

BUSINESS COUNCIL OF AUSTRALIA

**Submission
to the
Parliament of Australia
Joint Standing Committee on
Treaties**

5 September 2000

Submission by the Business Council of Australia

Summary

1. The WTO is central to the development of a modern world trading system through its structure of rules and procedures which govern extra-national business relations. It has been an important in ensuring that world trade and economic interaction has developed in a relatively harmonious way to the very great advantage of importing and exporting businesses. It has made a major contribution to improving the welfare of the peoples of the member countries.
2. As with all international processes there can be scope for improvement but, by and large, the dispute resolution procedures of the WTO work well. They are well-defined, clear in operation, provide appropriate mechanisms of negotiation and rulings subject to appeal, while allowing representation. Third parties have the right to present their case and to answer questions from the panel.
3. Some concerns have been expressed that the larger and more developed members dominate the WTO decision-making process. Australia's own experience has shown this to be false. While some change in the way the WTO operates may be appropriate, we would not favour changes that undermined the 'democratic' rules that guarantee equal rights for all WTO member countries, rich and poor.
4. Attempts to change the basic mandate of the WTO to make it an enforcement agency for environment, labour or other non-trade policies should be firmly rejected. The International Labour Organisation is the appropriate promoter of labour standards, human rights and environmental issues are also subject to other international processes, so that the WTO should maintain its primary focus on the liberalisation of trade rather than on other (albeit important) issues.
5. The WTO should consider improving its organization and procedures to ensure improved openness and information flow. It should not, however, become accountable to sectional interest groups in member countries. Governments should remain accountable for their trade policies through national democratic institutions.

Introduction

The prosperity of the Australian economy depends on the continued growth of global market opportunities. A large part of our income comes from exporting products in which we have comparative advantage, and importing the goods in which other countries tend to specialise. Exports alone now account for more than one-fifth of our national income: a higher proportion than at any time in the past fifty years.

Just as government creates a framework for commerce within Australia, so the WTO creates the environment in which international trade can take place. It is the only organization that provides global trade rules that are binding on member governments. As a small country, Australia would do very much worse in a situation where there were no rules governing such trade. Accordingly the WTO is very important for this country.

While this submission considers some of the principal concerns of BCA members with the WTO, it does not attempt to be comprehensive. The Council may return to these and other matters in more detail as the review by the Parliament proceeds.

The role of the WTO

In our view, the WTO has a critical role to play in assisting trade and thus improving the welfare of members. The WTO has a global mandate to promote the opening of markets so that business and the whole community can prosper from trade growth and fair global competition. The WTO, and its member governments, must continue to rise to the challenges of this central role in global economic management. There is extensive evidence that improvement to the trading rules facilitates trade, that world economic growth is driven in significant part by trade, and that more extensive trade has improved global welfare.

We see four key steps for the future.

- The elimination of barriers to goods trade

Recent negotiations have been working towards establishing a framework for the elimination of tariff and non-tariff barriers, export subsidies and regulatory distortions, including market-distorting domestic agriculture subsidies, in global goods markets.

The Uruguay Round prepared the ground for this by requiring the 'tariffication' of barriers in agriculture trade and by agreeing a program for their elimination in textiles. However, many non-tariff barriers remain and very high tariffs still characterise trade in these sectors. As tariff levels come down, 'temporary' barriers are being used to a greater extent in many product sectors such as steel to offer high levels of protection to domestic industry. However, almost two-thirds of world trade in 1994 took place among members of regional 'free trade' agreements who are already required by the rules adopted in the Uruguay Round to eliminate barriers on substantially all trade among themselves within a fixed time-frame.

It is now time to develop a program for the elimination of permanent barriers, export subsidies and market-distorting domestic subsidies – particularly in agriculture markets - on a global, non-discriminatory basis. Future negotiations should also seek agreement on stricter limits on the use of 'contingent' barriers such as anti-dumping and safeguards and on simpler and fairer procedures for their use.

