decade or two, it has been very narrowly focused on, in particular, Latin-America, the Caribbean and East Asia. South Asia has got little or nothing and the sub-Sahara and Africa, which is the yellow line, also got next to nothing. The foreign direct investment has been narrowly targeted and very few regions of the developing world have received much.

Mr Redden—I will make a few comments on the slide on foreign direct investment policy. We believe it should not be open slather or right of establishment—that major foreign direct investment proposals should be evaluated carefully to ensure that they are consistent with the economic growth and development needs of the particular economy, and that at this stage no further liberalisation of investment should be negotiated in the WTO. We will return to this point later in our presentation.

A point I want to move to now which is a major concern for developing countries is the relationship between trade and aid. Points we would like to make there are that at this stage there are not enough resources, nor of the right kind, in developing countries for them to compete competitively with the industrialised nations of the world in the liberalised trade environment. I guess a key point from the outset about this trade and aid debate is that we hear the argument put forward consistently of the need for better market access for developing countries and for Australia. Our point is that we support that and we do want better market access for the poorer countries of the world to the markets of the US, the EU et cetera. But for the poorest of countries, such as some of those in the Pacific and sub-Saharan Africa, just having market access alone will be a very little help because they do not have the diversification, the comparative advantages, the technology and the industries to benefit from market access. Put bluntly, many of the poorest countries have little to nothing to export competitively, so market access alone is not enough. We have to have market access plus the other two legs of the stool, which we argue are the importance of technology transfer and the importance of investment and aid so that those countries can build up their ability to compete fairly in a global trade environment.

Most of these points reflect those issues: that we need aid to support better governance in these countries, that we need to tackle corruption not only in countries but also in the private sector, in arms trade et cetera. We also need to recognise that growth will take time. For example, Uganda will take 150 years to reach Australia's 1998 levels at two per cent real per capita growth. Lastly, we think that in order for countries to be able to have a healthy economy and compete they obviously need the basics: children's health, nutrition, education and especially the need to focus on the plight of young women. I will skip the next two slides, which emphasise the importance of aid and governance.

Why should countries give overseas development aid? I will summarise this slide quickly because I want to acknowledge the role of this committee, if I may, in terms of a report that the committee brought down last year on Australia's role in United Nations reform, subtitled *Between the idea and the reality falls the shadow*. In that report, in chapter 6 on preventive aid, ACFOA believe that this committee very correctly recommended that the Australian government should set a ratio for ODA:GNP of not less than 0.35 per cent and that the Australian government should develop a plan for the implementation of this ratio by the financial year 2003-04. ACFOA commend this committee for that recommendation. We believe that you are supportive of and understand the importance of good and effective aid. The key reasons we believe Australia should support it in its own interest are for humanitarian reasons, for economic reasons and for regional stability reasons.

I mention briefly, because it is consistent with the recommendations of this committee in the report to which I just referred, that Prime Minister John Howard has signed on to the millennium development goals, and ACFOA believes Australia now needs to plan and allocate resources to meet our fair share of the cost and to monitor progress towards these goals. A question for us is may that be a role that this committee might consider in its future deliberations. Mr Chair, I would be interested in your feedback on that, if it is appropriate, after the presentation. I will not go through all the goals but will give you a couple as an example: to halve the proportion of people in extreme poverty by 2015, to try and achieve universal primary education, to eliminate gender disparity at all levels of education and so on. There are a number of goals, and these will be discussed at the upcoming conference in South Africa at the World Sustainable Development Summit.

The point that we are making here is that we support this committee's recommendations from last year. The reason why aid is important, apart from addressing humanitarian concerns, is that, as point No. 8 says on the slide, it also provides the necessary support and infrastructure for poor countries to get onto the trade playing field and them to begin to benefit from aspects of trade liberalisation.

Unfortunately, the reality of aid is somewhat different, and the next few slides indicate that, globally, the amount of aid has been decreasing. The next slide shows some charts which show clearly that, for example, the trends for total overseas development aid have been that ODA to the least developed countries has remained low and very static. The next slide shows total ODA as a percentage of GNP, and it shows that, apart from some of the Nordic countries, aid has generally decreased. On the slide, Australia is represented by a yellow line, and you can see the amount decreasing from its heights in the days of Whitlam and Malcolm Fraser to its current low level of 0.25 per cent of GDP. That slide also gives you some indications of where other countries have progressed. The next slide shows Australia's ODA, which has been trending downwards since the 1971-72 levels.

The next slide shows our growth in GDP as against the contribution per capita of ODA. On the slide you can see the gap increasing. Our argument is that as Australia is becoming wealthier the amount of aid we are contributing to the poorer countries in our region is becoming less as a proportion. Lastly, we have a slide which shows where Australia sits in the overall ranking of aid contribution. With regard to the countries under us at the moment—Canada being one, and the United States recently announced a \$10 billion increase in aid—if Australia does not increase and they do we will soon be third from the bottom in the overall

ranking in two or three years. We hope, along with this committee, that we can improve our performance to increase aid and technical trade related capacity assistance in the future. The next slide shows a summary of our aid program. We think in our aid is generally well regarded, but we are now 70 per cent richer in real per capita terms than we were in June 1972 and we are giving less overall, as we said before.

Some specific issues post-Doha include multilateralism and bilateralism. The main point ACFOA wishes to make here is that we believe that there are strong advantages to a multilateral trade environment as promoted by the WTO, and we want Australia to be a strong contributor and a strong player to the WTO. Our point is, though, that if too much emphasis is placed on bilateral agreements there are concerns amongst developing countries that these could undermine the importance, significance and benefits of multilateral trade agreements.

