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TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

SAFEGUARDS INQUIRY INTO THE IMPORT OF PIGMEAT

MR G.R. BANKS, Chairman

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON TUESDAY, 4 DECEMBER 2007, AT 11.09 AM

Continued from 3/12/07 in Adelaide

MR BANKS: Good morning, ladies and gentlemen. Welcome to the public hearings for the Productivity Commission inquiry into safeguard action against imports of frozen pigmeat. My name is Gary Banks. I'm chairman of the Productivity Commission and presiding on this inquiry.

As you know, the inquiry commenced on 17 October when the now former Australian government agreed to initiate a safeguards inquiry according to the rules set down by the World Trade Organisation. These rules have been laid out for interested parties in the inquiry issues paper, which was distributed on 23 October and can be downloaded from the commission's web site.

Specifically, the commission, as Australia's designated competent authority under the WTO to conduct such inquiries, has been asked to inquire into whether safeguard action is justified against imports of "meat of swine, frozen, falling within tariff subheading 0203.29". More specifically, the commission has been asked to report on:

- whether conditions are such that safeguard measures would be justified under the WTO agreements;

- if so, what measures would be necessary to prevent or remedy serious injury and to facilitate adjustment; and

- whether, having regard to the government's requirements for assessing the impact of regulation which affects business, those measures should be implemented.

The inquiry is to be completed by the end of March 2008, but the commission has also been asked to provide an accelerated report by 14 December as to whether provisional safeguard measures should be put in place for up to 200 days. The accelerated report is asked to look at whether there are critical circumstances where delay in applying measures would cause damage which it would be difficult to repair.

As many of you will know, we've talked to a range of organisations and individuals throughout this inquiry so far, both from the industry and from government, both here in Australia and those representing governments overseas. We've done that on an informal basis. The purpose of these hearings is to provide an opportunity for interested parties to discuss their submissions and to put their views on the public record, including in response to the submissions of others.

Hearings have been conducted so far in Sydney, Canberra, Brisbane and Adelaide. This is the final day of hearings here in Melbourne. We'll then finalise the accelerated report by 14 December and work towards completion of the inquiry report by end of March 2008, which includes, in the second part of the terms of reference, reference to structural adjustment and feed cost issues. We're not proposing to have another round of public hearings, but further submissions will be welcome. I'd note that the terms of reference indicate that the reports will be published as soon as practicable.

We like to conduct the hearings in a reasonably informal manner, but I remind participants that a full transcript is being taken and, while participants are not required to take an oath, they are required under the Productivity Commission Act to be truthful in their remarks. Transcripts will be made available to participants and will be available from the commission's web site following the hearings; I would say usually within three days but it's been a little longer. We've had some technical hiccups, but I think the transcripts from the hearings in Canberra last week are being loaded onto our site today. Copies of transcripts can be purchased using an order form available from staff here today. I should say that all submissions to the inquiry are also available on the commission's web site, and hard copies of those can be purchased for those who need to do that.

To comply with the requirements of the Commonwealth occupational health and safety legislation, you're advised that in the unlikely event of an emergency requiring an evacuation of the building, the exits are located out through those doors to the left and then to the right, and you'll find someone to help you if that eventuality occurred.

MR BANKS: I'd now like to welcome the first participant for today, J.W. and G.E. Bourke Pty Ltd. Welcome to the hearings.

MR BOURKE: Thank you.

MR BANKS: I'd ask you please just to give your name and your position.

MR BOURKE: My name is John Bourke. I'm the chairman of J.W. and G.E. Bourke Pty Ltd.

MR BANKS: Good, thank you. Thank you very much for attending today and also for the submission, which I've read. I've got a couple of questions on it, but I'll give you the opportunity to make - - -

MR BOURKE: I've got some points, if I could make them.

MR BANKS: Sure.

MR BOURKE: You know what my name is. We're a farrow-to-finish operation, selling approximately 175 bacon pigs per week at a dress weight of 78 kilos. My observations come from 30 years' experience in the industry, and today I would like to speak on the following points with reference to imported pigmeat: my first point relates to the product we're allowed to offer to the consumer. The reference to my submission is page 2, paragraph 1.

Currently the product local producers offer is confined. The carcass sold is limited to an average of 70 kilos in weight. The carcass is sold as a whole, with two-thirds of carcass going into the fresh trade, one-third into processed pork. In a market free of subsidised imports, we would be able to grow a carcass up to 100 kilos; therefore more of the carcass going into the processing sector. Pig producers would be able to develop the infrastructure which would enable us to meet the processors' demands for larger cuts and quantity of pork. We also have the ability to supply the processors, but they are choosing to use imported products and ignoring local pig producers.

This brings me to my second point: the high level of imports, which has stifled the Australian pig industry. I refer to my submission on page 3, paragraph 1. As stated by Australian Pork Ltd chief executive Andrew Spencer, 110,000 tonne of frozen pork was imported into the country during the 2006-07 financial year. I quote:

> This staggering amount of frozen pigmeat is equivalent to just under five kilograms of pork for every man, woman and child.

These inappropriate levels of subsidised imports distort the market and unfairly penalise the industry in Australia. My third point relates to the fairness of subsidies and their relation to a level playing field for local pork producers to operate in. I will use Denmark as my first example, where their industry is facing similar problems to the Australian pig industry but a solution has been found through subsidisation. I refer to my submission page 2, paragraph 3, including graph through to page 3, paragraph 1.

Danish producers are suffering high food prices, which is seen all over Europe in the last month. Due to the downturn in their incomes, like many farmers in Australia, they have decided to stop production. In Australia the situation is similar but the downturn in income is not only due to high grain prices, which in the past we have coped with, but the increased percentage of imports. Their industry will receive the following subsidies: I refer to the graph on page 2 of my submission. The reference for that is Frontier Trading, www.frontiertrading.dk, if you want to have a look on their web site.

MR BANKS: Thank you.

MR BOURKE: That's where I got that information from.

MR BANKS: Yes, good.

MR BOURKE: The EU has responded by introducing a private storage scheme, commencing on 29 October 2007. This scheme will include 100,000 metric tonnes of pork to be stored with subsidy from the EU for a period between two and five months, after which the pork can be freely sold into EU or non-EU markets. This scheme aims to increase the pork meat price in Europe for the coming months, to compensate their farmers for the drastic feed price increase.

As Australia is suffering from the same problem and importers are bringing in middles from Denmark, it makes it even harder, if not impossible, for Australian farmers to compete. My observation is that pigmeat prices need to rise to reflect the cost of production worldwide, not just in Australia.

My second example refers to my submission page 2, paragraph 2, which relates to the USA. Current world markets do not allow Australian pig farmers to compete on a level playing field with imported pork. Australian pork production pre-October 2007 was 100,000 pigs slaughtered per week. The USA slaughter level at 29/9/07 was 2,223,000 per week. Australian total production is 5 per cent of the USA's. The USA has so much room to discount their export price to gain market share that they have disadvantaged their Australian counterparts. Because Australian producers account for such a small percentage of the market, whatever we do we're at the mercy of the USA. I will now table my reference for this information, which is on that page I got off the Internet.

MR BANKS: Good. Thank you.

MR BOURKE: It just shows you how many pigs they slaughter. I've just sort of highlighted that, Mr Banks.

MR BANKS: Thank you.

MR BOURKE: The limiting of profit is my next point, referring to my submission page 1, paragraph 3, and page 2, paragraph 1. Australia, by opening access to imported pork, is supporting overseas pig producers, which already receive subsidies from their governments, unlike local pig producers. It is impossible to get a fair fresh trade price because the importer can buy C105 products for between 2.80 and 2.90 a kilo. This action puts a ceiling on our price. It doesn't matter how high the demand increases, this determines the price of pork in Australia. I now refer to page 3, paragraph 1. As stated by APL chief executive Andrew Spencer:

> Producers are receiving an average $2.30 per kilo for pork which costs $3 a kilo to produce.

This situation is unjust. There is no profit for Australian pig producers. Consequently, Australian producers are being forced to shut down their businesses. My fifth point relates to profit but expands to explain the role that supermarkets play in the downturn of the local market. I refer to page 1, paragraphs 4 and 5, and page 3, paragraph 2. Manipulation of the price of pork by supermarkets can be broken in two parts. To meet the supermarkets' demand for a low-cost product, processors are choosing to buy imported pork, while local pig producers are left with no bargaining power and limited options but to meet their demands. Part 2: the shelf price does not reflect the true cost price.

The displacement of local pork by importers, as again stated by Andrew Spencer, "left the industry in a precarious position", of which the Australian public has little knowledge. I quote again, "I'm sure Australian consumers would be shocked to know that approximately all ham, bacon and smallgoods sold in Australia come from imported pigmeat."

My sixth and final point in relation to viability: I refer to all of my submission. There is no way the industry can grow in the current climate, because of the insecurity brought about by high-level imports. The continual losses result in a cessation of capital input and minimal repairs and maintenance. This leads the industry into run-down facilities, less adoption of new technologies, reduction of world competitiveness and efficiency. Extended depression in the industry makes it unattractive to young people as a career option, distorts the profile of people in the industry and limits progress. If this trend isn't stopped immediately, Australia will not be able to produce enough pork to supply its fresh trade market.

In relation to myself, I'm not able to continue to operate in this no-win situation. To regain stability in the industry, we need to reduce the level of imports back to, say, at least 50 per cent of market share. We have the ability, without high-level imports, to rebuild the industry, bring back producer confidence, maintain certainty of supply and to provide a secure employment environment. If this 50 per cent ratio was implemented, it would mean the tariffs would be eliminated, thus allowing free trade to occur and Australian producers would be able to compete on a level playing field, which is all I ask.

Thank you, Mr Banks, for giving me this opportunity to put my case forward. On behalf of my business, my staff and my associates, thank you.

MR BANKS: Good. Thank you very much. You've raised a number of points there that we could talk about, but I thought perhaps if I could just get you to talk a little bit about your own business. I mean, you made the comment there that if things go on, you wouldn't be able to operate. Could you tell us a little bit about what's been happening to your own operations in terms of your costs relative to prices - in other words, profitability issues - whether you've cut back on production; what your plans are.

MR BOURKE: My plans are to sit and wait to see what the commission recommends. If the prices don't increase, I'll be forced - I've got no choice; we'll have to shut down. That's just how it is.

MR BANKS: Currently, with prices as they are, you're - - -

MR BOURKE: We're losing $6000 a week.

MR BANKS: $6000 a week?

MR BOURKE: Since August. I've gone from a positive cash flow to a negative.

MR BANKS: Yes.

MR BOURKE: I've had to apply to my bank to extend my overdraft. They've given me a limit and, once I go over that, she's all over.

MR BANKS: When was the sort of crossover point from when you were breaking even or making profits to when you've sort of gone into the red in terms of your profitability?

MR BOURKE: Probably August.

MR BANKS: About August?

MR BOURKE: We've just had our head above water all year.

MR BANKS: Yes.

MR BOURKE: And normally come July our price rises, and it's gone down. See, there's no demand. We're slaughtering sows left, right and centre, and yet our demand hasn't increased. It doesn't make sense. Normally if you shorten supply, up goes the price.

MR BANKS: Yes.

MR BOURKE: We've shortened supply, and down goes the price.

MR BANKS: When you say you're slaughtering sows, are you doing that or - - -

MR BOURKE: Not at the minute.

MR BANKS: No?

MR BOURKE: I've got some loyal staff I've got to look after.

MR BANKS: Yes. So you've been trying to maintain capacity and production levels pending what happens to - - -

MR BOURKE: It depends on what happens out of this.

MR BANKS: Yes.

MR BOURKE: If nothing happens, we've got no alternative but probably to quit the industry.

MR BANKS: What would happen if grain prices turned down? I mean, there's some speculation about what might happen there, but - - -

MR BOURKE: Grain prices won't decrease, because of - the US are using all the corn into ethanol, which has put a shortage on raw material worldwide. If we were looking at what the drought has done, why has the US soy meal gone from $400 a tonne to $580? That doesn't make sense.

MR BANKS: Well, clearly there will be a number of contributors here and overseas to what's been happening with grain prices, but you're not seeing any relief on that side. Do you mind saying what you've been paying for grain and how? I mean, have you had contractual arrangements or - - -

MR BOURKE: Once the price goes up, the loyalty factor just disappears.

MR BANKS: Yes.

MR BOURKE: I had grain sourced, and when I went to get it delivered, it wasn't there. So I was forced to pay - in September grain went from $340 to $490 overnight, and you've got to pay. You can't say, "I'm not going to take that," because our production is 52 weeks of the year. Every week is the same. It doesn't matter what grain prices do, we've still got to pay.

MR BANKS: When you say they went overnight, are you saying that you had a contract that finished and that was the price that you then had to pay or were you then - - -

MR BOURKE: I only had a handshake agreement.

MR BANKS: Right.