- The expansion of commitments on services

Negotiations are increasingly aiming for a significant expansion of the level of commitments under the General Agreement on Trade in Services. Although barriers to services trade make no more economic sense than barriers to goods trade, much less progress has been made in the WTO on their elimination. Achievement of this goal is now more likely as a result of the agreements on financial and telecommunications services adopted after the conclusion of the Uruguay Round.

- The liberalisation of investment markets

It is time for the WTO to take determined steps towards a world of open, freely contested investment markets. Future negotiations should aim to create a new Agreement, binding on all member governments and based on the well-tested WTO principles of market liberalisation, transparent regulation and fair treatment of foreign entrants to a market.

Progress in the GATT and WTO over 50 years has led governments to the threshold of free trade in product markets, but international asset markets remain fettered by unfair and restrictive regulations that discriminate against foreign investors. The OECD attempted to reach a Multilateral Agreement on Investment but failed because, among other reasons, there was not a sufficiently broad membership of the Agreement to offer significant benefits to all participants. As the sole global agency with both the track record and credibility to bring governments of countries at all stages of economic development together on market reform, we are of the view that the WTO should

now take up this challenge and agree rules that will progressively eliminate restrictions on foreign participation in national investment markets.

The liberalisation of foreign access to markets for portfolio investments and direct investments should be based on liberalisation of access to direct and portfolio investment opportunities; the fair treatment of foreign investors in accordance with the non-discrimination principles of the WTO; and the application of the WTO dispute settlement procedures

- Improving competition

The WTO also should tackle the development of a regime for liberalising, as far as possible, competition policy regulations in WTO member states. The aim should be to ensure that the ground-rules are consistent with the WTO principles of fairness and transparency and based on harmonised policy concepts and regulatory procedures.

The use of anti-dumping regimes which are not consistent with the form and intent of WTO principles could be a strategic target for harmonisation. Providing it achieves acceptable additional disciplines on the illegitimate use of anti-dumping mechanisms by other countries, Australia should be prepared to participate in discussions aimed at examining competition policy for the longer term.

Globalisation and the WTO

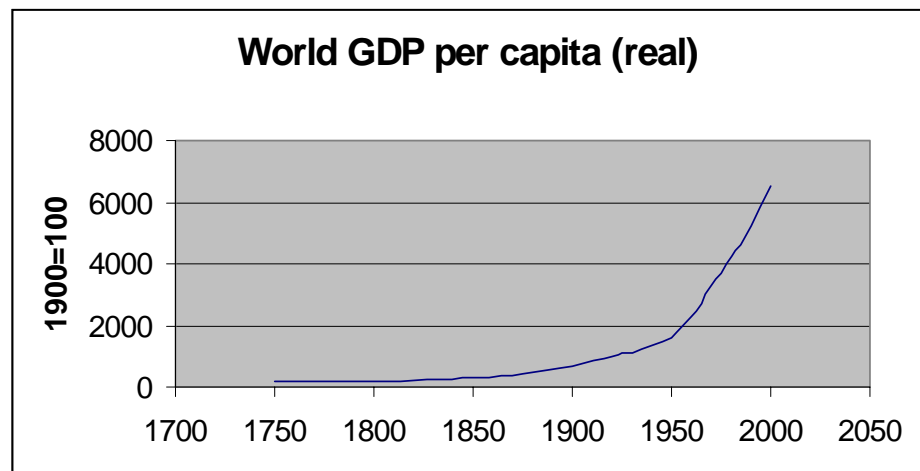
The institutions of the multilateral trading system have been attacked in the past few years by special interest groups for *extending* their activities into areas of so-called 'sovereign' interest such as investment or services trade restrictions used to provide 'cultural' protection. They have also been criticised for *failing to extend* their enforcement regimes to secure specific environmental or labour standards. Such criticism by sectional interests is often self-serving and unfounded.

Even the most powerful national governments lack the power to regulate, or to de-regulate, markets across the range of geographies and production networks that are relevant to global business. Because of this, multilateral trade rules, administered and enforced on a global basis by the WTO, are the only practical means of achieving the fair and predictable trading conditions in global markets. As such it works to the advantage of both business and consumers.