The developing countries I spoke to in Doha expressed sincere concern about Australia's role as leader of the Cairns Group if we were to go down the part of negotiating bilateral trade agreements such as that with United States. If those bilateral trade agreements meant that the developing countries in our region were excluded or were not included in the benefits of such agreements, then there is a real fear for many of them that if many of the wealthier countries go down the path of bilateral agreements the whole point of the WTO, the whole point of multilateral agreements, then fades into insignificance. So our plea is for you and for this government to continue to be major players in the WTO and support multilateral, in preference to bilateral, trade agreements. The next slide emphasises that point. We believe there is a danger if we pursue bilateral arrangements, particularly with regard to the US, which has tended to be isolationist and unilateralist and so on.

Mr Atkinson—I will look at market access. For economic development to occur you obviously have to have two things, the basics: you have to have economic growth and you have to have the benefits of that growth distributed equitably. Growth and equity—the two stools, the two arms. Market access is about growth only and therefore our first point is that it is necessary but not sufficient. Economic growth is necessary but not sufficient for development; market access is necessary but not sufficient.

I have a couple of points about market access. I will talk about equity later. With regard to supply side capacity building, we are concerned that in the WTO there might be trade-offs which are valueless, that in order to gain increased market access for LDCs, for example, LDCs might give up things when that increased market access is not very useful because they do not have the capacity. Secondly, we are concerned that we already have an agreement within the WTO on textiles and clothing which is not being honoured in spirit. It may be honoured to the letter of the law but not in spirit. We think that textiles are a particularly important aspect for developing countries, and we are concerned that what appears to be here is liberalisation for the poor but protection for the rich. Thirdly, we are concerned about tariff escalation, the fact that processed goods incur added tariffs and are therefore a discouragement to poor countries to value add to their commodities.

I refer to the next slide on market access. We believe that Australia should follow other countries and remove all barriers to exports from LDCs. The argument we get back from the Australian government is that the goods that are imported by LDCs into Australia already incur little or no tariff. The counterargument, or the counterpoint, is that we do not know what these

countries would export to Australia if they had free market access. We do not know what is happening to those goods that they could, but are not, selling to us.

Mr Redden—This slide is on capacity building and ODA. I have made most of the points I want to make about ODA so I will skip through it very quickly. I have two points. Firstly, we believe that trade is a necessary but not sufficient condition alone for economic growth and poverty reduction. So we argue that, point No. 4, we need the three legs of the stool model for capacity building: we need supply side solutions, especially technology transfer; we need human resource development—and we believe that these two essentially come through effective foreign aid and effective foreign direct investment; and, lastly, of course, we need market access. With reference to the second slide on capacity building and ODA, there is a handout on capacity building which I have asked the secretariat to distribute to you. You have that so I will leave that with you and hand back to Jeff.

Mr Atkinson—I will skip through the slide on negotiating capacity, except to make the obvious point that many poorer countries simply do not have the capacity to keep up with trade negotiations at the WTO. There are simple statistics there. A paper by Egypt in 1997 noted that not even during the negotiation round but between rounds a total of 2,849 formal and informal WTO meetings took place, which is an average of about 10 per working day. Some of the trade delegations of poorer countries, as you know, are only made up of one or two people.

I just want to skip to agriculture, which I think is an important WTO issue, and I want to make a central point. Firstly, I go to the second slide on agriculture. The basis of our argument about the agreement on agriculture is that agriculture in the south—that is, in countries like Australia—has a fundamentally different role than it has in the north. Seventy per cent of the world's poor live in rural areas where agriculture is the dominant activity. For most countries, it supplies the bulk of their food needs, the bulk of their GDP and, most importantly, employs the majority of their people. Seventy-three per cent of the work force in LDCs, and something like 59 per cent in developing countries as a whole, are employed in the agriculture sector.

I now skip to a slide that shows a pretty obvious statement of the danger of agricultural subsidies. I can simplify this by telling a story. In the East Asia region, my colleagues in Oxfam are concerned about several things, and one is this question: in a liberalised trade environment in East Asia, what happens to Javanese peasant rice farmers—I cannot remember the figure but there are tens of millions; 40 or 50 million families or something like that—who depend on growing rice in Java? In a competitive environment, their rice would be replaced by cheaper rice from countries like Vietnam and Thailand. What do you do with 40 million or 50 million displaced rural farmers in a country like Indonesia? There is a serious question there.

In Sri Lanka we have a similar question. We are seeing rice farmers there already being displaced by imports of rice from India. This is not dumping or subsidies; it is fair and open competition in which Indian rice producers happen to be more competitive, and that means that Sri Lankan rice producers have no place in the market. The questions are: what do you do with those people and what are the implications of this for economic and social stability in a country like Sri Lanka? If we can move to slide—

CHAIR—I would like to start the wind-up of the presentation. We have another speaker after you and we have flights to catch at the end of the day.

Mr Atkinson—My central point about agriculture is that there are moves afoot within the WTO negotiations on the agreement on agriculture for there to be recognition of this fact, that agriculture in developing countries needs special consideration and that present farmers need protection. We advocate that the Australian government support the recognition of flexibility for developing countries within the WTO agreement on agriculture so that low-income, resource-poor farmers can be protected by their governments. We are saying, on the question of whether or not to liberalise agriculture, that the timing of that should be left to the governments of those countries themselves and not be imposed by an international body like the WTO.