MR BOURKE: And when the AWB announced they couldn't supply their contracts, grain went up overnight. That happened in the start of September, as soon as they worked out - I'm not sure whether they wanted to get their profit line up but they manipulated the market somehow.

MR BANKS: Are there things - I mean, if import relief was granted and you got a bit more headroom on your prices and so on, are there other things that could be done over time to reduce your costs, in your view?

MR BOURKE: We need the processing sector to come on board and work with the Australian industry. At the moment they've disassociated themselves from us.

MR BANKS: Why do you say that? Because they've diverted more - - -

MR BOURKE: To imports. They've gone the other way. Instead of topping up with imports, they're topping up with local product. They've been allowed to do what they like and that comes from the supermarket pressure. If one processor imports, they've all got to. It just forces them to, to cut their costs and yet if you go into the supermarket and go and piece the pig back together, they're making 400 per cent or 500 per cent profit, the supermarkets. We're not getting that price increase, because they know they can bring it in for this and that's all they're going to pay you.

MR BANKS: I can see your point of view but would there be another point of view that in a sense - I mean, they've got shareholders, et cetera, and it's probably incumbent upon them to try to source their meat from where they can get it at the lowest price. Since the quarantine arrangements changed and imports have become available - - -

MR BOURKE: That's good business. That's all that is. They're allowed to because of the quarantine arrangements. Fair enough letting the imported pork in but there are no controls. There are no safeguards to say what are we - you've let the market sort itself out. When you opened up the deregulation, there were 450,000 sows. They're down to 300,000 and when this is over there could even be another 100,000 sows slaughtered - who knows? - because there are people just shutting down left, right and centre. You can't choose to stay in, unless you've got a fairly big bankroll.

MR BANKS: I think you note in your submission that you produce bacon pigs. Do you supply any pork to the fresh market?

MR BOURKE: No. I do, sorry. I supply to the Chinese market. I've got my own source. I've had to go out and conjure up a market.

MR BANKS: Right.

MR BOURKE: But they can't pay any more than their competitor, because as soon as he puts his price up, people go from his shop over the road.

MR BANKS: You mean in the Chinese market?

MR BOURKE: Yes.

MR BANKS: You're exporting directly to this - - -

MR BOURKE: This is locally. This is not export.

MR BANKS: All right.

MR BOURKE: We have sent some pigs to Singapore, but once their dollar - the difference in the dollar - their government stops buying, so we're hamstrung. We can't export to Canada, we can't export to the US. I've tried to do that.

MR BANKS: What were the hurdles that you faced?

MR BOURKE: I rang AQIS and after about 10 phone calls, I got to a man called

Joe Galea. He emailed me back about six different attachments and said it would cost $100,000-plus for a US government vet to come out and there's not an abattoir in Australia that would be up to their standard, because they just keep changing the rules. That was his words. I can't quote him because I haven't got it written down. He said it would probably take you five years and you'd get sick of it. In other words, it's impossible. They say you can do it but it wouldn't be profitable. You'd lose money.

MR BANKS: Looking just at the domestic market again, a number of people in the industry, including quite a number who have been addressing the commission, have switched from manufactured to fresh markets. Why didn't you do that, or do you see that still as an option for you?

MR BOURKE: I'm in the fresh, but parts of our pig go into the smallgoods market, which puts a floor in your price. It all doesn't go into fresh. That's where that argument that the government says we're allowed to have the fresh market on our own is just nonsense. If that was the case, we'd be getting $4 a kilo for our pigs.

MR BANKS: Clearly the two markets are related.

MR BOURKE: They go hand in hand. The markets work together but the processors and the Australian producers are yards apart and that's the problem. They've made these rules and it's all geared to the big supermarkets' processors and there's been no thought put into it whatsoever. I've been in this business for a long time and before deregulation we never got a big high price but we never got a low price; and we didn't have the quality we produce now, or the technology. We've been forced - I used to make money out of a trailer-load of pigs and now I've got to fill a triple-deck and I'm losing money. That just tells you that we've been forced into a corner and something has got to be done. We just can't have an industry that gets trampled to death.

MR BANKS: You make a point about what's happened in Europe, which is a point well taken. Unfortunately it's been overtaken by a new initiative or a tentative initiative by the European Commission to provide export refunds for pork exports from Europe. We're getting some more information on that, obviously, and we'll ask the European Commission to provide more detail. In a sense it strengthens the point you're making there, I think, about what's happening in those exporting markets.

MR BOURKE: It gives them a double-edged sword. It doesn't matter how efficient they are, if they're allowed to export as well as get a subsidy, they could be there and not even produce product. We're left to our own defences. There's no backup. Whatever I do today, it's 12 months down the track before I get a return, whether it's profit or loss. You've got to put so much capital in, and our farms don't appreciate in value. The only way we can make a profit out of our farm is to have pigs and be a profitable organisation, because you can't sell the property. If it was a beef farm or a cropping farm, it would appreciate in value. It goes up. But our properties don't. The capital we push in, the only way we can get that back is through profit, and we're not allowed to do that.

MR BANKS: How much land do you have on your property?

MR BOURKE: 70-odd acres, which is 26.

MR BANKS: Okay. I didn't have any further questions. Did you have any comments to make?

MR BOURKE: No, just thank you very much for allowing me to put my point of view.

MR BANKS: Thank you.

MR BOURKE: I appreciate you running this commission and hope that we can get somewhere in the near future because I think there's a lot riding on this. If something is not done, there will be a massive exodus of producers, which is already occurring, but come March there might be a bigger influx and then we won't be able to supply fresh trade. Then the next minute the supermarkets will be saying to AQIS, "We can't get it here. You'd better let it in," and then our quarantine goes out the window.

MR BANKS: You commented that you're sort of in a holding pattern. There's a limit to how long you can hold on. How long is that limit?

MR BOURKE: Six months.

MR BANKS: Six months, yes. All right. Thank you very much for your evidence today and thanks for attending the hearings.

MR BOURKE: Thank you.

MR BANKS: I will just break for a moment before our next participants, please.

MR BANKS: Our next participant is D. and S. Miles. Welcome to the hearings. Could I ask you please to give your name and your position.

MR MILES: Thanks very much. David Miles; I'm the owner or part-owner of a 300-sow piggery at Kotupna plus a 660-sow breeder unit off-farm, so we grow all those progeny.

MR BANKS: Thank you. I thank you also for the submission that you have provided and for coming here today. I have read that submission. I've got a couple of questions, but I will give you the chance to draw out the key points that you want to make.

MR MILES: Just looking through my submission, the main gist of my problem is that the whole balance of the pig industry has been ruined. As I say in my submission, prior to deregulation two to two and a half thousand pigs on the eastern seaboard either below or above what was needed would be enough to ruin it or increase the price and now, with the amount of imports that are coming into Australia, that has just ruined that and kept everything at such a low level and I don't know if it's sustainable. I think at the present time in Victoria alone, 30,000 sows have gone out, just in my area alone and that's just in the Goulburn Valley. There would be nearly 3000 sows all finished by Christmas. I've been actually lucky enough this week to employ a qualified staff member, because it's not easy to get staff members in the pig industry, and I got her from one piggery that's sacked all its workers.

I'd like to reiterate what John was just saying before. Pig farms depreciate. They don't appreciate. If you've got a dairy farm or a beef farm, they all appreciate as time goes on. Pig farms don't do that. They need to make a profit or a large profit because that's the only way you put money away, because at the end of the day when you go to sell, there's nobody to buy them. There are only really 600 decent pig farmers in Australia, in sizeable terms. Nobody knows about it, and if you don't make a profit at the end of the day there's no point in being in it because you're not going to get any appreciation.

MR BANKS: Are you saying also that any alternative use for the land is pretty circumscribed or - - -

MR MILES: Say you've got some appreciation, right? That would all be made up - if you've got to get rid of the piggery, you've got to pull it all to pieces, and then that eats up what it would have appreciated anyway. Because the majority of people, they don't know anything about pigs and they don't want to buy a pig farm. I mean, we're down at the bottom level. We've had stages - and there's no doubts about it - that we've had wonderful profits to be made, but not now. There's just a floor put in the price now, and these processes, they're just hammering us. I supply a processor and they gave us a 5 or 10 cents rise the other day. You know what they call it? A sentimental rise; that's all it was. They said, "But you don't deserve it." Demand wasn't there to really put it up, but they thought we might need a bit of a present before Christmas.

MR BANKS: Who are you selling to?

MR MILES: I sell to KR Castlemaine, or whatever you call it, which are virtually all processing.

MR BANKS: Do they then slaughter the pigs down at Big River?

MR MILES: Yes. So all my pigs - a triple-deck goes to Murray Bridge every week. As I understand, Castlemaine put through 10,000 pigs - 7000 they kill in Australia and the rest is imported to make up their 1000 tonne a week, as I understand.

Getting through the points here: other than the balance - and I mean it has got me tricked how they can deliver things so cheap into Australia. I don't know about that. My other point is, you've got all these old processors who have taken on these import rights, and they all used to use Australian product and now they're hardly using any. They're hardly buying any. That's disappointing. I'd like that to be stopped if we could help it.

That has been the most part of what I've been talking about: the total balance has been ruined. If we could get it - I say 50 per cent and John said - I know that's not achievable. We've got to have imports. We're at a stage now, no matter what, we've got to have imports. You've got to be fair but, I don't know, it's just not - we need to have that much.

MR BANKS: When you say "we've got to have", part of the reason for that is that the domestic industry could not supply the market.

MR MILES: We can't supply it now, not now, not after what has happened in the last three months.

MR BANKS: But could it even previously? Not when you take processed as well, especially.

MR MILES: No. No, I don't think so, not now. Part of that is because the pork industry, prior to deregulation, put a lot of money into advertising, and these people are bringing all this stuff in on our backs, on our advertising dollar. APL does not advertise processed pork any more. They won't do that. But they did prior, lifted production and then what happens? It all gets imported. And they don't pay a levy.

We pay $2.52 a week. We pay that a week and a percentage of that goes into the advertising. Well, they've taken a bit of a ride on that. They should even be paying that, I reckon, or more.

MR BANKS: Do you know where your output goes? Is it going mainly for processing still?

MR MILES: Mine is, yes. I'm in the process trade. I sell a few pigs to local butcher shops. I am looking seriously next year at selling to the fresh pork trade. Same thing again though, as John said: you nurture all these markets, and then the abattoir is getting hammered because they can't sell their processed pork because it's so cheap for the processors. They then dump that on the fresh market and lower the price. I mean, the Chinese love buying our stuff and they only want females or barrows. You can get a premium to a point and then, all of a sudden, if the processing trade keeps their price down and demand is really soft in the processing trade, they just keep hammering them and telling them, "Well, we want it lower. We want it cheaper."

I know it happened to John this year after nurturing - he had some good markets and the price just kept creeping back, creeping back - "We can buy it cheaper." My argument is, these smaller processors, they aren't buying pork any more, or very little, because they can buy it cheaply.

MR BANKS: And buying domestically you mean, yes.

MR MILES: Yes. They're not buying domestically, not to the point they were before. I mean, you've read all that.

MR BANKS: Yes.

MR MILES: Hopefully that didn't get me into trouble. One thing I was going to say was, when I first wrote out this report, the price was $2.40. At this time last year it was $3.05. That's $44, and even at the high feed prices, if we'd had solid demand this year, we would have got through with maybe a small loss but you could see a light at the end of the tunnel; but when you can't see light at the end of the tunnel - - -

MR BANKS: So you were profitable when it was around $3?

MR MILES: Oh, yes.

MR BANKS: That price was actually relatively high, I think, in recent experience, wasn't it?

MR MILES: Yes. I don't think it needs to - we all say that. It doesn't need to be that high. If we could get $2.80 all the time we'd be right.

MR BANKS: Even with feed prices how high they are?

MR MILES: Well, at $2.80 you get about $78 a pig after feed costs. That's your net, and then you've got all your other costs. I could make a go of it, nearly, then. That's the trick. Some people can't. I mean, we do feed a lot of different products to try and lower our costs.

MR BANKS: Yes, I noticed that you said that.

MR MILES: So that means that I'm a little bit better off than the majority, but the majority have been copping one heck of a hammering. So you've read all that. Have you got any questions about any of that?

MR BANKS: I suppose the only other questions, given the nature of what I am doing, is to get a little bit more information from you about what's happening to your business and where you see it going over the coming months. I mean, I don't want you to be specific, but in terms of profitability and production in particular.

MR MILES: As I said, we've got 300 sows at home, 660 at another off-site - we've dropped 60 sows already, and we'll - - -

MR BANKS: In what period did that happen?

