

SUBMISSION TO THE PARLIAMENTARY JOINT STANDING COMMITTEE ON TREATIES

AUSTRALIA'S RELATIONSHIP WITH THE WORLD TRADE ORGANISATION

Introduction

This is a submission by Effem Foods Pty Ltd to the Inquiry by the Treaties Committee into the nature and scope of Australia's relationship with the World Trade Organization (WTO).

The submission is in two parts. The first sets out the specific objectives of Effem Foods Pty Ltd [Effem] and its parent company, Mars, Incorporated, in WTO trade negotiations. The second responds to specific issues set out in the Terms of Reference.

I. WTO objectives of Effem and Mars, Incorporated in the WTO

Effem is the parent company of the following processed food businesses in Australia:

- **Mars Confectionery of Australia**, manufacturers and exporters of branded chocolate confectionery;
- **Uncle Ben's of Australia**, manufacturers and exporters of branded pet foods; and
- **Masterfoods Australia**, manufacturers and exporters of a range of specialty consumer processed foods.

Effem is a major exporter of processed foods serving all of Asia, and reaching into North America, and Europe. For the past 10 years Effem has pursued an aggressive market development and access program to overcome barriers to processed foods throughout Asia. As a result of this effort Effem exports almost 30% of its output, generating increased production of almost A\$300 million.

Mars, Incorporated, Effem's parent company, is a world leader in each of its main businesses – branded snack foods, petcare products, main meal foods, electronic automated payment systems and drinks vending. The Corporations snackfood and food brands include M&M®, Snickers®, Milky Way®, Dove®, Twix®, Skittles®, Starburst®, Ethel M's®, Flavia®, Uncle Ben's®, and Dolmio®. Petcare brands include Pedigree®, Whiskas®, Waltham®, Cesar®, Kitekat®, Brekkies®, and Trill®.

Because Mars is a global business it has taken a global perspective when identifying objectives for the next round of multilateral negotiations for agricultural reform. Analysis has targeted change in certain United States and European agriculture trade practices as top priority. Specifically, elimination of barriers to freedom of sourcing and trading sugar, dairy, in Europe and the US, and the US peanut program. At the global level, residual high duties on processed foods especially confectionery, foods, and pet foods impede trade. All of these barriers, and in particular EU and US barriers to sugar and dairy, represent a significant cost to business.

A New Round

Mars relies on the WTO to advance a rules-based trading system that ensures markets remain open to its products and progress is made to eliminate the many tariff and non-tariff obstacles that remain. The beginning of a new round of trade negotiations with the built in agenda of services and agriculture continues the crucial work of dismantling barriers to trade in agriculture and food products vital to Australia. The Uruguay Round set the stage by identifying nations' agricultural trade practices and achieving initial reductions. Now we have an unprecedented opportunity, and the obligation, to make substantive improvements such as ending prohibitively high tariffs and quantitative restrictions both of which contribute to doubling and tripling the cost of commodities and finished foods to industry and consumers.

Australia and all Governments must commit to continued construction of a rules-based system of trade for the world economy. It is essential that a new trade round be launched by end 2000 or early 2001. Australia should be prepared to endorse a broader agenda than services and agriculture providing that it is aimed at progressing reform, not delaying it. Attempts to install global rules on labor, environment, and competition are likely to discourage developing countries from committed participation. We learned from the WTO Ministerial in Seattle that failure to be inclusive prevents progress.

Effem recognises that Australia has played a leading role in the WTO, in particular in efforts to reduce protection of world trade in food products. Australia's founding and leadership of the Cairns Group of agricultural exporters has given it a significant degree of influence in WTO affairs.

It strongly supports efforts like those of the Government of Australia to open global markets in these products. Mars has shared research findings on trade issues as a means of giving tangible support to efforts by countries like Australia and other members of the Cairns Group.

Overall Objectives

Effem proposes that the following general principles be provided for in Australia's mandate for the negotiations on agriculture:

1. All agricultural products should be covered. No products or policies should be exempt from these negotiations.
2. The overarching goal should be to eliminate or minimize tariffs on raw and processed agricultural products by dates certain.
3. The opportunity must be created for accelerated reductions or tariff elimination, i.e. zero for zero.
4. A separate program for liberalisation of processed food products should be established.
5. The rates of cuts in financial support for agriculture should be deeper where protection is higher.