I was going to talk about commodity prices and the fact that the considerable number of families who depend on growing things like coffee are facing economic ruin because of the plummeting of the price of coffee and other commodities and that this is a trade issue which has been completely ignored by developed countries and the WTO. We call on the Australian government to support international moves to do something about the crisis in commodity prices—as a starting point, perhaps an international conference supported by the UN or the World Bank. This is a serious trade problem which is being ignored by governments and by the WTO. How can you run a country when your income is as volatile as it is on a commodity such as coffee? At this point we will sum up.

Mr Redden—I will sum up. I have one point on WTO accountability. We believe reforms have been made and we would like to see them continue. I would stress the importance of community and NGO participation in official trade delegations and in so doing want to acknowledge that this government and the Department of Foreign Affairs and Trade did include civil society representatives at the last meeting, and we were grateful for that. But we believe that the political process for determining Australia's final position on trade matters needs to continually be transparent and strengthened.

In summary, I will go the last slide on the summary of the key recommendations. The Australian Council for Overseas Aid believes there is a need for greater aid, debt relief and technical support so that developing countries can operate and benefit from trade liberalisation. We support the need for greater market access. We believe there needs to be greater flexibility in the agreement on agriculture—for example, support for the development box that Jeff referred to or food security flexibility. We believe we need to renew Australia's commitment to multilateralism, and at this stage we believe there should be no negotiations on investment in the WTO. I will leave it there. Thank you very much, Chair, for your time.

CHAIR—Thank you for your PowerPoint presentation and the amount of work you put into it.

Senator COOK—I am an admirer of ACFOA. If you did not exist, you would have to be invented. Being an admirer does not mean to say that I agree with everything you say, but it is necessarily a difference about how constructively you reach the same conclusions. One of the comments you made, Jeff, was about LDCs or developing countries. You said we should leave governments to solve these problems themselves and not impose terms on them from international bodies like the WTO. Two-thirds of the WTO's members are developing countries, and decisions by the WTO are by consensus. We are now, as a consequence, in a development round. Is that enough, apart from attending to capacity building for the developing countries, backing their access claims to European, American and Japanese markets and negotiating an

effective special and differential circumstances clause? Shouldn't we be saying: 'These are sovereign powers. They are two-thirds of the membership. They ought to make their decisions as to what is acceptable and what is not'?

The second question I have is probably for Mr Redden. Looking at the summary of key recommendations, which was your second last slide, and thinking about what we might say in our report, what should Australia be doing about capacity building that it is not now doing? How should we better contribute to capacity building, or are we doing it as well as it can be done? Given that there is a fair bit of emphasis in Geneva in this round on capacity building, where does its effort still fall short, if you think it does?

Mr Atkinson—On the question of decision making within the WTO, I think there were two points you were making. The first was that decisions are made by consensus and that therefore sovereign governments should be bound by consensus decisions—I think that is what you were saying.

Senator COOK—They are part of it.

CHAIR—Two-thirds of it.

Senator COOK—LDCs are a lesser percentage, but if you take developing countries including LDCs that is two-thirds of the membership of this outfit. It makes decisions by consensus. Shouldn't we let them decide what they want but aid them in terms of capacity building, back their access claims to the developed markets and look constructively at special and differential circumstances?

Mr Atkinson—First, a small point: what I said in the presentation was that that flexibility should be confined to agriculture only, that there should be the ability of national governments who feel that they have a special case for protecting their peasant farmer sector to do so if they feel that is the right thing to do. This is not something that applies universally or even just to LDCs or even to developing countries; the proposal is that it should be left to developing countries, and it should be confined to protecting low-income resource-poor farmers and it should also be confined to certain crops defined as food security crops.

Senator COOK—So that I can concentrate on hard conclusions, is there something about the special and differential circumstances provisions or negotiations that troubles you that would not enable LDCs to do this?

Mr Atkinson—Yes, there is.

Senator COOK—What is it?

Mr Atkinson—The primary mechanism that is being suggested that would enable them to do this is something called special safeguards. The situation is that developing countries at the moment do not use special safeguards. The reason is that you need a fair degree of market information and technical capacity to know when you have a case to actually mount a case to say, 'We deserve special safeguard treatment here.' The fact is that developing countries simply

do not use it. At the very least, what is required is a reframing of that mechanism within the WTO so that it can be used by developing countries, because at the moment they cannot use it.

Senator COOK—Or an enhanced capacity so they could access it, with the technical expertise they need?

Mr Atkinson—Without getting into detail that is too technical, special safeguards can be used when a country regards itself as being subject to unfair import surges. The problem is that most poor countries do not know when they are subject to import surges. They just do not have the capacity to measure what is happening. So, for whatever reason, they have not used it. There has been no use of that mechanism. So something needs to change there.

I would like to come back to a more fundamental point bearing on what you were saying, and that is the way in which decisions are made jointly—by consensus, as you mentioned—within the WTO. As you know, there is considerable discontent within the WTO, particularly amongst developing countries, about how decisions are made and there is a feeling, rightly or wrongly, that they are being bulldozed. The so-called greenroom process, which still prevails to some extent, is really one in which a select group of governments get together, decide what is a workable solution and then present it to the rest on a take it or leave it basis. You may recall that part of the crisis at Seattle was that developing country trade representatives jacked up at this and said, ‘We’re being bulldozed into agreements and forced to sign on a take it or leave it, all in or nothing basis.’

Senator COOK—I know, but the example of Seattle proves, does it not, that by asserting their power developing countries change the direction of the process. We now have a development round instead.

Mr Atkinson—That could potentially happen. There is another factor in relation to negotiating power within the WTO, and that is the size of your market. Nobody wants to offend the US, not because they are big and powerful but because everybody wants to sell into their markets. So a small country that does not have that negotiating power is always going to be at a disadvantage in a negotiation process with countries that have large markets that everybody wants to sell into. There are all sorts of inequalities. We are talking about negotiation between very unequal partners here.