MR MILES: That's happened in the last three months - two months. Yes, the last two months probably. We just thought, "Well, this is looking pretty dicky at the present time." I mean, we'll keep going for the present time. I mean, we feed other products. The whole gist of next year is whether we go out and we sell to a processor or fresh trade, and what's then going to happen to the whole industry? At the end of the day, I've got to try and make a profit. I mean, John is saying six months. Hopefully we could stay in for a little bit longer than that. But I haven't put any staff on this year, and if anybody left - we just work seven days a week. We haven't had a holiday this year. There would be heaps of pig farmers that - there are probably heaps of people in Australia like that, but we just thought - you know, it looked like there was going to be so much imports - feed prices would be high; demand was going to be low; there wasn't going to be a lot of profit. So we haven't put a lot of staff on, and I haven't put any off yet. But there was one left, and I didn't replace him.

MR BANKS: When you look at the import data, imports have dropped off. There was a certain amount of pull forward, I think, for reasons that others have talked about. But you're not seeing the uplift in prices that you'd normally see at this time of the year.

MR MILES: No, nowhere near it. I mean, I went through it there last week, and it's not going anywhere; absolutely anywhere. It may be coming up to Christmas, but normally it starts about August. That's just history. History shows that after Christmas it starts to drop down; it keeps dropping down - maybe it will go a little bit up at Easter, then it will go flat for a while and then it goes up. From July or August, it just starts to creep up as they're putting their legs away. Well, that's not happening any more, because they don't have to do that. They don't have to put legs away any more. They know they can get them on a ship.

MR BANKS: Yes.

MR MILES: I think that's why it changes so much. What these people are doing to the industry and how they've hurt so many people, it just saddens me. Not that they're personal friends, but they're acquaintances in the pig industry and they're just finishing. The trouble is I don't know where we're going to - you know, a lot of these people, they're not going to build up again. We'll have to start again. And I think at some point down the track, that means there won't be as much grain - I mean, if we get back to normal grain harvests - I think the pig industry is the second or third-biggest user of grain in Australia. Well, it's going to be a third anyway, so it's going to use a third less. So everybody is going to cop it.

The other thing is, I see in one of the submissions they say they're going to sack workers. But as I understand it, for every dollar we earn, we put six back. You know, that spreads around the community six times. Every pig farm, I would think, would spend at least 20 per cent of its net on infrastructure every year - 10 to 20 per cent at least. John and I spoke about that on the way down, and we do that every year, otherwise they depreciate that far that - - -

MR BANKS: All right. Thank you for that and, as I say, thanks for the submission and the extra information you've given today. We appreciate the fact that you've come some distance down here for the hearings, so I hope you found a parking spot without too much difficulty, because that's the challenge in Melbourne.

MR MILES: No, we didn't - - -

MR BANKS: Okay. We're now going to have a lunch break. We're resuming at 2 o'clock. Minter Ellison will be appearing at that time - it might be shortly after 2.00 - and then the Victorian Farmers Federation and Gunpork Joint Venture after them. So we'll just adjourn now until just after 2 o'clock, thank you.

(Luncheon adjournment)

MR BANKS: Welcome back, ladies and gentlemen. We're commencing this afternoon with the next participant Minter Ellison, representing the US industry. Welcome to the hearings, gentlemen. Could I ask you please to give your names and the capacity in which you're here today.

PROF HAYES: My name is Dermot Hayes. I'm a professor of economics at Iowa State University.

MR SANDFORD: Iain Sandford. I'm deputy director of the international trade group at Minter Ellison.

MR COSGRAVE: John Cosgrave, director of trade measures at Minter Ellison.

MR GALLACHER: Scott Gallacher, director of the international trade group, Minter Ellison.

MR BOND: David Bond. I'm a partner with the law firm of White and Case in Washington DC.

MR BANKS: Thank you. Thank you for attending today in force and also for the submission - indeed, two submissions - that you provided to us. As discussed, I'll give you the opportunity to go through the main points you want to make and perhaps we can have some discussion along the way. Thank you.

MR COSGRAVE: If I may just briefly expand on my colleagues. David, as he said, is a partner with White and Case, operating primarily out of Washington DC - defended exporters in many trade dispute matters throughout the world - and he's represented the US pork and hog industry for a period of about 10 years. Scott Gallacher on my left, prior to joining Minter Ellison, was a senior legal adviser with the New Zealand government; four years at the WTO as one of the New Zealand negotiators; has been counsel in a number of disputes, including US Lamb; and has also been a panel member in two disputes at the WTO.

Iain Sandford on my right, also a former New Zealand government official in the trade area, with a lot of international experience in safeguard measures; several years in the secretariat of the WTO appellate body before joining Minter Ellison. Finally, Dermot Hayes: as Dermot said, a professor of economics at Iowa State; holds the pioneer chair in international agribusiness; and is a fellow of the American Agricultural Economics Association. Iowa, as some of you may be aware, is the centre of US pork production.

If I may just move, as I indicated, Mr Chairman, to a brief introductory statement. The group of industries comprising pigmeat production and processing in Australia have regularly tried to access industry assistance, most notably in 1992 in an antidumping action; 1998, a safeguards inquiry; 2005, the industry inquiry; and today another safeguards inquiry conceived in the shadow of a federal election.

These initiatives come from an industry that has itself acknowledged that it is not globally competitive. Less than three years ago the commission itself identified that the overwhelming cause of the malaise in the pigmeat sector was its cost base and went on to observe that imports were a symptom of the malaise, not a cause. There is no evidence before the commission, we submit, to suggest that the 2005 diagnosis has significantly changed.

We turn now to the issue of evidence. Jurisprudence relating to trade measures cases in areas such as countervailing, antidumping and safeguards stresses the critical importance of testable evidence in facilitating reasoned conclusions by the competent authorities. Where the issue of injury is central to the deliberations of such authorities, detailed evidence of various economic performance indicators is essential. In the present matter one would expect, for example, for the commission to be awash with balance sheets, P and L statements, capacity utilisation analyses, et cetera. In fact, the commission has in the main nothing to work with but assertions and anecdotes on key injury indicators and causation. This general situation is aggravated by the failure of the sector to correctly identify the domestic industry which, in this matter, in our view beyond doubt, is constituted by the boning rooms.

In relation to that industry, there is not a scintilla of testable evidence demonstrating any injury, let alone serious injury, to processors accounting for a majority of the processed output. In this evidentiary vacuum, the pigmeat production and processing sector seek both provisional and longer term measures extending for at least four years. They would be measures which, in our view, would not address the core problems and in fact would tend to exacerbate them and are measures which will potentially expose Australia's globally competitive industries to retaliatory action.

Again in this evidentiary vacuum we submit that the commission should immediately report to government that there are no grounds on which safeguard measures, provisional or final, can be imposed. Central to our submission is the issue of the identification of the domestic industry because that impacts on all the other key decisions which the competent authority in this case has got to reach, so I now invite Scott Gallacher to address the issue of domestic industry.

MR BANKS: Okay, thanks very much.

MR GALLACHER: Thank you. As John has highlighted, in our view the identification of the domestic industry producing the like or directly competitive products in terms of this investigation is the key. The starting point has to be the product that is being investigated, namely the frozen, boneless pigmeat cuts falling under tariff item 0203.29. As we highlighted in our submission, we believe that the domestically produced products that are like or directly competitive with these sort of imports are primal and subprimal cuts. Following on from this, the Australian producers of such cuts are the boning rooms. It's therefore these businesses, including the cost centres that may pertain to boning rooms and any applicable vertically integrated company, that constitutes the relevant domestic industry for the purposes of this investigation.

From that perspective, neither pig producers nor abattoirs form part of this industry. We're very conscious of the fact that a number of submissions, particularly the one from APL, attempt to paint a very different picture in terms of what the industry is. In fact, I think it could be easy to maybe think that this question could actually be quite complicated or complex but from our perspective we think this is not the case. In our view, this is quite a simple question and in large part, maybe to any reasonable person whether they be walking down a street, working in a smallgoods manufacturer or maybe even wandering down the aisle of the local Coles supermarket, the notion that a live pig or even a carcass would be comparable, like or directly competitive with a processed cut of pigmeat is simply not tenable.

In the case of live pigs and carcasses, we're dealing with products that by definition in theory and, most importantly, in reality have to go through a further processing stage or two or three before they can even resemble a primal or a subprimal cut. What's more, from our perspective, they have different properties and are of a different nature and quality than what we're talking about in terms of the imported product. They've got a different tariff classification, different end uses and different markets. This is the essence of the case as we see it and we don't believe that it would be logical to argue that live pigs or pig carcasses are in any way comparable with imported frozen cuts of pigmeat.

Indeed, this is the point that the Australian government strongly argued in the context of the US Lamb case, and very successfully. In this regard I'd just highlight once again in paragraph 27 of our submission, Mr Chair, that in that case the US government strongly argued that when you're considering "directly competitive" you must look at the two products in terms of if they are competing in the marketplace. In the context of the Lamb case, the government argued that clearly lambs do not compete with the output of the packers and breakers in that case.

MR BANKS: You mean the Australian government argued?

MR GALLACHER: Yes, the Australian government argued.

MR BANKS: Sorry, could I just check: what was your role in that case?

MR GALLACHER: I was one of the lawyers for the New Zealand government, which worked with the Australian government against the US in that case.

MR BANKS: All right.

MR GALLACHER: It was in that case - in paragraph 27 we highlight the thrust of the argument that the government of Australia raised in the context particularly of directly competitive. Following on from this, Mr Chair, we would also like to note that the APL submission, including the attachment from Jeff Waincymer, made a range of arguments in relation to the most appropriate domestic industry in this context; in particular, the apparent irrelevance of US Lamb. That I'd like to touch upon. In short, we believe that the arguments around the irrelevance of US Lamb are misguided and wrong. The fact that the panel and then the appellate body only had to consider the concept of "like" product does not make that case any less relevant to the commission's current investigation and inquiry.

Clearly what we have in the US Lamb case is relevant to any consideration that the commission gives to the concept of "like", but most importantly and particularly relevant is that the appellate body highlighted that the starting point for any consideration of what is a like or directly competitive product has to be the consideration of, "What is the product in question?" What the appellate body in US Lamb did was to stress that when you're scoping the domestic industry at the start for the purposes of your injury or causation analyses, you have to start with the product. Only having identified the like or directly competitive product can you then move on to consider who is the industry or who are the producers of those like and directly competitive products.

In the context of emphasising that the product is the starting point, the appellate body was dismissing the notion that you could start with some wider concept of an industry or a sector. I think that's why, in the context of the appellate body report, they did express some reservations around conducting an examination of the domestic industry by way of the extent of vertical integration or the relevance of vertical integration, because ultimately that sort of perspective or that sort of investigation is almost putting the cart before the horse by starting with the chain of production as opposed to the product in question. The logic of this approach I think, in terms of starting with the product in question, would apply regardless of whether the commission ultimately identifies the "like" or the "directly competitive" test as being the most appropriate in the context of this investigation.

We'd also just like to pick up on the point that APL and some other submissions appear to argue that the concept of "directly competitive" is a far broader concept than that of "like". Ultimately we believe this is a question that really hinges on the particular circumstances of each case, but at the end of the day we don't really believe that you can read "directly competitive" in a way that completely overturns the outcome of US Lamb or renders the concept of "like" irrelevant. "Like" or "directly competitive" are the key two concepts that an investigating authority needs to use to ascertain the domestic industry and you can't really sort of interpret "directly competitive" in such a broad manner which would completely make "like" irrelevant.

Indeed, we would also suggest that it would be somewhat incredulous that we could come to a different outcome on the question of domestic industry from US Lamb given that the scope of the product in question in this inquiry is far more tightly prescribed than what it was in Lamb. As you would appreciate, Mr Chair, in the US Lamb case the focus of that investigation was on fresh, chilled and frozen, including carcasses and half-carcasses, whereas here we're quite narrowly confined to the frozen, boneless cuts under 0203.29.

MR BANKS: Could I ask you to just pause there. It's relevant to what you're saying and perhaps a threshold issue, and I quote here from the transcript which will be available later today, from APL's appearance before us in Canberra, where they said, and I quote:

> You should never constrain your mind and your analysis -

meaning mine and the commission's -

> by looking at what an appellate body said merely as a matter of review of a different industry in a different country at a different time.

Would you care to comment on that?

MR GALLACHER: Of course, and I think as we highlighted, obviously you need to look to the circumstances of each case in which you're trying to sort of approach an issue but, as we say. the relevance of what the appellate body in US Lamb said is somewhat generic in terms of it saying, that when you start your analysis of what constitutes the domestic industry, you need to look to the imported product as the focus of the inquiry. In large part, when you focus on that, everything else will follow on from that. You can't sort of start at the wrong end.

That is the key that drops out of US Lamb, irrespective of the fact it was focused on the US, the lamb industry. It's very much that you need to focus on the product. Here we have a situation where the commission has been asked to investigate and look into the possibility of provisional and even definitive safeguard measures on a quite tightly defined product. It's frozen, boneless cuts under 0203.29. It's when you look at that and you need to then consider from that, "What is the like or directly competitive product to this - frozen, boneless cuts?" From there, as we see it, the only sort of logical step in there is looking at - it comes out that it has to be the subprimal and the primal cuts.

