

CHAIR'S PREFACE

The Senate has invested a significant responsibility in the Select Committee inquiring into the Australia-US Free Trade Agreement (AUSFTA).

The Agreement itself runs to well over 1000 pages including the annexes and side letters. It examines in some detail every aspect of the Australia/US investment and trade relationship. There is also the accompanying explanatory documentation, national interest statements, and the results of economic modelling on the impact of the Agreement.

Well over 500 submissions were received by the Committee from various organisations and individuals. There were oral presentations and specialist roundtable discussions on the Pharmaceutical Benefits Scheme, intellectual property and the economic and trade impacts. Clearly, there is a wealth of material that has to be considered in order for the Committee to frame its recommendations.

But while mastering all this information is essential to the discharging of our obligations under the Senate's Terms of Reference, the true weight of responsibility cannot simply be measured by the volume of material before us and the effort necessary to render it intelligible to the Senate. When the Senate votes on the legislation implementing this Agreement that is soon to be put to the Chamber by the Government the Senate is, in effect, voting on whether the Agreement as a whole comes into force or not.

A vote which gives all the relevant bills passage without amendment triggers the Agreement. Any amendment to or rejection of a bill will have the effect of abrogating the whole Agreement.

The Select Committee, mindful of this responsibility, has taken considerable care to seek input from a wide range of stakeholders and to question witnesses in detail about their views. As well, we have commissioned independent economic research from Dr Philippa Dee, an eminent expert in the field. Her report and all the relevant submissions and the proceedings of the Select Committee thus far are on the public record, enabling members of the public to follow our inquiry in detail. This is important.

Since the riots in Seattle at the 1999 WTO Ministerial Meeting, trade issues have almost always attracted controversy. Some groups have demanded a direct say in government-to-government negotiations. In its report *Voting on Trade* the Senate Foreign Affairs, Defence and Trade References Committee considered that argument and a number of the other points frequently made by those protesting about globalisation and trade issues.

It was the view of that Committee, a view that I trust is shared by this Select Committee, that the Parliament is the appropriate venue for scrutinising the activities of the government and is the only institution accountable to the nation as a whole for the decisions it takes. And while governments engaged in the making of international agreements are encouraged to be as transparent as possible in their deliberations, consistent with the need for confidentiality of negotiations, governments are ultimately accountable to the Parliament of which the Senate Select Committee process is part.

A notable feature of the Agreement is the absence of a provision requiring a deadline for the consideration by the Parliament of its terms. Notwithstanding, the parties to the Agreement, Australia and the US, have declared that they have targeted the 1st January 2005 as the date by which the Agreement should come into force. Subject to the ability of the Select Committee to complete its processes, that date appears to be a reasonable target.

The lack of a binding deadline, however, does enable the Senate to clarify issues and test the Government's understanding of the implications of this Agreement. As many of the parties appearing before us have said, and as the Government itself proudly acknowledges, this Agreement was completed in near-record time. That fact alone requires the Select Committee to exercise care in satisfying itself about the terms of the Agreement and in framing recommendations with respect to it because, should the Agreement come into force, it will then be too late to correct any unanticipated anomalies.

Another reason for care is that trade agreements per se are a form of economic legislation. Removing barriers to exports obviously increases the competitiveness of Australian firms in foreign markets and often leads to an increase in the goods and services we can sell overseas and the jobs we create in Australia.

Conversely, allowing foreign firms to compete in the Australian market increases domestic competition applying downward pressure on prices and upward pressure on quality and efficiency. This has obvious benefits for the nation as a whole. However, greater foreign competition in Australia means market forces shape the economy, moving it in the direction of greatest efficiency, that is, where it is more competitive. Inefficient firms may lose market share or even go under.

The adjustment mechanisms to cushion the transitional effects of a shift to a more efficient economy are one of the most important issues in gaining public acceptance for trade agreements. The Centre for International Economics has published a list of where additional jobs will be created and where existing jobs will be lost if this Agreement goes ahead. Both individuals and industry sectors can be adversely affected by the market restructuring an FTA causes. The adjustments required to deal with these adverse effects are appropriate matters for the Select Committee to take into account in arriving at a balanced assessment of whether the FTA, overall, is in the national interest.

In November 2003, the Senate Foreign Affairs, Defence and Trade Committee tabled its report *Voting on Trade*, which included a substantial investigation of the issues and likely effects of the (then being negotiated) Australia-US Free Trade Agreement. This Committee included several members of the current Select Committee. A major purpose of that inquiry was to bring before the government those issues that were considered critical with respect to the negotiating of that Agreement. It was intended to serve both as a reference point and guide for the way Australia might approach the development of the proposed FTA.

Voting on Trade not only identified a series of key issues to be considered, but made recommendations as to how they should be handled. The report also made some substantial recommendations about the kind of process that would best deliver a free trade agreement that could expect the support of the Parliament and the public. Unfortunately, the government did not respond to those recommendations, nor, it seems, did it even to take into account the concerns that the Committee had clearly identified.

As a consequence, the issues that *Voting on Trade* pointed to as significant matters requiring urgent and forthright attention have again surfaced in this present inquiry as matters about which there remains considerable public disquiet. These include the PBS, the use of a negative list approach to market liberalisation, the compromising of cultural objectives (especially in media), the regulation of foreign investment, 'rules of origin' mechanisms, and so on.

Voting on Trade also recommended that the government seek a thorough and independent assessment of the proposed agreement via the Productivity Commission. This was ignored. Instead the public has been presented with a series of modelling exercises that are in conflict with each other, generating in both the public and professional realms more heat than light.

The Senate, through the both Foreign Affairs and Trade Committee and the Select Committee, has consistently sought to play a constructive and educational role to ensure that the free trade agreement with the United States was pursued in an optimal fashion in terms of process, and that negotiators attended to the key concerns of the Australian public so that the national interest might be preserved and enhanced.

As this Interim Report is tabled, the government has introduced the domestic legislation by which it hopes to effect the implementation of the Australia-US Free Trade Agreement. Therefore the Select Committee is only now in a position to turn its attention to that implementing legislation. This will be an important task, because it is only by scrutinising this legislation that the Select Committee will be able to assess whether the issues and concerns that have persisted throughout both Senate inquiries will be satisfactorily resolved.

Senator Peter Cook (Chair)