Mr Redden—I will answer the second part of the question regarding capacity building and what other measures might be useful. On the global scale, ACFOA would like to see the Australian government be more proactive in the areas of support for the millennium development goals. The UN has estimated that we need approximately a \$70 billion a year increase for the next 10 to 12 years to reach the millennium development goals. I think Australia could be a more proactive player in debates around debt relief and in encouraging other developed country governments to increase resources to meet those sorts of aid commitments—as your committee has done, as I mentioned earlier, to increase overseas aid in Australia to 0.35 per cent.

At the moment our own trade related technical assistance is, I believe, reasonably effective. AusAID currently commits approximately \$28 million to our trade related technical assistance. That could increase but, to answer your question about where it could be more effective

specifically, I would like to see our trade assistance more focused and looking long term. At the moment our trade related capacity building consists mainly of some useful technical training, economic modelling and advice on how to comply with WTO rules. We would like to see our assistance to a country like East Timor or a Pacific island or Indonesia focus on how that country can diversify and build its comparative advantage over the next 10 to 20 years. In the case of East Timor, for example, you might look at the coffee industry, the potential building of oil, gas and by-products industries and possibly ecotourism. Australian trade related assistance should work with the East Timorese to build a long-term skilling up and education of the East Timorese work force so that in 20 years they are beginning to have a healthier and more buoyant economy that can trade. The final slide in our presentation gives four criteria for improvement, including the recommendation that our assistance should include a flow of technology. That is a quick snapshot of where I think we can improve.

Mr NAIRN—You point out that, in developing countries and LDCs, agriculture is obviously the major area. Do you have any comments on the problem we have in Australia in that, if we are to assist those countries further, the areas they really need assistance in—and it comes back to technology assistance—are things like quarantine? Other countries feel that Australia is too tough with regard to quarantine, but we have it based on science, we believe. Other countries argue that we use it too much as a trade barrier. Those sorts of countries are trying to get agriculture but they really do not have the means to often prove the science, in that sense. We find ourselves in the position of trying to help in that regard but, at the same time, working against our own interests. Do you have any comments about balancing those sorts of predicaments?

Mr Atkinson—Working against our own interests in the sense of lowering our own technical barriers to allow in Filipino bananas and so forth?

Mr NAIRN—I am not saying we should do that. But in dealing with these matters within Australia there is often a lot of pressure that maybe our standards are not high enough because of agricultural products coming in from other countries and we will not allow it without doing the science. A lot of these countries do not have the capacity to do it themselves, so we could find ourselves helping in that regard but then find ourselves in conflict with our own constituency.

Mr Atkinson—I think there are many ways in which we can assist agriculture in developing countries, and that would be one of them. I am not too sure about your point about our own—but I would suggest that there are other things more important and more urgent that we could do. One of them is the one that the Australian government is already doing—that is, to try to get rid of European and US subsidies which hurt not only exporting countries such as Australia but also importing countries. In Mexico, for example, corn growers are now in such competition with cheap subsidised US corn that Mexican corn farmers are practically an endangered species. So there are many things we could do. In terms of quarantine barriers, yes, I would advocate that kind of technical assistance, as well. It is not just market access per se but also the ability to actually have a product which is marketable once that access is granted, and that includes things like agricultural products that are healthy and safe.

Mr Redden—We need to think through realistically what are transition periods and transition plans. If we want the US to lower subsidies in the steel industry or in their farm industry,

obviously they have to think through how they are going to manage that for their own constituencies. I think we have to do the same. Take ACFOA, for example, in the area of textiles. We have worked with the ACTU quite closely trying to reach agreement on whether they will also support the elimination of barriers to textile exports from the poorest countries in our region such as Bangladesh. They have said, 'Yes, subject to transition plans being put into place so that outworkers and poorer textile workers in Australia are not immediately disadvantaged.' That needs retraining and other options to develop. But if we are going to embrace and encourage developing countries to embrace trade liberalisation, we are going to have to accept that we are going to have to restructure some of our own areas and farm sectors and industries.

CHAIR—Thank you very much for your presentation. Is it the wish of the committee that the PowerPoint presentation and the document entitled 'Capacity Building Measures and ODA' be incorporated in the transcript of evidence and used as an exhibit to the annual review on the WTO? There being no objection, it is so ordered.

The documents read as follows—

ACFOA

Capacity Building Measures and ODA

1. Trade as a necessary but not sufficient condition for economic growth and poverty reduction.

Also requires measures such as wealth redistribution mechanisms, good domestic governance, food security, development of new markets, fairer commodity prices and general support for capacity building in developing countries. Eg. Premature or partial liberalisation built on shaky fundamentals can lead to poverty increases ie. Asian crisis

2. Legitimate capacity concerns of developing countries –

Representation of interests in WTO negotiations

Food security (LDC/NFIDCs) and short-term adjustment costs

Estimate of increase in food bill by \$US1.4 billion since agricultural agreements in Uruguay

High administrative costs of implementing WTO reforms. ie. Vanuatu, World Bank study (\$150m pa)

Factor endowments means some countries (perhaps PICs) are unlikely to have comparative advantage in anything.

