

# **JOINT STANDING COMMITTEE ON TREATIES - INQUIRY INTO AUSTRALIA'S RELATIONSHIP WITH THE WORLD TRADE ORGANISATION (WTO)**

## **SUBMISSION FROM THE DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES**

### **1. INTRODUCTION**

The Department of Industry, Science and Resources (ISR) welcomes the opportunity to present a submission to the Joint Standing Committee on Treaties (JSCOT) which is to inquire into and report on the nature and scope of Australia's relationship with the World Trade Organisation (WTO).

Improved market access for Australian industry is one of this portfolio's principal objectives and Australia's membership of the WTO contributes to that goal. Because of Australia's size, product range and the dispersion of our trading partners, the WTO is a key element in Australia's trade policy.

Apart from the prospect of improved access to overseas markets, there are other significant benefits from WTO membership. These include the vastly strengthened dispute settlement mechanism that emerged from the Uruguay Round, the stand-alone agreement on subsidies and countervailing measures (SCM), a new agreement on trade-related investment measures (TRIMS), and a separate agreement on intellectual property (TRIPS). As a medium-sized country, the rules based system which the WTO administers and to which all major trading countries ascribe, provides Australia with a predictable and stable environment within which to pursue its international commercial interests.

ISR would welcome the commencement of a new WTO Round including manufactures. Australian tariffs are now low by world standards following considerable domestic tariff reform in recent years. With the positive adjustment made by industry and its renewed competitiveness, industry wishes to procure better access to overseas markets, especially the growing markets of Asia. At present, Australia's average applied tariff is less than 5% whereas the average for some major Asian markets is much higher. For example China's average tariff is in the region of 15% and there are currently import licensing arrangements. Malaysia has very high tariffs (over 50%) on vehicles and parts which compares with Australia's maximum rate of 15% at present.

Noting that negotiations on agriculture and services are already under way as mandated in the Uruguay Round, ISR sees value in proceeding with negotiations on manufactures, agriculture and services as a single undertaking to maximise the scope for intersectoral trade-offs.

Below, ISR addresses those of the Committee's terms of reference which relate to the portfolio's policy responsibilities.

### **2. OPPORTUNITIES FOR COMMUNITY INVOLVEMENT IN DEVELOPING AUSTRALIA'S NEGOTIATING POSITIONS ON MATTERS BEFORE THE WTO**

ISR is open to representations from industry and the community generally about WTO trade issues. We facilitate such contact through staging roadshows (usually on a industry sector basis)

in the capital cities. To date, and especially in the lead up to the November 1999 Ministerial Meeting in Seattle, roadshows were held for the following sectors - pharmaceuticals, health, TCF, financial services, education services, furniture and tourism. Consultations of this nature will undoubtedly intensify when a new round looks likely to be launched. ISR also interfaces with industry, industry organisations and community groups in trade policy forums such as the Trade Policy Advisory Council and the National Trade Consultations.

### **3. THE TRANSPARENCY AND ACCOUNTABILITY OF WTO OPERATIONS AND DECISION MAKING**

From ISR's perspective, the WTO operates in a transparent and accountable manner. Decisions are made following consultation and consensus (such as in the accession of new members). The process of decision making is for the most part made public through the WTO's website. Information and other details relating to the WTO's dispute settlement process (such as the background and parties to cases and countries that have initiated action) are also publicly available.

### **4. THE EFFECTIVENESS OF THE WTO'S DISPUTE SETTLEMENT PROCEDURES AND THE EASE OF ACCESS TO THESE PROBLEMS**

Dispute settlement serves to preserve and/or clarify the rights and obligations of Members covered under the various WTO agreements, principles strongly supported by ISR. ISR considers the WTO's dispute settlement procedures to be effective. The new, tighter and clear dispute settlement mechanism that came about following the Uruguay Round offers scope for trade disputes to be resolved as expeditiously as possible. The settlement procedures also mitigate the threat of trade retaliation or harassment. This is a positive development for Australian.

In addition, ISR has been active in publicising DFAT's new initiative (the WTO Disputes Investigation and Enforcement Mechanism) so as to inform industry about the benefits of the WTO's dispute settlement mechanism (through a series of roadshows). The purpose of this initiative is to establish a partnership between Government and industry to deal with circumstances where WTO Members may not be honouring their obligations, thus impeding access to markets.

### **5. AUSTRALIA'S CAPACITY TO UNDERTAKE WTO ADVOCACY**

DFAT is the lead agency with regard to the prosecution and defence of WTO disputes and ISR fully cooperates with DFAT when the industries involved are covered by this portfolio. Our experience is that in cooperation with industry, we have been able to conduct effective advocacy in the WTO. And Australia's capacity to undertake WTO advocacy will be enhanced by DFAT's new initiative on dispute settlements mentioned earlier.

ISR had also been involved in providing substantial input into a DFAT Submission to a WTO panel tasked with investigating the pharmaceutical "springboarding" dispute between the EU and Canada (Australia was a third party to this dispute. The Submission was very well received by the Panel and added considerable value to the case.

On a more general note, the short history since Marakesh shows that even the major players like the US and the EU are equally subjected to the disciplines imposed by the WTO's dispute

settlement process - the ruling that the US's Foreign Sales Corporation tax treatment was WTO-inconsistent is a case in point.

## **6. THE INVOLVEMENT OF PEAK BODIES, INDUSTRY GROUPS AND EXTERNAL LAWYERS IN CONDUCTING WTO DISPUTES**

As a general rule, consultation with industry is essential for effective advocacy and this is our usual practice. It may be appropriate in some circumstances to seek external expert advice when available. ISR has employed such advice at times. As noted earlier, prime carriage of cases lies with DFAT.

## **7. THE RELATIONSHIP BETWEEN WTO AGREEMENTS AND OTHER MULTILATERAL AGREEMENTS**

ISR sees value in the pursuit of free-trade agreements (FTAs) or regional trade agreements (RTAs) provided they do not cut across progress in the multilateral arena. Such agreements offer an avenue to trade liberalisation, and especially in the absence of a new round, they offer an effective vehicle to further market access goals in the shorter term.

## **8. CONCLUSION**

ISR supports a strong relationship with the WTO. As the portfolio responsible for manufactures, a range of services and the resource and energy based industries, we cover a large proportion of Australia's merchandise and non-merchandise trade. Improved market access for Australian industry is one of this portfolio's principal objectives and Australia's membership of the WTO contributes to that goal.

ISR continues to be pro-active in dealing with WTO issues as they impinge on this portfolio: we work closely with DFAT to facilitate the accession of new WTO members; we assist DFAT in publicising its new initiative to inform industry about the benefits of the WTO's dispute settlement mechanism; we examine industry programs to ensure their WTO-consistency, we consult regularly with industry and industry associations to elicit their views and factor them into our WTO and trade agenda, which we see as being complementary to our overall industry policy.