Live pigs, for example, clearly cannot be regarded as directly competitive or like to the frozen, boneless cuts; markedly different in terms of the nature and the quality; markedly different in terms of the tariff classifications. But also, perhaps most significantly, any live animals need to go through a number of different processes before they actually get to the same stage of the subprimal or primal cuts.

MR BANKS: If I could just comment there. I mean, you have both legal and economic expertise here at the table and sometimes the law fights with the economics, particularly in the WTO and the work there. I'm quite well aware of that. I guess you could argue, from an industry perspective, that it's the producers who are hurting, say; they look around to see what the imports are; the imports are pretty well defined by that tariff item that you described because they're only basically able to come in in that form, so they take an action against that. But any action, you'd have to agree, that served to increase the price of imports - narrowly defined as they may be - would benefit the big producers, right?

I mean, if we put a tariff of 60 per cent on imports of frozen pigmeat in that tariff item, you're not suggesting that the only part of the industry to benefit from that would be the boning operations?

MR BOND: I'm happy to respond to the question. No, I don't think that that's what we're suggesting but I don't think that's relevant to the legal standard that applies. For example, I think the same line of argument would lead you to conclude that the secondary processors, the smallgoods producers, should also be part of the domestic industry and I don't think anyone has taken that position in this case. If you start to talk about wherever within an economy some other industry has indirectly benefited by what we do to this particular industry and then try to lump it together, you're going to wind up with a definition that really makes no sense whatsoever. I wanted to just come back though, if you don't mind, to your - - -

MR BANKS: Sorry, if I could just keep going with that. I mean, if you think of the logic of why the safeguard provision commenced under the general agreement in the first place, it was to deal with injury caused, and not anticipated at the time, by imports consequent upon liberalisation, right, so the whole purpose was to allow the industry that was injured by that import competition to have a means of respite, if you like.

So why in your view has the sort of law and the case law therefore so narrowly defined it in that way as to be the product that is that part of the chain that is most like, as you put it, the import, rather than that which may be most significant in facing the import competition?

MR BOND: My answer is a legal answer and it may not be very satisfying to you but my answer is that's because that's what the words say. People negotiated this. They could have negotiated the words in a much broader way if they had chosen. The Lamb case has been out there for a while. People can renegotiate the words but, as of today, the words say "a lamb product" and the WTO jurisprudence is very clear on what that means and the words "directly competitive", although not technically covered by the Lamb case, in my view at least, are pretty clear on their face. They don't say "indirectly competitive" or "vicariously competitive" or "competitive at a distance"; they say "directly competitive".

To me, the idea that a pig is directly competitive from either a retail consumer or a secondary processor's point of view, with the cut, just obviously it's not. So logically, I think your question has a lot of merit, but why shouldn't we include these people? They're being impacted. But to me the answer is: well, that's what the treaty says. I'm not saying it's right or wrong. I'm saying that's what it says. That's what we're stuck to work with.

MR BANKS: So we may have a logic that perhaps is concerned about the ability to have to draw the line somewhere, I guess.

MR BOND: Absolutely.

MR BANKS: Once you start talking about markets. I note that in your submission you make reference to the case of Japan Taxes on Alcoholic Beverages in relation to the definition of "directly competitive". I don't know whether you'd like to comment on the relevance of that particular case, which I don't believe was a recent case - in fact, I think it might have been from about 1951 - but were there no other cases that you could find that addressed that specific issue?

MR COSGRAVE: Japanese Taxes is fairly recent, 97.

MR BANKS: Is that right?

MR BOND: Yes.

MR COSGRAVE: I think you might be thinking of the Hatters Fur case.

MR BANKS: Okay.

MR COSGRAVE: Which was a 1951 working party.

MR GALLACHER: I mean, just in the context of that, Mr Chair, I'd be more than happy. I mean, that case was focused on the GATT article III, and under GATT article III you have the term "like" appear, but you also have "directly competitive" but at the same time the term in article III is directly competitive or substitutable.

The Japan Tax and Alcoholic Beverages case sort of highlighted the fact that when you are looking to the concept of "like", but also "directly competitive" or "substitutable" in GATT article III, that you need to look at: what are the circumstances? What are the products in question here?

It was dropping out of that case and one or two others around the same time that were also focused on alcoholic beverages, that you started to see the appellate body highlighting where the lines need to be drawn in terms of - well, when you're looking at the market in terms of, what are the products you're comparing, what's the imported product and the domestic products, you need to have some degree of comparability here and they highlighted, talking about their sort of nature and quality, the tariff classification - you know, what's some of the end use or what's the particular market - that that product and that stage of processing has actually situated it.

I mean, we see that that case can be, to a certain extent, relevant in the context of the GATT article XIX and safeguards agreement, when you have the terms "like" or "directly competitive", because it highlights that once again it is that sort of reality check for what are the products for trying to sort of compare against one another. There needs to be a limit here. There need to be sort of parameters so that you're not comparing apples with trees or something like that; what you're comparing is actually your apples with apples. And it was those tests that dropped out of alcoholic beverages that highlighted, yes, tariff classifications, nature and quality - you know, the stage of the process as well.

MR BANKS: Okay. I obviously haven't looked at that case. I'll go back and have a read of that. Sorry, I interrupted you.

MR GALLACHER: No, that's fine.

MR COSGRAVE: If I could just briefly - on the point of drawing the line, as I think you put it, it's worth pointing out that the inquiry is governed by general procedures that have been issued by the Australian government in this case. In a parallel WTO field, you may well be aware in the antidumping legislation that there's a provision there which can be exercised by the customs authorities to actually extend the scope of the inquiry in relation to material injury to what are called close processed agricultural goods.

MR BANKS: Sorry, you might have to speak a little bit louder.

MR COSGRAVE: Sorry.

MR BANKS: Not so much for the transcript, but - - -

MR COSGRAVE: Right - that relate to close processed agricultural goods, so that in an antidumping case, with the facts that we've got currently before us, there can be an extension to consider injury to pig producers. There the Australian government has spoken. In this case the Australian government has not spoken. It hasn't included such a provision in its general procedures.

Our submission would be that one must draw from that that one takes the words "like" and "directly competitive" as they are and as they've been interpreted in WTO jurisprudence.

MR BANKS: Does that extension reflect the agreement itself under the WTO on antidumping?

MR COSGRAVE: No, it seems to be an Australian special.

MR BANKS: Right. We specialise in Australian specials! Okay, thank you.

MR BOND: I just quickly wanted to offer one observation to your initial question, which was: the APL has, I guess, urged you to not pay too close attention to what the Lamb case says and urged you to think outside the box, I guess is their argument. It seems to me that you need to - and I think perhaps you mentioned this - distinguish between factual issues and legal methodologies.

From a factual perspective, it seems to me perfectly justified to say that you should come at each case fresh; rethink it. But what you can't come at each case freshly and rethink is the legal methodology, particularly where the WTO has told us more or less, "This is the parameter of what is an acceptable legal methodology." It seems to me that you're obliged to work with that. Early in the WTO panel and appellate body process, it really wasn't very clear what the relevance of jurisprudence or precedent was, but I think it's becoming more and more clear, particularly in the last year or two with some of the dumping cases, that the appellate body expects previous panel and appellate body decisions to be taken as precedent.

Some of the recent cases with respect to how administrative reviews in the United States are conducted - how zeroing some of these methodologies are - you know, in a variety of these cases I think we've started to see that the appellate body is saying, "This is jurisprudence, this is precedent. We expect you to treat it that way, at least from a legal perspective in terms of the methodology that you apply from one case to the next."

MR BANKS: What you're saying here, though, is that it also applies across the different articles of the general agreement, so that terms that have some case history within, say, one part - like article III would have relevance or could be seen as having relevance to article XIX.

MR GALLACHER: It depends on the context of where those provisions are. I mean, it's quite clear from looking at how the appellate body has approached the language "like" or "directly competitive" in the context of GATT article XIX and the safeguards agreement that they do see a resonance with what they've been saying on, for example, GATT article III with the same types of concepts of "like" and "directly competitive". You know, that's what we've been seeing in terms of US Lamb. When they talked about "like", in large part they were using a lot of what had gone before.

MR BANKS: Good, thank you.

MR GALLACHER: Just picking up from where we were moving, Mr Chair, I think ultimately what we would submit is that, you know, it's simply difficult to try to argue that live pigs or carcasses could be seen as "like" or "directly competitive" with the imported product in question. It really doesn't matter, in our view, whether you try to approach domestic industry from the concept of "like" or "directly competitive". The end result in either instance is the same. The "like" or "directly competitive" products that we're talking about, in terms of boneless frozen cuts of pigmeat, are the primal and subprimal cuts which are produced by the boning rooms.

In terms of that particular domestic industry, that is the industry that's the focal point in terms of the injury and causation factors, and that's quite an important fact which I think we'll build upon now with some of my colleagues, highlighting in terms of the need for that sort of data and appropriate information on that issue.

MR BANKS: Okay, thank you.

MR COSGRAVE: We'd like to move next to a discrete issue, which is the Australia-US FTA. I'll invite David to make our submission on that point.

MR BANKS: Just before you start - - -

MR BOND: Sure.

MR BANKS: - - - it opens up a bigger issue, I guess, but it might be something you'd like to comment on because it is a threshold issue, and again you'll find it in the transcript but I think it was also in the submission by APL. On page 101 of the transcript, which will be available shortly, APL suggested the whole discussion of "like" and "directly competitive" goods stands outside the issue of provisional safeguards, which involves considering critical circumstances and the threat of serious injury which would be difficult to repair.

They've constructed an argument that, in moving towards 14 December and a case for provisional action, in a sense the commission should not be concerning itself with a range of matters but simply focusing on serious injury and the link to imports. I don't know whether you'd just care to comment on that at this stage. In other words, the argument really is that you're looking for something like a prima facie case to be made, a bit like the way you might take out an injunction in those sorts of circumstances, rather than something that would require a fuller examination of all the issues. I'll just give you the opportunity to comment.

MR COSGRAVE: Sure. Yes, our response would be directly contrary to that proposition that's been put in evidence. Our view is that the requirements of article XIX on the one hand and the safeguards agreement on the other are cumulative in respect of provisional measures. A provisional measure is a measure for the purposes of the safeguards agreement, so that every requirement for imposing a measure in that agreement applies equally to provisional and final measures.

The commission's statement, which I hope I can reflect accurately, in the issues paper suggests that you might be looking at prima facie evidence, I think was the phrased used. We disagree with that. The phraseology required is "clear evidence". The critical circumstances are circumstances that would result - not may, not could, but would result - et cetera. We believe these are very, very high standards indeed and unlike, for example, a provisional finding in a dumping matter, which triggers certain procedural things so everybody can have their say for a second time around, we don't believe that that applies in this safeguard situation.

So that, as the competent authority, the commission would be obliged to look at each of the criteria affecting measures generally and the additional criteria relating to critical circumstances to reach the reasonable conclusion necessary for provisional measures. But in no way could it be regarded as a prima facie conclusion. In fact - - -

MR BANKS: On that case, does the agreement then not contemplate a situation in which the finding of the final report could vary or differ from the finding in the provisional report?

MR COSGRAVE: One has to concede that, because it's sequential, that is a possibility. In terms of the evidentiary standards imposed, one would have to characterise it as a very remote possibility and unlike, for example, a preliminary finding in a dumping matter, the view that we would put is that you're essentially looking at something that has almost a degree of inevitability about it; that you might want to sort out the details and you might want to sort out the measures, et cetera, but in terms of the evidence in relation to injury to the higher standard necessary in terms of critical circumstances, it cannot be thought that that's operating at a lower base than you would apply in terms of your final determination.

MR BOND: Can I just offer something to that, because I think it's interesting. I don't know if you are thinking of it in terms of a preliminary injunction, or perhaps the APL has encouraged you to think about it in that way.

MR BANKS: I'm just quoting their words.

MR BOND: Okay. But when you think about it, if you follow that logic, it's in my view not very helpful to the position they're encouraging you to take, because what's required for a preliminary injunction is typically at least two things: in any civil law or common law country that I know of, a showing of a very high probability of success on the merits of a case which requires you to address the merits of the case - it's not a loser test, it may be a more stringent test - as well as irreparable harm to a particular entity. To find this concept of irreparable harm here, we need to define who the industry is before we even start to have that discussion. So it seems to me that if they want to talk about the provisional measures as if they were analogous to a preliminary injunction, that suggests even more strongly than maybe even what the agreement says, because we can't talk about irreparable harm until we know who's being harmed, and we can't talk about the likelihood of success on the merits until they've defined the industry and provided some data that relates to the industry.