3. The Eight Doha WTO commitments regarding capacity building

The Ministerial Declaration agreed to by WTO members supports a range of trade-related technical assistance and capacity building measures for developing countries. These commitments include:

1. The urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors in the OECD Development Assistance Committee

2. The urgent necessity for the effective delivery of technical assistance from relevant international and regional intergovernmental institutions within a coherent policy framework and timetable.
3. Identification of ways to enhance and rationalise the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (LDCs) and the Joint Integrated Technical Assistance Programme (JITAP).
4. The need for technical assistance to benefit from secure and predictable funding.
5. Significant increase in contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs.
6. The need to address the supply-side constraints of LDCs.
7. Contributing to a durable solution to the problem of external indebtedness of developing and least developed countries.
8. Support for the valuable work of the International Trade Centre and UNCTAD.

4. The Three Legs of the Stool Model for Capacity Building

At Doha, LDCs commonly referred to a three-pronged approach to supporting their capacity needs for them to be able to realise the benefits of the global trading system:

- Market access,
- Supply side solutions in particular technology transfer
- Human resource development

For many of the poorer countries market access was their lesser concern until other issues were addressed

5. Capacity Building and Global Aid

Most capacity building support and trade related technical assistance comes from the aid budgets of OECD countries. Note expenditure trends of recent times

6. Capacity Building and Level of Australia trade assistance

The need for increased aid and quality trade assistance – Millennium Development Goals
Australia should send right signals to Cairns Group, LDCs and PICs

General Trade- related development assistance at present

increased by 36 per cent from \$18m (1996-97) to \$25 m (2002-03) per annum – but still small

Trade policy reform; customs and quarantine; tariff and taxation; investment policy

Short-term capacity building

\$460k contribution to Doha trust fund (2002)

\$17.25m Indonesia training program for trade-related issues (1998-2003)

\$7m Samoan Treasury (with ADB) institutional strengthening to reduce tariffs and change tax regime

WB/AusAID Vietnam economic modelling**\$16.5 m APEC support program -building institutional links b/w Australian departments and APEC developing economies**7. Future Quality of Australian trade assistance7.1 Regional Focus and Africa

ACFOA would argue that the Pacific, East Timor and LDCs in Africa should be particular priorities for Australian Government assistance.

1. Firstly most LDCs will share a common interest in the reduction of agricultural export subsidies and market access concerns.
2. Secondly, given Australia itself is a relatively small economy, they will add further weight to the need for a more balanced and fairer multilateral trading system able to spread the benefits of trade to include many poorer communities who currently remain on the margins, whether in rural Australia or in a developing country.
3. Thirdly, there are the obvious multiplier benefits of a healthier regional economy with rewards for Australia particularly if we have played a significant part in developing business and economic partnerships with emerging developing economies in the Asia Pacific region.

7.2 Criteria for trade assistance

ACFOA believes an effective Australian trade assistance program needs to meet these identified needs and should be guided by the following criteria on quality:

- Be driven by developing country demand.
- Include the flow of technology to developing countries, LDCs in particular.
- Support the representation and participation of developing countries in Geneva and in key WTO negotiation forums.
- Be based on long-term needs of the poorer communities of developing countries/distributional effects
- Promote increased market access while ensuring special and differential treatment in support of food security and basic human rights of the poor.

Multilateral and bilateral trade assistance should be reviewed against such criteria. Our current bilateral program addresses some of these criteria, but has limited funds for greater technology transfer and long-term analysis of the trade needs of particular region or country. ACFOA encourages further research into effective capacity building criteria by ABARE and others.

Jim Redden

ACFOA

[3.30 p.m.]

OXLEY Mr Alan Robert, Chairman, APEC Centre, Monash University

CHAIR—Welcome. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private you may ask to do so and the subcommittee will give consideration to your request. Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. I now invite you to make a short opening statement before we proceed to questions.

Mr Oxley—Thank you. I have some documents here, which I do not intend to speak to at length. I will summarise the key points. One is a paper published by the APEC Study Centre called *The Environmental Threat to Development in the Doha Development Round*. This was a document prepared for the Commonwealth, and it is an analysis of the potential impact on the agenda—including the environment—of the WTO, which occurred at the Doha ministerial WTO meeting.

In addition, I have a longer study, which has been prepared by the APEC Study Centre, of the trade and environment issue. This is a study which was prepared in a joint research project with the Chinese Ministry of Trade and Economic Cooperation at Peking University. I would like to leave these with the committee as resource documents. The study on the trade and environment issue is a very comprehensive resource text on all the issues that impact on the trade and environment issue in the WTO.

The addition of environment to the agenda of the WTO was historic. I would like to give a rather analytical account of this issue, rather than going through issue by issue. Why was environment put on the agenda of the WTO? I would contend that this is a consequence of disinterest in the development interests of developing countries by Western green NGOs and a desire by Western green NGOs to use coercion to enforce environmental standards. This issue has a broader strategic significance because we see a broader coalition between environmental NGOs and other NGOs who, more or less, broadly support the general contention of adding environment to the agenda of the WTO.

There is a wider background to this issue. If we only consider the trade and environment issue in the context of it being discussed in the WTO, we in fact only see half the picture. The reason for this is that there appears to be a coordinated strategy among green NGOs to include trade sanctions in environmental agreements with a purpose either of undermining the effectiveness of the WTO to advance economic interests and to defend the interests of members in developing countries or of securing a change in the WTO to protect the trade provisions in environmental agreements, which are designed to give countries capacity to enforce environmental standards on developing countries using the trade sanctions in these environmental agreements.

The key factor behind all this, and the practical reason as opposed to the systemic reason why environment is on the agenda of the WTO, is EU policy. I would like to briefly describe where EU policy on environmental management is, and then come to illustrate how that is leading the EU to push this particular issue. It is worth noting that the only reason why environment is on the agenda of the WTO is that the EU made it basically a condition for going along with the

launch of the Doha round. With the possible exception of Switzerland, and maybe New Zealand, no other members of the WTO wanted it on the agenda. That is a very fundamental and basic point, and that includes all developing countries.