6. Where tariff rate quotas (TRQ) are used, there should be major annual increases with the goal of elimination by a date certain. In-quota tariff rates should be zero.
7. For as long as TRQ's are maintained, import licensing regimes should insure access is limited to legitimate end-users of the imported material.

Specific Company Objectives

Mars and Effem request that Australia continue to pursue the liberalization of world trade in sugar as a priority as well as dairy, peanuts, and processed foods. The leadership of the Queensland Sugar Corporation in mobilizing user industries around the world to push for the liberalization of sugar, especially in the US and the EU, has been a very constructive force and should continue.

Description of Barrier (as of Year 2000)	Liberalization Objective
<p>United States Barriers to Imported Sugar</p> <p>Tariff rate quotas, high out of quota tariff rates, and an import licensing system that is unresponsive to the world's competitive sugar suppliers, both developing and developed, forces US domestic sugar prices to 2-3 times the world price. The cost to US consumers of the sugar program has been estimated at \$1.2 billion per year.</p> <p><u>Raw Sugar</u></p> <p>Quota on raw sugar is 1,135,000 mt (including Mexico). In-quota duty on raw sugar is 1.46¢/kg Out of quota duty on raw sugar is 33.87¢/kg</p> <p><u>Refined Sugar</u></p> <p>Quota on refined sugar is 60,000 mt (including Mexico). In quota duty on refined sugar is 3.66¢/kg Out of quota duty rate on refined sugar is 35.74¢/kg.</p>	<p>Eliminate quota and reduce duty to zero by 2008.</p> <p>Eliminate quota and reduce duty to zero by 2008.</p>
<p>European Union Barriers to Imported Sugar</p> <p>The effective support price on white sugar is currently set at over 3 times the world price. This equates to an import duty of around 300% on raw sugar and 230% duty on refined sugar. The effect</p>	<p>Eliminate the safeguard clause.</p>

Description of Barrier (as of Year 2000)	Liberalization Objective
<p>of Uruguay Round duty reductions have been minimized by an additional variable safeguard clause which insures that the cost of world price sugar imported into the EU is increased to the internal support price by these duties.</p> <p>Derived intervention prices are used for alternative commodities to sugar such as isoglucose.</p> <p>European sugar continued:</p> <p>Production is controlled by national quotas.</p> <p>Non-subsidized sugar (so called C sugar) is allowed to be stored from one year to another with storage subsidies. This sugar then becomes part of the national quota for the next year.</p> <p>Refined sugar exports are subsidized in order to compete on the world market and to clear the internal market of excessive inventories.</p>	<p>Immediate reduction of duties by 30% to eliminate the tariff peak.</p> <p>Further rapid reduction of duties to a rate not higher than 15%.</p> <p>Eliminate domestic production quotas and all measures that distort internal competition.</p> <p>Eliminate the storage levy.</p> <p>Reduce domestic refined sugar prices by at least 13.5% in the first year and then further annual reductions to zero.</p>
<p>United States Barriers to Dairy Imports</p> <p>The US maintains very restrictive tariff rate quotas for imported dairy products. Of particular concern are:</p> <p>Whole milk powder 3,321 mt In quota duty is 6.8¢/kg – out of quota duty is \$1.09/kg</p> <p>Skim milk powder quota is 5,261 mt In quota duty is 3.3¢/kg – out of quota duty is 86.5¢/kg</p> <p>Butter quota is 6,977 mt. In quota duty is 12.3¢/kg – out of quota duty is \$1.54/kg</p> <p>Anhydrous Milk Fat quota is 6,080 mt. In quota duty is 10% - out of quota duty is \$1.86/kg plus 8.5%.</p> <p>Import Licensing:</p> <p>The US dairy import licensing regime allows rogue traders who do not actually use dairy products to</p>	<p>Eliminate all quotas not later than 2008.</p> <p>Reduce import tariffs to a rate not higher than 10% by 2008.</p> <p>Allow imported milk and cheese products to compete in all regional markets.</p> <p>Revise the importing licensing regime to protect the market opening from speculative exploitation</p>