To be effective in this role, however, the WTO should focus on its mandate to open up markets. Other forums are more appropriate to debate legitimate concerns about international labour standards

(specifically the International Labour Organisation) and environmental issues. Agreements reached within those frameworks that are consistent with the WTO obligations of their member governments are much more likely to offer lasting and effective solutions. Bundling up those issues with trade negotiations in the WTO opens up too many opportunities for sectional interests to seek narrowly-based economic advantage through a 'back door'; risking delay on all fronts.

The achievements of international trade in recent decades have been impressive. The figure below demonstrates that the average standard of living of the people of the planet has increased dramatically since 1950. This is the period when the movement to lower world tariffs was started in earnest and the period in which multinational institutions such as the United Nations, the World Bank, the International Monetary Fund, and the series of rounds for the improvement of the world trading environment was commenced. Much of the improvement in world living standards since 1950 is clearly related to this establishment of a series of rules which facilitate international trade and the economic benefits of specialisation.



Source: B. De Long "Estimating world GDP". The data is available at <http://econ161.berkeley.edu>.

These gains from trade have not been confined to the rich countries. Even the poor countries have done well from this process.

The percentage of the world's population living on less than \$1 per day has fallen in the last decade from 30 percent to 24 percent.¹ As an alternative to economic measures of well-being, Professor Crafts of the

¹ Source: IMF World Economic Outlook, May 2000. The same is true at the \$2 per day level.

London School of Economics has developed a Human Development Index. It shows strong convergence of poor and rich countries: “Since 1950 there has been a substantial fall in the gap between average HDI for Africa and in the advanced countries of Western Europe, North America and Oceania”². As examples of convergence we see literacy in China going from 16 percent in 1950 to 82 percent in 1990, GDP per capita in Lesotho increasing by 320 percent over that period, and life expectancy in Egypt going from 42.4 years to 64.8.³ In economic terms, different regions have grown at different rates so that convergence of GDP per capita is not always obvious. The basic explanation for the failure of some poor countries to catch-up in Crafts’ words are that: “policy matters for growth outcomes ... sustaining catch-up growth performance is seen as rather difficult and dependent on unpredictable success in achieving policy reform and institutional innovation as the economy develops” (p52).

The conclusions we draw are

- that the role of international trade, and of institutions such as the WTO which facilitate it, are enormously important in improving the living standards of all people, including both Australians and the very poor of the world. Nevertheless,
- such gains are not inevitable. Local decisions can prevent countries enjoying the benefits in terms of living standards, health and welfare, or they can promote it.

Dispute settlement

The radical changes made to the WTO dispute settlement procedures in the Uruguay Round have had a dramatic effect on the frequency of disputes. The ‘automatic’ right of an aggrieved member government to a Panel to adjudicate a dispute, and the agreement that WTO governments would be bound by the WTO Council’s decision on the dispute, has immeasurably raised the stakes in WTO disputes.

Although the creation of this new, powerful global decision-maker offers significant benefits for international trade, it has brought with it some unanticipated consequences.

² Crafts, N. (2000) “Globalization and growth in the Twentieth Century” IMF Working Paper WP/00/44.

³ There is now reliable evidence, too, that higher incomes in poor countries associated with gains from trade have been shared by the poorest people in those countries. A recent extensive survey by the World Bank has demonstrated that the income of the poorest 20% of the population of developing countries has grown on average one-for-one with the growth of national GDP (Dollar, David and Kray, Aart: [Growth is Good for the Poor](http://www.worldbank.org/html/extdr/pb/globalization/paper2.htm) see summary at <http://www.worldbank.org/html/extdr/pb/globalization/paper2.htm>)

It may change the regional dynamics within Australia, requiring the Federal Government to act more strongly to assert a national interest, over a regional one, where an international trade obligation is at issue. In the view of the BCA, this is a welcome development: the smooth flow of trade is vital to our welfare as a nation.