EU policy on environmental management, as it affects trade, is showing three basic broad policy goals. One is to apply what is called the precautionary principle in environmental management. By itself, the term 'precautionary principle' seems innocent enough. What it reflects is a philosophy of regulation which moves the basis of regulation away from managed risk to no-risk policy making. If I could draw a parallel in Australia, it is like the switch we made in Australia: we used to have a no-risk quarantine policy. If we thought there was the slightest danger of the introduction of a pest or a bug in Australia that might cause a problem, regardless of the assessment of the risk, we said that it was not permitted.

Years ago countries decided that no-risk policies were inefficient, costly and really not very effective, and now for a long time people have been working on the basis of managed risk. It is a fairly simple point. If we did not believe in managed risk, we would not get out of bed each morning. There might be a risk we would get run down. If we did not have managed risk, we would not have medicine, we would not have farming. It is quite a fundamental point.

Senator COOK—You would have to get under the bed because the ceiling might fall in!

Mr Oxley—There are grimmer consequences if one went all the way down that path. The second thing that has been introduced into EU policy is what is called 'whole of life cycle' environmental management. Last year the EU adopted a policy called 'Integrated Product Policy', which mandates that, in future, environmental regulations in the European Community will be 'whole of life cycle'. In a nutshell, this means that the people who produce products are to be responsible for the environmental consequences of the product from the time it is produced to the time it is disposed of. This is inefficient environmental management. It is inefficient economics. At the end of the day it results in a command and control form of regulation, but it is nevertheless popular. It has become the dominant policy guideline in Europe and is closely linked to another one—that is, increasingly in the EU there is a desire in principle to be able to restrict imports on the basis of how those imports are produced or processed. In other words, if the import has not been processed in a way which matches EU environmental standards, it is not permitted to be imported. As a point of contrast, the WTO does not permit that at this point. The WTO says that you measure products on the basis of their characteristics.

Sitting in behind that is an entirely broad philosophy about the effective way of using international action. In a nutshell, the European Community is seeking to use trade restrictions to prevent imports of products unless they meet EU environmental standards. That is a form of coercion. In a civilised world, countries will sit down with other countries and say, 'Let us agree to common international environmental standards and apply them in national law.' This is a point which is often skirted over. Sitting in behind this is a rather significant EU environmental policy.

What does this lead the EU to ask for in the WTO? First of all, the EU has said that, in relation to environmental issues, it wants effectively the measures in multilateral environmental agreements protected. This seems a rather arcane point, but there are three of four multilateral environmental agreements which have trade provisions which are discriminatory and, in fact,

employ coercion to achieve the environmental goal. Specifically, some of these would be used against nonmembers of the conventions, which is a very significant departure from the conventional way in which we prepare international conventions, breaching the right of national sovereignty. Fundamentally, the EU, when it says that it wants WTO rules changed so that these trade provisions in the multilateral environmental agreements are protected, is therefore actually seeking the right to protect the use of coercion in these trade agreements.

The EU wants the right to restrict trade on the basis of how products are processed. What might this mean? It might say that it will not allow pig meat to be imported unless the pig processors in the country of export apply the same standards for handling run-off from pig farms as are mandated in domestic EU standards. It wants to allow ecolabels to be used, and in fact all the ecolabel would really do is to certify the use of these types of trade restrictions.

My final point is really quite important because, while some of this may seem rather theoretical, it does have extremely practical applications. The EU has stated—in fact, Franz Fischler announced this about a month ago—that it was ready to cut subsidies in agriculture. If you went all the way through that announcement, you would see in the last paragraph that there was a significant condition sitting there, and the condition was subject to the acceptance of EU environmental policies. The EU has for a long time argued that ordinary economics should not apply to the removal of protection in farming. It used to be called specificity. These days it is called multifunctionality. Basically, it means that you have to recognise other than economic purposes in agriculture, and today the EU has expanded that to include consumer interests, the environment and animal welfare. So the circle is squared in that respect. This is a very cogent EU position. You can see that, if the EU succeeds in altering the rules of the WTO to be able to apply these types of restrictions on environmental grounds, it would effectively be in a position where what it offers with one hand to reduce subsidies it takes back with the other by putting new measures in place which enable it to continue to subsidise on environmental grounds.

There is a very fundamental point here. The reason that we wrote this paper about this constituting a threat to development in the Doha Development Round, as Senator Cook accurately described it, is that it is quite important to understand the way in which the WTO provides opportunities for developing countries to grow. As was mentioned by the previous speaker, there are restrictions globally in areas of basic comparative advantage for developing countries—clothing and textiles, and agriculture. The rich countries have not been fair to developing countries, and if the rules of the WTO are changed to enable the EU to restrict trade on these environmental grounds what it will basically be doing is saying that developing countries must apply internal EU standards in order for those countries to trade with the EU.

Let me illustrate this in a way we more plainly understand. The same applies in respect of labour rights. The comparative advantage for each country is its capacity to produce what it can according to its resources. In developing countries, that also means low labour costs. American unions say, 'We do not want countries to be able to export to us unless they apply the same union standards that we apply,' which means higher labour costs, which means they would be denying the developing countries a chance to export their products taking account of their comparative advantage. It would deny them their right that the WTO provides to develop according to their comparative advantage.