Description of Barrier (as of Year 2000)	Liberalization Objective
<p>acquire licenses and prevent legitimate users of dairy (e.g. food processors) from accessing even these very limited dairy quotas except at significantly higher cost.</p>	<p>by non-users. Eligibility for an import license should depend on actual use.</p>
<p>European Union Barriers to Dairy Imports</p> <p>The EU regime supports the whole milk price paid to farmers by fixing intervention prices for butter and skim milk powder (SMP) which are more easily stored. The EU's structural surplus in milk, and, in particular, butter led to the establishment of production quotas in 1984. Imports have only 5% share of the EU domestic market.</p> <p>Duty on skim milk powder approx. 111%.</p> <p>Duty on butter is approx. 152%</p> <p>The extremely modest CAP reforms that were part of Agenda 2000 will not even begin for dairy until 2005.</p>	<p>End domestic production quotas and stimulate domestic consumption of dairy products to restore supply and demand balance.</p> <p>Eliminate price intervention mechanisms that artificially increase domestic prices.</p> <p>Reduce duty by 30% in the first year with additional annual reductions over a short term to a final rate not higher than 10%.</p> <p>Reduce duty by 30% in the first year with additional annual reductions over a short term to final rate not higher than 10%.</p>
<p>United States Barriers to Imported Peanuts</p> <p>There is a tariff-rate-quota of 56,938 mt in the year 2000 (approximately 5% of domestic consumption).</p> <p>Out-of-quota tariff rate is 163.8% for in-shell peanuts and 131.8% for shelled peanuts, peanut butter and paste. These are among the highest US duty rates in place today.</p>	<p>Eliminate all peanut quotas by 2008 and in the interim open the quota to all supplier countries.</p> <p>Reduce the duty on peanuts and peanut butter to a rate not higher than 10% by 2008.</p>
<p>Global - Cocoa and Cocoa Containing Products</p> <p>Producer and consumer countries are advancing a program for the international sustainability of</p>	<p>The duties on all products in Chapter 18 of the Harmonized System should be reduced to zero.</p>

Description of Barrier (as of Year 2000)	Liberalization Objective
<p>cocoa. The duty free movement of cocoa and cocoa containing products around the world is the logical companion to sustaining supply. Only with increased demand for cocoa will producer developing countries realize economic benefit.</p>	<p>The elimination of tariffs on cocoa containing products can be expected to result in increased demand for cocoa raw materials that will have a positive impact for all cocoa producing and processing countries.</p>
<p>Global – Processed Foods</p> <p>Global trade in the processed food sector continues to be hampered by high tariffs, tariff rate quotas with exorbitant out of quota tariff rates, and non-tariff barriers including incorrect customs valuation practices, pre-import registration hurdles, and unjustified labeling and standards requirements.</p>	<p>Reduce duties on processed foods to not more than 5% by 2004.</p> <p>Tariff codes of particular concern are:</p> <ul style="list-style-type: none"> 1006.20 - Brown rice 1006.30 – Husked Rice 1105.20 - Potatoes 1704.90 - Sugar Confectionery 1806.20 - Chocolate preparations 1806.31 - Filled chocolate 1806.32 - Unfilled chocolate 1806.90 - Chocolate preparations nes 1902.20 - Pasta 1904.90 - Rice preparations 1905.30 - Sweet biscuits 1905.90 - Savory snack foods 2105.00 - Ice cream 2103.20 - Prepared sauces of tomato 2103.90 - Prepared sauces – other 2106.90 - Other prepared foods 2005.20 - Potato preparations 2202.90 - Drinks 2309.10 - Food for dogs and cats 2309.90 - Other pet food

II. Specific issues in Terms of Reference

Effem was asked to offer comment on a number of specific issues concerning the WTO. Comments follow:

Opportunities for community involvement in developing Australia's positions on matters before the WTO

Effem considers that full community involvement in development of negotiating positions is important. This creates opportunities for interest groups to understand the issues and for Government to understand their interests. The process is vital for the business community.

When Governments negotiate trade agreements, it is essential that they understand the interests they are affecting.

Opportunities for consultation are more than adequate. If anything business is overconsulted. Nevertheless, there are occasions when consultation should occur but doesn't. The issue in Australia is not whether consultation is frequent enough, but whether or not it is conducted at the relevant time. Having said that, Effem have always found that the consultation process is proactive and responsive.