Australia should consistently support the view that disputes remain focussed on the WTO principles and rules the functioning of the trading system, and we should operate as effectively as possible within this structure.

Accountability and Decision Making

Following the widely-publicised protests at the Seattle meeting and the failure of the WTO Members to reach agreement at the meeting, concerns have been expressed about the ‘public accountability’ of the WTO and about the decision-making process within the Organization itself.

Accountability

The WTO is a treaty among executive governments and cannot be *directly* accessed by private individuals or domestic lobby groups. Nor should it be: to do so would disrupt and confuse the democratic accountability of governments for their trade and associated policies.

Government members of the WTO must remain accountable for their trade and economic policies to national Parliaments and through them to their domestic constituents. It is essential that groups seeking change in the policies of the government members of the WTO act through these democratic processes to achieve change rather than circumvent them.

Attempting to influence WTO debates by ‘direct’ action risks undermining an institution that, over the past 50 years, has helped to open markets, has supported transparency in national laws and regulations and has contributed to efforts to sustain economic growth for the benefit of everyone.

Being accountable only to its government members, however, does **not** mean that the WTO should be closed to the public in the sense of information. We believe that the need for greater openness of the WTO - in the sense of better information flows for the public *and for member governments* - is an important lesson from Seattle (see below).

The public processes for forming Australian policy on multilateral trade issues is appropriate; there is open public debate and Parliamentary scrutiny.

In the case of determining Australia's approach to future multilateral trade negotiations, the Minister for Foreign Affairs and Trade invited written submissions, last year, on matters of interest to industry and the public. Subsequently, his Department held a series of public hearings to discuss Australia's interests in the development of the agenda for further multilateral trade negotiations, including the subject matter, content and timetable for negotiations and other further work in the World Trade Organisation. The Government took the outcome of the hearings and the content of the written submissions into consideration when formulating Australia's approach to the third WTO Ministerial Meeting at Seattle.

Organization

Following the failure of ministers from developing and developed countries to agree on some issues at Seattle, there were calls to modify the internal dynamics of the WTO to make it 'more responsive' to developing country concerns. We think that this is un-necessary and potentially dangerous for the interests of all smaller trading countries, including Australia.

There were several reasons for the failure to reach agreement in Seattle: the complexity and sensitive nature of the issues for debate; inadequate preparation in the WTO (due in part to the long wrangle over the appointment of a Director-General); the poor communication between developed and developing country Governments on 'new' issues such as trade and labour standards and on longstanding problems such as textiles' trade restrictions.

There appear to be several important lessons for the WTO about the organization of these large, intense Ministerial meetings where 'high-stakes' decisions need to be made in a short period of time.

However, we view this failure – one of a string of 'failed' Ministerial level meetings in recent years – as a problem of organization rather than a problem with the institution itself. It would be a dangerous mistake, in our view, to allow this setback to suggest institutional changes such as changes to the relative 'power' of different country groups in the WTO.

The WTO seeks to establish a 'level playing field' in world trade by placing every government member – from the richest to the poorest – on the same legal footing. Every member has the same 'voting power' in the decisions of the Organization. This means that even the less powerful economies can achieve dramatic changes in the rules by

building coalitions of a sufficient number of 'votes'. This was how Australia, as the leader of the Cairns Group of agricultural exporting countries, brought serious reform of world food markets to the bargaining table for the first time in the Uruguay Round of negotiations.

This legal 'equality' within the WTO, is in our interest as a smaller trading country because it ensures that legal safeguards such as the binding arbitration of the WTO dispute settlement mechanism offset economic power.

The Australian Government should encourage WTO to adapt its **organization and procedures** to reflect the lessons of the Seattle debacle. In particular, WTO should ensure that its decision-making processes are better prepared and more open. This openness would help interest groups to better exercise their influence on member governments – in the developing as well as in the developed world. It would also help some government members of WTO to keep abreast of developments and to exercise more effectively their rights as decision-makers.