The same principle will apply in the case of environmental management. If the EU wishes to employ higher environmental standards, fine; that is its choice. The difference here, however, is that, in asking for the right to restrict trade on environmental grounds in the WTO, the EU is effectively saying, 'Other countries must apply the same standards or we will not trade with them.'

What should Australia do in this area in the WTO? Pretty well much what it has been doing. Australia has been very active with developing countries in working on this. Developing countries, by and large, are totally opposed to the range of positions being proposed by the EU. What needs to be done is that the issues need to be widely and fully understood. We have a particular problem where environmental ministries, including in developing countries, are happily putting discriminatory trade measures into multilateral environmental agreements while their trade officials are opposing the same measures in the WTO. There is a very serious disconnect in policy here. In fact, that has been actively exploited by Western environmental groups, many of whom, in this respect, are being funded by the EU environment agencies and even EU aid agencies. So it is a very neat arrangement for the EU.

Australia should not only be working at the WTO to make sure that these issues are understood but also be working in the UN to ensure that the sorts of measures that are going into environmental agreements respect national sovereignty and do not undermine the effectiveness of the WTO to help developing countries to develop.

To illustrate how this works in practice—the EU is not alone in this—the United States itself has employed unilateral environmental trade restrictions. Perhaps the most famous one was restricting imports of tuna from developing countries unless the tuna was fished in a way that minimised the incidental kill of dolphin. There is a famous trade case in the WTO, for which I was part of the panel, called the tuna dolphin dispute, where the developing countries and then ultimately even the EU challenged the US bans and said, 'How does this square under WTO rules?' The WTO rules said that tuna is tuna. The way in which it is processed is not relevant to how you treat it for trade purposes. The environmentalists said, 'But this is not fair. If the Americans have put rules on their tuna boats saying that they have got to catch the tuna in a certain way that reduces the incidental kill of dolphin, what's wrong with that?' The answer is nothing. The question is how you do it.

Something else developed as a consequence of this, which is actually what should have been done in the first place. There is now an international convention among the countries in that region in the Pacific where tuna is fished in this way, where all countries have agreed to apply in their national legislation the same fishing rules, which are designed to reduce the incidental kill of dolphin but are adopted voluntarily by each country in its national law, and in this process it respects the national sovereignty of countries. This is the preferred civilised way to conduct international affairs and to pursue environmental protection globally. Of course, it is far better than allowing one large, strong country to use its might by denying opportunities to trade to markets unless countries apply their environmental standards. It is a very fundamental issue.

CHAIR—We are aiming to finish our hearing today at 4 p.m. In the issues you raised there is a lot of logic and they were well presented. Thank you for that. Are there opportunities for leverage in negotiation for companies which are setting up in developing countries? Multinationals usually use it for cost advantage, whether it be labour costs or, quite often,

environmental costs. Is this an opportunity to provide some leverage for these people? We can look at our own cases: the Australian companies involved in Ok Tedi and the devastation that occurred there or the Australian company that was involved in Romania which ended up poisoning the river and killing the fish in that area. Unless there are some incentives, multinationals will just proceed if the developing countries are not objecting and a job is a job, even if there is a cost to it. Isn't the overall objective worth while, especially in an era when global warming is a real issue? As we face the environmental challenges, this may be one way of addressing real incentives for multinationals to consider these aspects when they are making their investment.

Mr Oxley—It depends on where you think the rule of law should apply in international relations. If you decide to arrogate yourself the right to exercise leverage, which is access to your market, where do you stop?

CHAIR—If you consider the result to be worth while, if you consider that multinationals would think twice before deliberately creating environmental problems in a developing country simply to increase their bottom line profit figure, is that not worth while?

Mr Oxley—The short answer is probably no, given the cost. If the cost is going to be an undermining of the multilateral trading system, which is what would be the consequence, you need to balance out the gains. I could discuss the gains separately, but I would like to posit against this broader question at the moment. You are therefore saying that those gains are worth the diminution of the effectiveness of the global trading system to improve welfare. The global trading system has been the bedrock for the greatest period of sustained prosperity that we have seen in human history: twice—once, in the industrialised countries after the Second World War; and, second, in developing countries since then. Sitting at the root of that is the very fundamental point that you do not play politics with trade. You allow countries to trade according to their economic capacity. The model you are putting up means that you do play politics with trade and you do put other factors in the way. I will then ask you: why use a trade sanction if you want to use leverage? What is wrong with investment, migration and military force? Why pick trade when such a benefit could be delivered from the trading system, such as we have seen?

CHAIR—People had similar arguments when they said that the South African Springboks should not be boycotted during the Apartheid era, and that produced some results.

Mr Oxley—No, the people went to the United Nations Security Council and used the due process. All members of the United Nations have agreed that, if a country is a threat to national security, sanctions will be applied to it. That was done legally within the framework of the United Nations. There was no unilateral action taken there; that was done constitutionally. I am suggesting that it would be unconstitutional. If countries decide to force standards on other countries on the basis of access to their own market, it is the law of the jungle. You would actually collapse what has probably been the most effective and civilised form of international governance that we have ever devised.

CHAIR—This is my final point to you: isn't the very basis of ignoring some of these factors of labour exploitation, environmental factors and human rights that which has led to the

backlash against the WTO that we have seen starting in Seattle? Isn't that also a factor in ensuring that the WTO rounds continue and that some of these aspects are looked at?