MR BANKS: Yes. I suppose, just thinking of the logic of it, though, the purpose of provisional action presumably is to forestall consequences that might otherwise arise by delaying action, but if you define the case that has to be made at that provisional stage as everything that you have to find at the end, plus the additional requirement to do with irreparable damage, to do with delay, then it almost undercuts the reason for going on with the investigation.

MR GALLACHER: In part I think it might also just be a reflection of this whole concept of what is a safeguard, because the concept of what is a safeguard action is quite an extraordinary action taken by a government, by a country, and that's been recognised in the context of the GATT, the WTO, and particularly the appellate body, which says, "Look, this is an extraordinary remedy you're wanting to use." It's not akin to dumping or countervailing where there's a notion of unfair trade occurring because you've got dumping of product, or sort of countervailing where there are some subsidies at play.

If you're talking about a safeguard, there's no unfairness. It's actually a fair trade remedy. So you've already got a notion that your ability to utilise that must be quite a careful approach, and then when you add in the fact that in the safeguards agreement, in the GATT XIX, when we're thinking about provisional measures there is that focus on critical circumstances and it's highlighted, in that, "Look, in a safeguard context, which is extraordinary in itself, if you've got evidence, clear evidence, pointing to something really significant happening and you've reached a critical circumstance of that, then you can go down the provisional lane, down that, in advance of the definitive," that to me, I think, highlights that "provisional" is not necessarily a lower threshold. It's actually quite a significant thing when you look at the language out of the agreements, which talk about "criticality", "clear evidence".

It's also the fact that the provisional safeguard measure also has the element that you've got no consultation. It's without any sort of prior consultation with your trading partners. That, I think, in terms of the WTO environment, is actually quite a significant factor.

MR BANKS: Thanks for that. Sorry, I interrupted you, but that was a useful discussion.

MR BOND: I just want to take about five minutes of your time to talk about why we believe that the US-Australia Free Trade Agreement suggests that the United States should be left out of any measures that are recommended with respect to other imports.

In our view, the facts that are available on the record demonstrate rather clearly that imports from the United States are not a substantial cause of any serious injury to the domestic industry, whether you define that industry in the way that we believe is legally correct or more broadly to include hog producers. Therefore, we think that the commission should recommend that US imports should be excluded and that no measures be imposed. We suggest that you then continue to examine whether imports from other sources have caused serious injury to the domestic industry and, if so, to recommend an appropriate remedy or measure.

It seems relevant to us, highly relevant to us, that this is the first time that either the investigating authority here or in the United States has had to consider this question since the free trade agreement went into effect, and it's therefore important to give careful consideration to these issues because what happens here will undoubtedly have some precedential effect here, and perhaps in the United States in future safeguard investigations there.

The standard imposed under 9.5 in our view is significantly higher in terms of causation than the causation standards set forth under the safeguard agreement. Article 9.5 suggests that imports from member states should be excluded from any remedy unless they are a substantial cause of any serious injury to the domestic industry, and the treaty goes on to define "substantial cause" in two ways with respect to the criteria: first, that the imports from the member have to be an important cause of injury and, second, that there can't be another cause of injury that's more important than in those imports.

In our view, the fact that the standard under the FTA is higher than the standard under the safeguard agreement reflects the intent that, as a general rule in the typical case, imports from a member should be excluded from any safeguard measures imposed. Imports from a member should only be included where they are the primary source of injury. We think this interpretation makes sense, given the goals of the free trade agreement; namely, that trade between the members should be more liberal and more open than trade with others.

Before reviewing some of the numeric data, we think it's important that you understand that, from our perspective at least, there's a very limited overlap in competition between the domestic industry and US imports. We think that this limited overlap really standing alone suggests that US imports couldn't be a substantial cause of injury to the domestic industry. I think you have the handouts that we brought?

MR BANKS: Yes, I do.

MR BOND: Could you please refer to page 9.

MR BANKS: Chart 9 do you mean?

MR BOND: At the top of each there's a page number.

MR BANKS: I see, yes.

MR BOND: It's a pie chart.

MR BANKS: Yes.

MR BOND: What we've done here is just to sort of pictorially show where we fit into the entire domestic consumption of the like product. The domestic consumption shown here is of the like or directly competitive product, so it consists of fresh and frozen meat, whether it's sold at retail to consumers or to secondary goods processors. The domestic consumption shown here is consistent with our view of the domestic industry.

What you can see in the black is that domestic production sold for fresh consumption accounts for about 54 per cent of the total pie. Imports from any source don't compete in this market, so we take that immediately off the table. There can't possibly be import competition here that's causing - - -

MR BANKS: So you don't directly compete in that market?

MR BOND: Don't directly. Very well. Within the remaining market segment, the smallgoods market, in our view - and I think everyone pretty much agrees on this - there are really sort of two discrete markets. The first consists of middles that are used to produce bacon. Our imports don't compete in this market because the loins that come from the United States are viewed as being too large and having too high a fat content to produce bacon. The imports that compete here are really from Denmark.

The second part of this market consists of product such as trimming, hams and shoulders, that are used to make smallgoods other than bacon, and it's in this portion of the market where we compete. But if you look at the entire pie, imports from the United States account for about 9 per cent of total consumption, so I think, just looking at this picture just standing by itself, it suggests very strongly that with a 9 per cent overlap or a 9 per cent portion of total consumption, US imports really cannot possibly be a substantial cause of any injury to the domestic industry.

In terms of the data and whether the United States imports, if they are important, are more or less important than others, we think that just the import volumes from each source are important. US imports only account for about 29 per cent of the total. Canadian imports account for 39 per cent and Danish imports for 32 per cent. So the fact that our imports are the least important in terms of volume with respect to the other sources, we think is important in judging that they are less important than other causes, if you were to decide that the US imports are an important cause.

MR BANKS: Why would the shares be the most important consideration rather than the rate of change? I have had it put to me, for example, that the US is the major cause of injury because if you go back and look at what has happened to the change in imports over time, the share of the change attributable to the US is disproportionately high to the share of the total of the US.

MR BOND: A couple of points I would make: the first, I think, is before you start talking about rates of change, you need to talk about the numbers in absolute terms and from an absolute perspective, where we account for 9 per cent of total consumption, whether we have gone up by 1 per cent or 50 per cent. You shouldn't lose sight of the fact that we still only account for 9 per cent of the total market.

Second of all, in terms of trends and change, in the more recent periods - and we have discussed this in our brief - US imports have decreased at a more rapid rate than imports from Canada or Denmark. So if the point is trend analysis then in the more recent periods, which is what WTO jurisprudence suggests you should focus on, the US is decreasing more rapidly than the other - - -

MR BANKS: What is the relevant period, because in your submission at one point you talk about five years and that we can't say anything because there isn't five years of US data. Now you're telling me that it's only the last three months.

MR BOND: Well, we provided five years of data because, typically in a safeguard case, one would expect to look at five years of data. I would say, internationally, that's a fairly standardised period.

MR BANKS: Yes, which we say in our issues paper, I think.

MR BOND: Right, and so we can fly in material. It doesn't mean we believe it's accurate or that it's correct. I think this case is a little odd in the sense that with the US entrance into the market halfway through that period, it's sort of more difficult to look at a five-year period and make meaningful conclusions.

MR BANKS: Of course.

MR BOND: Directly in response to your question, "What does "recent" mean?" I think that if you look at 2007, that is a reasonable definition of "recent period". I think also that it makes sense to look at the most recent data, which is the last quarter - four or five months. I know that in our papers, when we talk about our trend line being more pronounced than others, we're really talking about since May, I think, until the present; and then the trend is much heavier and much more pronounced in the United States.

I, frankly, would have to draw a line and take a look and see what the result is if we start from January 07 and draw it through October. This is total - I don't know where we get on to that. I mean, the one thing I think is clear is that - and this is on page 6, if you look, page 6 of the handouts. I don't know where the US fits into this again but I would imagine that our trend is similar. The total imports for the year to date, January through October, the trend line is very clearly down. Again, this is total imports. We would have to do this for US and Danish and Canadian individually.

MR BANKS: We'd have to probably do it for ourselves to convince ourselves.

MR BOND: Very well.

MR BANKS: Okay, but if you look at - - -

MR BOND: Trends are important, no doubt.

MR BANKS: They are, yes. If you look at the figure that we had in the issues paper that was actually corrected on our web site and in the circular, and you took out of that US imports, the industry would say that the imports were more within the realm of historical experience and so, again, I'm putting an industry perspective to you that goes contrary to the one that you're trying to put.

MR BOND: The other point, I think - the third point I wanted to add, if you would allow me - is that it's not a perfect correlation but the data suggests that a lot of the increased imports by the United States have come at the cost of imports from Canada. Looking in percentage terms, in terms of the US percentage of imports versus Canadian, there's almost a one-for-one correlation of what we've picked up in certain periods and what the Canadians have lost. It's not perfect proof that the only thing that's going on in the market is that the US is picking up what the Canadians are losing, but it does suggest that a lot of the competition that's going on is between imports from the US and imports from Canada.

MR BANKS: I know that that was anticipated by USDA at the commencement of this process. You refer to it somewhere. But it's not borne out in the information we've seen. What it looks more like, to me, is that the US imports have been on top of those from Canada. In fact, a question that I asked some other participants is why that happened rather than some substitution, and some speculation is around the US dollar-Australian dollar bilateral exchange rate as a possible explanation for that.

MR BOND: The one statistic that I have noticed in that regard - and, again, I don't think it's a perfect test, but it's a relevant test - is at page 21 of our brief, at table 2 - you see from 2005 for the first 10 months of this year the Canadian share of imports going from 44 to about 39 per cent, so they have dropped about, what is that, five percentage points, I suppose, at the same time that the US has gone from about 23 and a half to 29 and a quarter; so we've increased about 5 per cent at the same time they've lost about 5 per cent. We would really need much more detailed data about the specific sales to specific customers to say really what's going on here but, to me, that at least suggests some of what's going on is that we're taking market share from the Canadians.

MR BANKS: Yes, but they're percentage points so you've gained six percentage points off a much smaller base.

MR BOND: I understand.

MR BANKS: Yes.

MR BOND: That's what I'm saying, it's not a perfect - - -

MR BANKS: Okay. Sorry, I interrupted you, I think.

MR BOND: That's okay. The last couple of points I wanted to make is that when we talk about the legal requirement that, even if we are an important cause, that there not be any other cause that's more important. We think there are a variety or several other very important causes of injury to the domestic industry that have nothing to do with imports and I'm sure that you're fully aware of these. It seems to me that the most important is the fact that the commission has found, and the APL has admitted, that the hog industry in particular is just not competitive. It seems to me that by and large it's not competitive because of prohibitively high feed prices. There simply is no way of getting around that.

I cannot believe that that's a less important causal factor in terms of any injury that either the hog sector or the boning-room sector is suffering compared with US imports which only represent about 9 per cent of consumption. The last thing I wanted to mention was - - -

MR BANKS: Sorry, just on that, I have to check what words were used but I would be very surprised if we said that the industry was not competitive.

MR BOND: Okay.

MR BANKS: We might have indicated that there were parts of the industry - or in sectors of the market - may not have been as competitive as it could be for various reasons. But I'd want you to check that before you said anything in quite a dramatic term as that. Thanks.

MR BOND: The other important cause of injury, potentially, to the domestic industry that we think is important that you take into account, is the reduction of export markets; the reduction of exports. We have provided a - it's a rather simple but, I think, effective chart on page 10, showing the decreased volume of exports of carcasses and bone-in cuts. That's an important reduction over the last four years. I think this is important in two senses: number 1, export markets are important. They generate profits. Those profits need to be taken into account in defining the health of the industry. Obviously when these volumes go down it's not good.

But the second thing that I think is important - and we have seen this in some of the papers - is apparently the decrease in exports has resulted in increased sales into the fresh market here in Australia which one would expect that that would have an important impact, potentially, on the unit prices for the meat within that market. So not only have they lost good export markets, they also probably have diminished the prices in the Australian fresh market by moving the product to that market.

MR BANKS: Again, it depends I suppose on what period you think is relevant. I mean, if we just went for the third quarter you would see an increase in Australian exports over that period, so again it's very much - and we're obviously thinking a lot about that: what's the relevant period for the particular question that's being addressed in each case?

MR BOND: One of the things that I bring to the table that may be of interest as I have worked on a lot of safeguard cases in the United States and other places - and your comment is well taken - my immediate reaction and thought to that is, well, in a typical case I would have some charts that show me what is the financial performance of the domestic industry. I can see where they're making money. I can see where they're making losses. I have operating margins I can see and, clearly, these types of lines to the financial performance. I have none of that here, so it's very difficult for me to try and show you that it does or doesn't make sense in that way.

MR BANKS: Yes. It's probably worth me saying now, because I know the point was made at the beginning, that the commission has surveyed what you regard as the relevant industry and sent surveys out to the principal suppliers in that segment of the industry.