The transparency and accountability of WTO operations and decision-making

Effem see no reason why the deliberative processes of the WTO cannot be more transparent. It understands that the WTO is far more transparent than it used to be. Documents are de-restricted quickly and far more information about the WTO is available than ever before.

Effem recognize that the WTO is also body for negotiating trade laws and packages to reduce protection. It is difficult for governments to reduce protection. If the processes of negotiation are to be successful, a degree of confidentiality is required. Governments should be open to consultation with community groups about the negotiating positions they develop, but the processes of negotiation themselves cannot be effective if they are open for all to observe.

The effectiveness of the WTO's dispute settlement procedures and the ease of access to these proceedings.

Effem fully supports the WTO and its binding dispute settlement mechanism. Business must have the certainty of a rules-based trading system to progress global trade and commit assets to foreign direct investment. The price of a stable global trading system is the requirement for prompt and full compliance by all members with WTO rulings. Failure to comply can set in motion costly retaliatory measures such as we observe between the US and Europe which not only harm business but threaten the stability of the WTO itself.

The WTO is a system in which governments enter into legal obligations among themselves. Disputes are about observance of these rights and obligations. It is difficult to see how parties without legal standing in a dispute could have rights to participate directly in the disputes proceedings. On the other hand, governments should consult with affected interest groups when they prepare their cases for presentation to the disputes proceedings. Interested parties should be able to make submissions to their governments about disputes. Nothing prevents Governments from using such material in the process if it is germane to the issues and the case.

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

The WTO disputes procedures make no provision for direct participation of non-government parties. This is appropriate given that the process is to resolve disputes about compliance with obligations which governments have undertaken among themselves. As stated above, the point for involvement of non-government parties is over consultation about the position to

be taken in the proceedings. It is up to Governments to decide who represents them in the proceedings. They may choose to use external lawyers. That is up to them.

Australia's capacity to undertake WTO advocacy

As a result of the changes agreed in the Uruguay Round, the WTO disputes system is now more complex: an appellate body has been established; the process is now virtually a compulsory system of arbitration and the level of level of legal argumentation in the process is now enhanced. The system is still quasi-legal, but much more legalistic than it was. The disputes system has become a much more important part of the WTO system. The number of cases taken has increased dramatically in recent years. A significant degree of trade liberalization has been achieved through judgements.

Australia has not significantly increased its resources to manage the new demands of this system. Other countries are approaching the WTO disputes system now much more as a system which requires legalist representation and advocacy and are recruiting specially trained lawyers to handle disputes cases. Australia still depends on the use of policy officers to handle WTO disputes issues, as it always has. Australia's ability to defend and advance national trade interests will diminish unless capacity to manage dispute settlement is enhanced.

The relationship between WTO and regional economic agreements

Regional trade agreements can be effective in opening up markets on a regional basis. From an economic standpoint, the only issue to watch is to ensure that regional agreements do not divert trade instead of creating trade. With global trade barriers on average as low as they are, the chance of this today is generally low. Regional agreements can be effective instruments for building trade and investment linkages among countries. Regional trade agreements should be seen as building blocks for global liberalization. For example Effem is a strong supporter of the proposed AFTA – CER regional agreement.

The relationship between WTO agreements and other multilateral agreements, including those on trade and related matters and on environmental, human rights and labor standards.

As a general point, trade agreements are best left unencumbered with non-trade issues. The success of the WTO has rested significantly on its single-issue focus. If the WTO system is required to deliver non-trade results, the effectiveness of the system could easily decline.

The extent to which social, cultural and environmental considerations affect WTO priorities and decision-making

The agreements of the WTO provide considerable scope for non-trade considerations to be taken into account. The exceptions provisions of the GATT allow governments to restrict trade to protect human health and the health of animal and plant life. This is what allows governments to restrict trade on health and quarantine grounds. As noted above, however, the agreements of the WTO are living instruments and as new issues arise which affect trade, adjustments may be necessary to ensure that they are regarded as relevant to the circumstances of the day. However any new exceptions which expand the scope of the WTO to allow non-trade controls on trade should be strictly limited, or the core function of the system to expand global trade through market mechanisms will be undermined.

The extent to which the WTO provides for recognition of social and cultural considerations is limited. This is appropriate. The WTO was set up to deal with trade, not other issues. In almost every sphere of international activity, an international organization exists. It is these specialist fora that non-trade issues should be pursued on a global basis.

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