Mr Oxley—The backlash against Seattle ended at Doha. Senator Cook made a very good point. There was a contention suggested here before that somehow or other the developing countries were not being consulted properly. One thing that Mike Moore did after Seattle was to put in place a very effective process of consultation. I was at Doha. The NGOs were walking around saying, 'This is very bad for the developing countries. The developing countries aren't being consulted.' While they were walking around outside the conference room saying that, inside the conference room, when it finally wound up on the last night, the representative of the African group—which had been the biggest group in Seattle to complain about lack of consultation—congratulated the chair of the conference on what he said were impeccable processes of consultation. At times, an NGO, instead of speaking on behalf of developing countries, needs to double-check on what the developing countries' position actually is.

CHAIR—That is a well argued position.

Mr HAWKER—Thank you for that presentation, Mr Oxley. As always, it was very succinct and well thought through. I want to come back to the EU policy and the three points you were making. Obviously, the effect would be quite serious—probably very serious for Australia and other countries. Having brought this point out now, what is the process to go through these negotiations, should we be able to ensure that this does not become an outcome?

Mr Oxley—The next step in this is a requirement for the WTO ministers to address this question again at the interim ministerial meeting, which will be held in Mexico at the end of 2003. In fact, there is some dispute about what the mandate on environment means. It is one of those negotiated texts which is actually opaque. The reality is that this formula on environment, which is not in the Doha declaration, was the last thing negotiated. It was late at night. Senator Cook would be very familiar with the processes when, at the last moment, there is pressure to try and reach a decision on something. I was not in the room, but I talked to people who were. For two hours, ministers sat there trying to make sense of the particular proposal that had been tabled by the Americans, by Zoellick, after consultation with Lamy. It is one of those classic pieces of language which is so unclear that people do not know how to proceed. In that sense, therefore, the Committee on Trade and Environment almost has to reinterpret that language in order to decide how to proceed. That is one step.

The second step is that that language says there has to be a decision taken at 2003 as to whether or not there will be negotiations to alter the provisions of the WTO. That will require a consensus decision by the WTO. The odds are stacked against the European Community getting agreement to that, but what we have done by allowing environment on to the agenda is to put the community in a position where it can prospectively say, 'We're not going to go along with anything else unless you go along with something that goes in our direction on environment.' When we come to the 2003 meeting, that will not be the only issue on the table; there will be several issues on the table. The community also wants the investment issue advanced, as well as the competition policy issue advanced. They will be under pressure from developing countries about whether they have taken adequate action on clothing and textiles. In fact, the way things are going, we might actually find that things are moving on agriculture. The basic problem for Australia is that the community made hostage the concessions it is seeking on environment for

the liberalisation it seeks on agriculture. The task before us and our people in the WTO is to ensure that all members have the clearest understanding of these prospective connections and to work to ensure that the community cannot play that particular trade-off.

Mr NAIRN—In the paper that we have here, you make the comment:

The most dramatic consequence of the AB ruling—

the appellate body—

is that it lays grounds for the EU to restrict imports from the United States and other countries for not restricting CO₂ emissions according to the Kyoto Protocol.

Do you think that they would go down the line of using that by saying something like, ‘You haven’t signed the Kyoto protocol. If you haven’t signed up to Kyoto, then we’ll use that against you’? Looking at the CO₂ emissions in particular countries—the practical work that a country might be doing to restrict greenhouse gas—it is my view that there is a huge difference between signing some sort of agreement and actually doing something. You can sign something and then play all sorts of politics to supposedly show that you are being good but you are not really being good.

Mr Oxley—On the last point, it is notable that, despite the fact that the Australian government has implemented policies which it says will enable it to meet the Kyoto targets, this is given no credit whatsoever by the Europeans. They want Australia to sign. Their position is basically political. That is my conclusion. You asked me if they would be considering using such a trade restriction. It is certainly being weighed up. What is clear now is that, as the European countries get closer and closer to understanding the impact of implementing the Kyoto protocol conditions, they are starting to realise what the Canadian government has belatedly realised: they have put themselves at a very significant competitive disadvantage compared to other countries. I have not seen too many cases in recent economic history where the European Community has been willing to impose a cost on itself without expecting others to carry the same sort of cost.

The nonratification by the United States is a particular problem for them, because it means that the additional energy charges that have to be levied on European industry will put many of their industries at a competitive disadvantage to many American industries. A natural response—and you will find papers about this being written in various think tanks around Europe—is to say, ‘Maybe we should consider imposing trade restrictions on the countries which come in.’ The desire to restrict trade from countries who do not have carbon taxes might turn out to be the mother of all trade and environment issues. We would rather hope that does not become the case, because it will raise a level of controversy over the WTO—and there is enough controversy over Kyoto—which will not do the organisation any good.

Incidentally, I think basically the environmentalists do not care about the impact of their measures on the WTO. I said at the beginning that I thought they were disinterested in the welfare of developing countries. If they were not so disinterested, they would not be working so hard to continue to wreck these trade provisions in environmental agreements; they would be doing what was done on the tuna-dolphin issue and proposing international conventions where countries voluntarily adopt measures. The question one must ask is why they are continuing to

persist with these trade provisions. Basically, I think they are not interested in the welfare effects that the WTO can generate for developing countries. They are more concerned about the conditions of the built environment.

CHAIR—Mr Oxley, thank you for coming, for your well argued point of view and for the input and presentation.

Resolved (on motion by **Mr Nairn**, seconded by **Senator Cook**):

That the documents *The environmental threat to development in the Doha development round* and *A study of the trade and environment issue* be incorporated into the Trade Subcommittee's records as an exhibit to the annual review of the WTO.

Resolved (on motion by **Senator Cook**, seconded by **Mr Nairn**):

That the subcommittee authorises publication of the evidence taken by it at the public hearing this day.

Committee adjourned at 3.58 p.m.