MR BOND: Okay.

MR BANKS: And has received back, I think, surveys from all the firms we've approached, which is allowing us to go through the sort of information that you think is appropriate, which in turn will be reflected in our report. A lot of that information, as you would expect, is confidential, as it probably is in the US - that kind of data - but we will be presenting the information in a way that aggregates it to protect individual respondents but, nevertheless, addresses the relevant determinants of injury.

MR COSGRAVE: That won't be released in accumulated form prior to the report?

MR BANKS: No. One of the things about an accelerated report is that there's not a lot of time.

MR COSGRAVE: No, sure.

MR BANKS: But that information will be publicly available at the time of the release of the provisional report.

MR BOND: Okay. Those are really my comments. The bottom line is that, in our view, the evidence that is available suggests very strongly that US imports are not a substantial cause of any injury that we ultimately find the domestic industry has suffered. I'll go back to you, John.

MR COSGRAVE: We'd like to turn briefly to the issue of the increase in imports criteria, for which I'll turn to Iain.

MR SANDFORD: Thank you, John. I'll also, like David, refer to some of the documents in the bundle. For safeguard measures to be contemplated, there needs to be a surge in imports that is recent, sudden, sharp and significant enough to cause serious injury. Safeguards are, of course, extraordinary and emergency measures. The data available on imports in this case simply does not meet the threshold required to justify safeguard measures. The data shows that import growth has been gradual rather than recent, sudden, sharp or significant. Growth in absolute terms has been relatively modest, and I'll refer to the charts on pages 7 and 8 in showing that.

The chart on page 7 obviously has a fair amount of fluctuation and noise in it, but I think our key point with this one is better illustrated by the chart on page 8, which is simply a linear illustration of what has happened to imports, rising in a fairly gradual way over the period. This also needs to be seen in the context of a much greater overall level of supply in Australia, and again I'd turn to the chart on page 9 that David referred to, the pie chart, showing the relativities between domestic product and imports and also a chart submitted by the South Australian and New South Wales governments on page 2 of the document. That gives another sense of the relativities between domestic production of the like products and of the local directly competitive products and imports.

MR BANKS: This is adding up kilos of legs and middles and other cuts, is it, to get a total quantity?

MR SANDFORD: Sorry. You're on page?

MR BANKS: On page 7.

MR SANDFORD: Page 7?

MR BANKS: It's quantity and kilos, so it's a volume measure and a direct weight of imports measure.

MR SANDFORD: That's correct. If I may turn to quickly illustrating the most recent period, 2007, we see on page 6 of the charts that imports have declined in this most recent period.

MR BANKS: What is that? Is that kilos again - kilograms?

MR SANDFORD: That is kilograms again - the same measure as in the previous chart. In relative terms, import growth has also been fairly modest in its overall context. If I can turn to the chart on page 2 to make a couple of points, what we see here is that imports growth has followed from a stable level of domestic supply, coupled with what APL has referred to as phenomenal growth in the fresh meat market. What this has done has led to greater demand for imports in the secondary processing sector in order to meet manufacturers' needs. In our submission, none of this substantiates the conditions, or substantiates that the conditions for safeguard measures are met.

MR BANKS: My question in relation to kilos prompted a further question and that is - it's on that chart number 7.

MR BOND: Page 7?

MR BANKS: On page 7, yes, that's right - which again shows the quantity in kilos of imports from different sources. I made the point that you're just comparing kilos of different cuts primarily, but it would also be useful to know what the conversion rate would be between that, which is unboned pigmeat imports, and boned pigmeat. I don't know whether you have that available or could provide it.

MR SANDFORD: The data here is from the ABS data that was provided, all relating to tariff category 0203.29. It's not disaggregated to the 10-digit level. But my understanding is that all of the imports under that tariff heading are boneless.

MR BANKS: Okay. But then how does that relate to this pie chart? Again, are you comparing like with like or not?

PROF HAYES: I can speak to that. The pie chart is in carcass weight equivalent which is bone in.

MR BANKS: Okay.

PROF HAYES: This is product weight. At least in the US, to go from one to the other, we multiply the product weight by 1.33 to get the correct - - -

MR BANKS: By 1.33. Yes, okay. Thanks for clarifying that.

MR COSGRAVE: If we could now turn to serious injury and threat thereof, and the associated issues of causation and non-attribution. I'll ask you, gentlemen, to take the floor.

MR SANDFORD: If I can provide a very brief introduction; I'll hand over to Prof Hayes. In addressing serious injury and causation, the level of serious injury required for contemplation of a safeguard measure is an exacting standard. There needs to be objective evidence on a series of factors that together must show that the relevant industry is suffering a significant overall impairment or is manifestly on the brink of suffering such a fate. In this case, we simply have not seen the level of objective evidence that would allow a proper assessment of injury.

MR BANKS: Given you make that comment in relation to the industry as you would have it properly defined.

MR SANDFORD: That is correct, although we'd also observe that, to the extent that we have objective evidence on the record at this point, it relates to a different industry from the way in which we would categorise the correct industry and, to the extent that there is evidence on the record in relation to the appropriate industry, it's anecdotal rather than objective evidence that would allow a determination to be made. To the extent that there is material available to support any findings in relation to an injury analysis, we do not feel that it would support a finding of serious injury.

Turning to causation, there obviously needs to be a causal link under the relevant safeguards rules between imports and any injury found. This is a two-step process. It begins with the identification of a causal relationship between injury and any increase in imports. Then, as a second step, any injury attributable to other causes needs to be analysed, separated out and not attributed to imports. As I said a moment ago, there's no objective evidence of injury to the relevant domestic industry in this case but even if there were, it is clear that there are many causes that are vastly more important than import competition. With that brief introduction, I'll hand over to Prof Hayes to comment on some other elements.

MR BANKS: Okay. Thank you.

PROF HAYES: Good afternoon, commissioner. I'll be referring to the charts on pages on 1, 2 and 3 of the bundle we handed you. The first chart shows data from the submission of the government of New South Wales and it shows more or less stable pork production coupled with increased imports over time. The second chart shows the unit values of imports and again stable unit values of imports over time from 04 to 07.

MR BANKS: That's custom values divided by quantities, is it?

PROF HAYES: Yes.

MR BANKS: Or the other way round.

MR GALLACHER: Yes.

PROF HAYES: The last chart, which was a surprise to me, came from the APL submission and it shows the Australian pig prices from 2002 to 2007. I think it's illustrative to compare the industry here with the industry that I'm familiar with in the US. That last chart would be different in the US. We would see an industry that, year by year, has more significant price changes. When prices are above the cost of production, they would typically fall back to the cost of production and vice versa: when they're below, they typically fall back. But the similarity that I noticed between the industry here and the industry that I'm familiar with is that both industries are losing money right now and in about the same order of magnitude.

We currently have production costs of about $50 per 100 pounds, but the market prices are about an average of $40 per 100 pounds. We attribute our losses to the increase in feed costs, primarily due to an increase worldwide, due to biofuels. That is different in the case here. The industry here is attributing it to imports. We attribute it to feed costs. So I'd like to make a couple of comments about feed costs in Australia - and this is from the perspective of the US looking at this country - and that is, you immediately notice that pork consumption here is low relative to other developed countries.

MR BANKS: Per capita?

PROF HAYES: Pork consumption here is low.

MR BANKS: Per person?

PROF HAYES: Yes, but grass-fed beef and lamb are high. One reason for that is that Australia has traditionally not had easy access to pig feed. With that, pork prices have been high and people have turned traditionally to lamb and to beef but there is upside potential here. Internationally I think diets are being harmonised and that Australians are starting to eat more pork and countries that had eaten a lot of lamb are starting to cut back, so there's an international harmonisation that's going on.

The way I see the issues before us is that imports have essentially allowed the Australian consumer to start consuming more fresh pork and that's how you can explain why you have stable price in the face of increased imports and the Australian pig producer can quite easily choose between pigs that will be sent to the process market, which are heavier, and pigs that will be sent to the retail market, which are shorter. The way you do that is, you just don't feed them as long. It appears that the Australian producer can do that in a very price-sensitive form and that they've done that and that about 82 per cent of their domestic production now is going into the fresh market. That's a market where imports really cannot compete directly.

The puzzle that I'll finish with is, how is it that the profits here are low, given that prices are stable? I would answer it's the same as in the US: it's because of high feed costs. In your case, it's because of the drought. In our case, it's because of biofuels. I would also argue that what imports have done is to allow the domestic consumer access to fresh Australian product by displacing what was going into processing into the fresh market. The key diagram for me is that over the last several years, Australian pig prices have been stable.

MR BANKS: While we're in that section, I just want to check out a couple of points - in relation first of all to serious injury, et cetera. You made an observation - this is on page 34 going over to 35 of the submission proper - in relation to QAF, in relation to whether one could reasonably conclude that there had been serious injury. Then you say, in paragraph 89:

> Looking at QAF, a significant player in the relevant domestic industry -

which is clearly true -

> we would note that increased investments and full capacity are not likely to be acts of members of a seriously injured industry.

I'd just ask you to comment - I think again we're dealing with differences in time because what you're talking about there are activities that occurred in 2006 or towards the end of that when prices were actually rising. I think they reached a peak at that point from which they dropped pretty suddenly, whereas the information that was presented to us this year is that QAF has been reducing its operations and it's faced with excess capacity. It's laying off 100 staff and it's shut down some piggeries. I just make that observation but you may want to make a comment on the timing of those two things.

MR BOND: If I could, one comment, then I'd like to ask Dermot to discuss a little about the hog cycle and how that might be a relevant component. The 2006 data - it is 2006 data - is what we were able to find from publicly available sources and I think that's their financial statement that's on their web site for 2006. So it definitely is not the most recent but that's what was available to us at the time to prepare the brief.

MR BANKS: All right, yes.

MR BOND: Dermot, maybe a little bit about their decreased production in terms of the hog cycle and where we are on that could be relevant.

PROF HAYES: In the US we do have this two-year cycle of increased production followed by two years of decreased production because the market - the pig producer tends to overreact to profits and losses. In the US right now we're on the downside. We're losing money so we need to cut back on production to get back into profits. To the extent that that's true for QAF, it would suggest that for the fresh market they need to cut back on production to drive those fresh pork prices up to a level where they can sustain it.

MR BANKS: You'll be an expert in this area and I can ask you about the hog cycle because we've all heard about the hog cycle and so on. Some are proclaiming the hog cycle dead, but what's been happening in the US on the hog cycle, in terms of in particular its period - whether that's been shortening?

PROF HAYES: I generalised when I said two years up, two years down. Sometimes it's 18 months, sometimes it's three years. For the last three or four years prior to this year we had profits, and a relatively slow - surprisingly slow - rate of expansion, but this year the cycle has come back in full force with prices well below the cost of production. So it's not a science at all, but in general producers overreact and the prices have to fall to clear the market.

MR BANKS: What has been the situation in the US - I mean, to the extent that it's happened - where you've had producers walking away from operations and then maybe coming back in? Is this a phenomenon that's ever occurred in the US? Or when you talk about the cycle, it's about existing operations pulling back - I suppose destocking or depopulating and then building up again within existing facilities?

PROF HAYES: There was a big structural change with smaller producers leaving and very integrated larger producers taking over, but, strangely enough, recently the larger producers are stable and the smaller producers are the ones responsible for the increase in production. Presumably they'll be the ones that need to rationalise because they have lower fixed costs and they're less specialised in pork production so they can more easily move to another emphasis or other crops. The larger producers are more specialised and they will tend to stay in production. At least, those buildings will stay in production. Sometimes the ownership changes because of bankruptcy.

MR BANKS: Thank you. I thought I might have had one more question in this area. Yes, there was just a comment here on page 39, paragraph 100 - and again it might be a question for you, professor, but it says:

> As can be seen in the preceding graph, the number of pigs harvested per month has remained relatively constant.

Which graph is that? That's figure 10 maybe. "Since January 2005, despite the increase in import volume" - then you say:

> One would expect to see a significant drop of the number of harvested pigs if imports were causing serious injury.

I suppose my question to you is: what would be the lead time on observing that?

PROF HAYES: I would say four years. The bundle we gave you would have it from 02 to 07. That's the first chart, and that shows the same stability over time.

MR BANKS: What I'm hearing from the industry is that they're cutting back on production initially by slaughtering sows and reducing the herds, so what would be the lead time before you would see that being reflected in production?

PROF HAYES: That cutback in sows typically only lasts a quarter, because it's the trauma that the industry experiences. They do get a one-quarter increase in production when profits are low, because those sows have to be cleaned through the system, but it's not a long-term issue.

MR BANKS: I suppose the other way of looking at it would be that, with sows being pregnant and a decision was made to reduce production, it can't happen overnight, can it? Presumably they don't slaughter pigs that are carrying young. So again what would be the lead time from the time when the decision was made to cut back production by X per cent?

PROF HAYES: They would have sows every week that are coming back into uterus - or into the cycle - and they would be the ones that they will eliminate.

MR BANKS: So it would be a progressive culling of the herd.

PROF HAYES: Yes. On a typical farm, one fifty-second of all sows would be coming into heat. The sows would breed twice a year, so there would be a lot of sows available for culling at any one point.

MR BANKS: All right.

PROF HAYES: The last point I wanted to make is about the technical paper that was provided on causality. The result of that paper is that a 10 per cent increase in imports, they claim, would cause about a 3 or 4 per cent reduction in pig prices in Australia. We've seen about a hundred per cent increase in imports, and pork prices here have been stable. So one of the issues that puzzled me was how they could come to that conclusion with increased imports and stable pork prices. I tried to give you an alternative, which was that it's the fresh market that's allowing the industry to absorb it.

So I looked at the paper. And one of the things you learn in this business is that, if you torture the data long enough, nature will confess, and there are some missing relevant variables from that data. In particular, if you're interested in the fresh pork market, one should be also interested in what's going on with the beef sector and what's going on with the lamb sector, and those variables are missing from that data. So I would just suggest that it's not a robust estimate; that somebody could take that same set of data, add some variables and come to a different conclusion.

Typically, I just use commonsense in this business, and if you've got flat or slightly increasing prices and a dramatic increase in exports, it's a puzzle to conclude that there's such a dramatic negative impact of imports on domestic prices, given that domestic prices have been stable.

MR BANKS: Sorry, what did you say about exports then?

PROF HAYES: I didn't mention exports.

MR BOND: No, imports.

MR BANKS: Imports? Okay, sorry.

MR BOND: He said exports but meant imports.

PROF HAYES: Did I? Sorry.

MR BANKS: Thank you. There was one more thing, I'm sorry. We're talking about causation and non-attribution, and again this is where sometimes law and economics don't happily sit next to each other. In economics everything is related to everything else and therefore, as the professor would appreciate - as you say yourself, when you're modelling, for example, you've got to make sure you've got all the possible explanators in there. Imports respond to other elements of the market, including what's happening in domestic cost structures and what's happening to the exchange rate; what's happening generally.

I'd just be interested in your comments on, therefore, how one, in your view, would focus on imports as a separate determinant, which is effectively what the law requires us to do. Of course, we've tried to do it before. We've wrestled with it, but here's an opportunity for you to comment on that.

PROF HAYES: Well, I would expect to see, at least in the short term, that imports would probably reduce the rate at which bacon or pig prices have been increasing, because the presence of imports would put pressure on those and would drive those bacon or pigs into the fresh side of the market.

So my sense is that there would be an effect of imports on the prices of those pigs, but they're, according to the APL, about 18 per cent of their production, with the other 82 per cent being into the fresh side of the market. I really don't see how imports would have a significant impact on the fresh side of that market, simply because that product is in a different part of the store, and it doesn't directly compete with the processed product that's imported. So one would have to take the weighted average of the effect on the bacon or pigs, with the weight being 0.18 and 0.82 on the fresh pigs, to get an overall impact.

MR BANKS: Right.

MR BOND: You're asking, I think, if I understood your question: if you were Dermot and you were going to come up with what he would consider to be - I could use the word "robust" - a robust model, what variables would you model. Is that the question?

MR BANKS: That's another way of asking it, yes.

MR BOND: For example, we've mentioned that they failed to include obvious ones like beef prices and lamb prices. I think we would also want to include the prices of some of the smallgoods. What else should be in that mixture of variables so that we would come up with a real causation analysis and we could assess the relative causality of one thing versus the other?

PROF HAYES: Well, first I would take the prices of two types of pork and then beef, chicken, lamb and income - and maybe even population growth - as relevant variables and then run a regression with the market shares of all the meats against all of those variables.

MR BANKS: Would you expect to see a convergence between the price in the fresh markets and the manufactured markets?

PROF HAYES: I think there is a convergence, because the producers of the manufactured product - when they see prices getting out of line, they get the incentive to move that into the fresh market. Unfortunately, here the fresh market has had upside potential because of the relatively low per capita consumption. So that ability to produce or to switch between the two should cause some correlation in the two sets of prices.

MR BANKS: Okay.

PROF HAYES: But to finish, then I would get those elasticities and then I would construct a synthetic model of the market based on estimate elasticities. That model might be less impressive in terms of getting a big effect, because you would have - with a model where you've estimated demand elasticities to supply elasticities, when you have changes on the supply side, producers would respond and dampen any effects, because ultimately, as we've noticed in the US, the market will tend to stabilise at around the production cost.

MR BANKS: Okay, good. Thanks.

MR COSGRAVE: If we may just briefly return to provisional safeguard measures, most of the points we wish to raise came out in response to your question earlier on. I'd just like to make the point that, in considering provisional measures, as the competent authority the commission needs to focus on the damage that would be caused by the delay. They are the operative words.

Now, the delay we're looking at is about three and a half months. That is the difference between the commission's deadline for the provisional report and the final report, which runs at about three and a half months. So one would need to establish that there are going to be dire consequences falling on the processing sector within that three and a half month period and that those dire consequences were going to impact on processes accounting for a majority of the production of that processing sector; again, very high standards.

Further to that, it's got to be damage that would be difficult to repair. We have in evidence from the Northern Co-op Meat Co that they have on occasion closed their Booyong operation and then reopened it again and are contemplating closing it again.

MR BANKS: Was that Booyong, did you say?

MR COSGRAVE: Yes. B.E. Campbell made the point that a competitor of theirs has closed a boning room and may reopen, and Campbell also made the point that they might at this stage be contemplating processing other meats; something again they observed that one of their competitors has done. So that, putting these dire circumstances into context, one would need to foresee a cataclysmic outcome from a delay of three and a half months to provide any justification for provisional measures. That's finished our submission.

MR BANKS: I have some further questions, if that's okay.

MR COSGRAVE: Sure.

MR BANKS: I won't detain you too much longer. In your submission you make reference to the Productivity Commission Act in relation to, I suppose you would summarise it as, a public interest consideration; what we call economy-wide considerations that we tend to bring to bear on the various things we've looked at.

MR COSGRAVE: Yes.

MR BANKS: You didn't make comment, however, on the terms of reference for this inquiry and I refer you to - if you've got it before you there, it's on page 17 of our issues paper. It asks us "to report on", and the first two things are things that are standard in safeguards investigations under the WTO. The third one is another specific Australian add-on and it refers to:

- whether, having regard to the government's requirements for assessing the impact of regulation which affects business, those measures should

- be implemented.

My understanding is that's a provision that doesn't apply in the safeguards investigations in the USA. You might want to comment on that. I also give you the opportunity to make any other comments you might want to make about that reporting requirement.

MR COSGRAVE: We must apologise. It was an oversight in terms of meeting the deadline of last Friday week. Certainly our general reaction would be, in the context of those government requirements referred to in the third dot point, that obviously there would be impacts, but we haven't looked at it in any detail. Certainly we'd welcome the opportunity, if it's still available within a very brief time period, to come back to you on that point.

MR BANKS: Okay. I should say, by the way, that there's no absolute deadline on submissions. We've got an absolute deadline on our production of the accelerated report but, up until that time, we'll accept submissions. Obviously the amount of time we can devote to them diminishes as we get closer to the deadline, but you should feel free to address that or any other matter that you think is relevant. Equally, other participants, in reading your submission, still have opportunities - or hearing what you have to say today - to make further submissions to us. Was there any further comment on that?

MR BOND: I have one quick comment, and forgive me if I have misinterpreted the words "public interest", but I assume that includes the impact of any measures on users of the imported product, for example?

MR BANKS: Typically - and this is what I think you're referring to in your submission - you refer to the wider considerations the commission brings to bear - "community-wide" or "economy-wide", we use, rather than "public interest", I suppose.

MR BOND: Thank you. I see.

MR BANKS: And certainly that would be taken into account; the interest of user industries or consumers would be taken into account in looking at a broader consideration of what was in the national interest or wider public interest. This third dot refers to requirements for assessing the impact of regulation which affects business which also requires, in the Commonwealth jurisdiction but also in some of the states, an obligation to do a cost-benefit analysis that goes beyond the specifics of an industry.

MR BOND: Okay.

MR BANKS: You will just have to bear with me, I'm sorry. I'll just have a quick look here to see if there's anything else, while I've got you in the dock, that I can ask you. Yes, I thought you had a pretty tough test for unforeseen developments, and you say on page 9 in paragraph 7 - you state correctly that article 19 states that safeguard initiatives can only be imposed if there are unforeseen developments and then you say:

> In this inquiry, the developments that may be alleged to have led to an increase in imports -

and you give a list of them -

> were all readily foreseeable -

and you include in there the appreciating Australian dollar which, if you really believe that, you guys could have made a killing on the foreign exchange markets. But it led me to think what, in your view, would be a phenomenon that might reasonably be considered to be something that could not have been foreseen or reasonably foreseen? I have a feeling that's a null set in the way you've defined it. You might just like to talk around the logic of that provision as well, if you like, in that sense.

MR GALLACHER: I think the way we approach this sort of concept or the step of unforeseen developments is in terms of just what it says in GATT article XIX, in terms of the focus that, "Safeguard measures may only be imposed if any increase in imports is the result of an unforeseen development." Implicitly we have approached this in the context that in this inquiry, looking at some of the developments - you know, the zero tariffs on trade or the removal of the quarantine restrictions - we perceived that they were all readily foreseeable. I note that we did put in - that there is the reference to the appreciating Australian dollar.

In terms of what could be falling within this category, I think the Hatters Fur case implied that there might be some issues around changing of fashion and the like, but what has come out in terms of the WTO cases is a sort of reinforcement that there is some substance to this test. It's not just a sort of nudge and a wink to it; that the appellate body, when they have reviewed this and reviewed - you know, in the Lamb case - the USITC. There were some serious questions devoted to what were the unforeseen developments here in terms of reducing tariffs.

Clearly there's an expectation that when you reduce the tariffs, you're opening up the potential and the opportunity for increased trade to occur. At the same time we would argue that the sort of signing - you know, the conclusion of the Uruguay Round, which included Australia signing up to the SPS agreement in terms of placing signs at the forefront of quarantine decisions - clearly there's an expectation that any restrictions which countries might have had in place at that time or going forward would have to be revisited in terms of sound science.

In terms of those particular sort of examples, we would argue that those were definitely foreseen at the time of the Uruguay Round; that there were a number of concessions made in the context of the Uruguay Round by Australia which clearly envisaged greater potential and opportunity for increased trade.

MR BANKS: The industry, for its part, would say that in a sense there was almost an implicit understanding, or more than implicit understanding, that the quarantine restrictions were valid at that time and therefore would hold. Some have gone further to say that some of those changes occurred about the same time as the US-Australia Free Trade Agreement was being negotiated and that there may have been some crossover in considerations. How do you respond to that view that, notwithstanding that agreement, there was a belief that the restrictions were unlikely to change?

MR GALLACHER: I think what occurred in the context of the Uruguay Round was a serious attempt to basically ensure that any measures that countries were putting in place for so-called quarantine reasons had to actually start to fit under the SPS agreement. Clearly in advance of 1 January 1995 there was the possibility of countries to have in place a range of measures which, frankly, didn't comply with the SPS agreement. But, going forward, countries were clearly on notice and quite clear that science had to be put to the forefront.

In terms of the timings of that, there was a sort of appreciation and understanding that when people start to look at risk assessments, it's not going to be an instantaneous sort of process where on 2 January there was obviously going to be a whole range of risk assessments dropping out. There were understandings that clearly people and countries would actually be reviewing and considering a range of the measures they've got in place and ensuring that they were in conformity with the SPS agreement. I think that's evident when you look at the range of the SPS cases that have been brought.

There's sort of an acknowledgment that there are certain time periods which countries will require to undertake risk assessments, but there are also, at the same time, quite clearly expectations on the timeliness of such assessments in response to trading partners, and from an Australian context - but also a New Zealand context, and other countries like Australia and New Zealand, which clearly have a unique environment - they've always placed quarantine and biosecurity issues uppermost. So from an Australian perspective, out of the Uruguay Round it was clear that the SPS agreement was going to not just provide opportunities in terms of our markets but also opportunities in terms of our own market.

MR COSGRAVE: Could I just add that there's also the point in relation to quarantine from article 19.1(a) that the obligations incurred, as the phrase goes - there is an argument that that does not include quarantine obligations incurred at the time of the Uruguay Round, because the subparagraph goes on to say that if you reach a positive finding you may suspend the obligation. Now, nobody seriously suggests that this is authority for reversing a quarantine decision that might have been in place for 10 years, or two or three years as the case may be, and that the obligations incurred really relate to tariff rates, quantitative restrictions and tariff concessions.

MR BANKS: Okay. In that same section on page 10 of your submission, you go on to say that the commission should note that it was readily foreseeable that imports would increase. You then go on in item (c) to say that increased imports are a readily foreseeable result of lifting the phytosanitary restrictions, and I quote. You say:

> Is established by the fact that the commission itself recognised in the context of the 2005 inquiry into the Australian pigmeat industry that imports from the United States likely would increase "about tenfold over the minimum levels achieved upon gaining access in the last quarter of 2004".

I put it to you that that is somewhat misleading, in that we were quoting the USDA in that paragraph. But the quote goes on to say that most of the growth in imports from the United States will come at the expense of Canadian product, which I think you're maintaining has still happened, and it's something that we'll have to obviously look at more closely. The reasonable expectation may well have been that imports from North America would not have increased, that we would have seen a substitution between US and Canada in supplying the Australian market. That's the burden of that quote, or one interpretation of it I guess. So, look, it's just really more of a factual matter as to who's quoting whom, but secondly that two points are made in that quote.

MR GALLACHER: Absolutely. We note the point. Putting that in there was reflecting what USDA had said in the context of that inquiry and, in terms of that drafting, we did not want to infer that that is what the commission - - -

MR BANKS: Okay, good. Thank you. I think I'm almost done. At least you can see that I've read your submission in detail. The last thing I was going to ask you: as you pointed out, this is a safeguard investigation, it's not an antidumping or countervailing duty investigation. As you'd also appreciate, lots of people have been making claims about both dumping and subsidisation, but I'm on the record as saying that those things are relevant to this inquiry to the extent that they could explain what's been happening in terms of a surge in imports, which you obviously contest as well; but there is a link through that means.

I've asked the European Commission to tell me about any changes that may have occurred in the relevant recent period to trade policy or production subsidies, et cetera, in the European Union. They gave me part of an answer - not the full answer, because we discovered after they had appeared that in fact they'd just made a very recent change or anticipated one which, if it's borne out, will involve an export subsidy. I think they call it a refund, but I think it's another word for "subsidy". So I guess I'm asking whether there are any changes in US agricultural policies or practices or subsidisation in the recent relevant period that we should be aware of.

PROF HAYES: I can address that. First, as I think you're aware, the OECD does measure the percentage of producer income from subsidy, and we did include that on page 5.

MR BANKS: Okay.

PROF HAYES: But that information is dated. It stops in 2003, so that's not going to answer your question. The US Congress is about to create a new farm bill, and it could happen as early as January; it might take a lot longer. I'm very familiar with what's in that farm bill, and what's going on with the Energy Act as well, and in general there has been a fundamental change in US policy. Prior to now the government would pay corn growers to grow surplus corn by paying them the difference between the market price and the target price. With the increased emphasis on subsidising energy, they have essentially eliminated that policy.

It used to be that the corn had to be less than $1.90 a bushel to get the payment. Now current corn prices are about $4 a bushel and, in the Chicago Board of Trade, are anticipated to be more than $4 a bushel for the next several years, so that policy has effectively been eliminated and that's been negative for pork producers worldwide, which is one of the comments I was trying to make there. There's been a fundamental long-term change against the interests of pork producers worldwide, and that's part of why the European Union pig producers are asking for export subsidies. They're dealing with feed cost increases, too, due to biofuels.

The other changes in the US are legal ones against the joint ownership of pig processors owning pig farms. That's negative to the perceived interests of the industry. It's not a policy change that's friendly towards the pork industry in any way. We had subsidies measured by the OECD data equivalent to Australia in the last year, which was 2003, and there is no policy that I'm aware of that supports the income of pork producers at the moment in the US. There is one in Canada and there may be one in the European Union.

MR BANKS: Is the domestic industry currently lobbying for support to compensate for what's happening on feed grains?

PROF HAYES: One of the things that's nice about working with that industry is that they're typically free trade orientated and they understand that eventually market shocks will occur to the industry and they will get back to an equilibrium, and so they have not been asking for any new subsidies.

MR BANKS: Okay. Just one last question, which you may be in a position to answer, and that is: if border measures were imposed on uncooked pigmeat imports, would US exporters consider exporting cooked pigmeat to Australia? Is that something that's feasible or possible?

PROF HAYES: I asked the industry before I came out, and it's a lot easier for Denmark to do that, to can their product and move it, than it is for us. There might be some interest, but I don't think it will be major. But I think Denmark could do that quite easily.

MR BANKS: Right. I thank you for bearing with me, and we spent a considerable period of time, but it was a very substantial submission that I think warranted that. I thank you again for that submission. There are probably some things there that you may wish to come back to us on and, as I said, you have some time for that, but if it's possible to do it obviously within a week, that would be better. In fact, I think we only have a week and a half. That's right. The 14th is Friday week, so it's coming very quickly. But thank you very much again.

MR COSGRAVE: Thank you, and may I reciprocate by saying that if any further questions occur to the commission, we'd be happy to respond very promptly.

MR BANKS: All right. We may well do that. Thank you. We will now adjourn for a few minutes before our next participant.

MR BANKS: Our next participant today is the Victorian Farmers Federation. Welcome to the hearings. Could I get you to give your name and the capacity in which you're here today.

MR KINGMA: My name is Aeger Kingma. I'm the current chair of the VFF Pig Commodity Group and I also represent Gunpork Joint Venture, which is our own family farm.

MR BANKS: Thank you very much. We've received a submission both from the VFF and from Gunpork, and I understand you'll talk to the points in those submissions. It's up to you how you want to proceed.

MR KINGMA: Fundamentally we submitted prior to the legal argument surfacing, so I'd like to talk to it, but also from a layman's point of view express a view about the legal argument, and we as producers. The VFF has some 60 members in our Victorian Farmers Federation group, the pig group, and we represent well over 80 per cent of the production in the state. We are a relatively small group, as is typical of the industry around the country, but we have significant input and investment in the industry.

There seems to be some argument about what is the industry, and I guess I think back to my college days when I was forced to do a little bit of law and I think back about being told that, if a proposition is so absurd and lacks commonsense, a person ought to go back and have a look at the intent of what it's all about in the commonsense everyday person. I'd encourage the commission to examine the circumstance of what has transpired in the last three months. It was evident in prices in the last few months around the normal expected increase in prices not occurring. It coincided with a high level of imports. Then the industry, being the pig industry, approached the government about some form of safeguard assistance. I was part of that discussion, and it was the pig industry that took that cause to the government, and it was the government that was persuaded by us - the pig industry - that it ought to call a safeguard action and hence you've got the job.

Now, the everyday person would say, "Well, therefore, the industry is what constitutes the pig industry and the supply chain, and the pigs running on the truck." I think in fact it's commonsense. It's a word that's been used a bit today, as I've been sitting here. It's commonsense that the people that raise the issue and get a response are in fact the people that are the industry in this case. That's not a legal answer by any stretch of the imagination, and I appreciate that you've got the task of marrying what is commonsense and what everyday - I guess I'd encourage the commission to be the custodian of that commonsense and look at the producers and where we are and what we are, and the difficulty that we find ourselves in.

In my submission from Gunpork - and I'm going to talk about the pig industry and how it's been damaged, and we've been damaged significantly. I noted some questions about how fast damage occurs and what the time lines are. I'll tell you it's 114 days from the day I mate a sow to the day she farrows. She farrows on my farm 11.4 piglets. She farrows 2.3 times a year. If you do the maths on all of that, the industry can dissolve in front of you in that 114 days because it's not a long-term proposition: it is now. In the last 10 weeks, or it's probably greater since that - we approached the government first around the middle of September. The urgency of the situation was so great and so apparent that the government was able to get this safeguard action up prior to the election. We thought it would be almost impossible, but we were able to convince the government of the urgency of the case and they were prepared to do that, I think, as their last action of government before the caretaker situation.

The reason for the urgency is, in that time period we have seen some 10 per cent of the industry quit its sows. Can you see any slaughterings? You can't see any slaughterings because there's a further, in our case, 20 weeks after the piglet is born before we bring it to market, and it will range somewhere from 18 to 25 weeks from birth to slaughter, depending on how efficient and what size are the animals that you're bringing to market. Has the effect been seen on the slaughterings at this point? The answer is no. Has the effect and the damage been done to the actual industry in terms of sow numbers? The answer is yes, and those production units have been slaughtered out in record numbers. I'm sure that the APL would have furnished you with figures about numbers of sows being slaughtered and you are quite correct in your observation that people tended, once they're mated, to farrow that animal down. We are custodians of our animals' welfare. We are very reluctant to put pregnant sows through that sort of transport ordeal.

I would present to the commission that, when considering time frames, 13 weeks or three months is the industry, because if the animals are slaughtered out in that time from your decision to, I think, 28 March is the final report date - - -

MR BANKS: Mm.

MR KINGMA: - - - there's three months in there, and that is a full cycle of the sows - that is 100 per cent of the sows can disappear in that cycle. There would be a significant number of producers that would agree with me that they are on a knife edge. In my submission from Gunpork Joint Venture, I didn't talk about droughts. I mention, yes, the high cost of feed, the high cost of feed last year. The significant different is the price that we get for the pigmeat, and economics around demand and supply. I guess I'd encourage the commission to look at this: that if there was no relationship between the fresh meat market and the level of imports, we wouldn't see a direct relationship between the price going down and the imports coming up. So it suggests that we're tied at the hip bone - that, in fact, once again from my commonsense point of view, I see that that relationship is very direct.

How does it affect me on the farm? How does it affect each of my member constituents? In my case it's pretty simple maths. I produce 1.5 million kilos of pigmeat per annum. Every 10 cents is $150,000, and they're big numbers when you add them consecutively - $300,000, 20 cents difference. Roughly, the price difference this year is 40 cents. That's $600,000.

The feed prices are relatively similar. There was speculation that the price of grain would be significantly higher. Most of us took long positions in the drought. We're finding the harvest price in fact is pretty much the same. You can be tempted to talk about the drought and the cost impost. I've gone through a couple of droughts now in my time with Gunpork Joint Venture. Never before have I had to lay off staff during a drought. Never before have I been on the knife edge like this. I've planned to lose money this year. I've got a stake in this industry because I've got a son that works with me. We want to see this industry survive.

You could restate the VFF's position in exactly the same fashion as my position, because at the end of the day every farmer is a unit of the VFF. What affects me affects David, affects each one of us that you've heard from and that you will continue - I think you'll hear a similar story. I guess the underlying concern I have is that the commission doesn't view us as the industry, because that's the legal argument that I hear that I have difficulty understanding the rationale behind, and I just encourage you, irrespective of all the case law, irrespective of all the legal argument, to consider the humanity of it, to consider the reality of who actually made the submission, which industry made the submission, which industry the government responded to. It was clearly the pig industry via the APL that made application. It was clearly that that the government responded to, and that that is the question that ought to be addressed.

I'm happy to go through. I don't think I need to reread my submissions because you've had ample time. I've used this time to raise my concerns about the way - and to impress upon you the urgency of this situation. It's not something that the industry has come up to as a plan of attack. It found itself in a position on 1 September that was critical for the industry. We've responded as hard as we could and as fast as we could. If you are disappointed by the number of submissions by farmers, it's probably about the time that they've got. You can't drop 30 per cent of your staff and have time.

MR BANKS: No. I should say on that point that I'm not disappointed in that. I understand what it takes for an individual who's running a business to make a submission. So, no, I think the industry has been well represented through the various submissions from associations and the larger producers and the groups of producers and so on who have made submissions.

MR KINGMA: I'd welcome questions. I'd welcome questions about the productivity. I've in my submission tried to detail some of the advances that we've made, because we recognise that we're in an industry that needs to be more competitive.

MR BANKS: Yes.

MR KINGMA: We've improved our - I'll use some pig jargon - pigs born alive, which is a measure of the number of pigs a sow will deliver on the ground alive, each cycle, by 10 per cent. We've done that in the last couple of years. We've reduced our - - -

MR BANKS: I think the mechanism you talk about for doing that is the destock, repop approach.

MR KINGMA: Restock, depop. We study insemination techniques in Europe, the Netherlands. I was able to get access to farms in the Netherlands to see how they handle their reproduction, and we were able to translate that to our farm. It was instigated by us taking on farm students, and she talked about it and I said, "Well, if you've got information that's different" - and I was able to access that sort of information.

As a farm, I've given you a number of instances where we will use technology rapidly. That's one of the exciting things about the pig industry. If one of us has a good idea, the speed at which it will be taken up in the industry is rapid, and it's one of the terrific things of being involved in it for some 20 years, that I've seen a significant shift towards better production systems.

MR BANKS: Is there international transmission of innovation as well?

MR KINGMA: There is. There are journals available that we get. In fact, next week David's group is hosting an international speaker, Dr Kirkwood from the US. He will come and address groups. That's how we get information. I've always been a keen advocate of taking foreign students, because you tend to get the latest technology that's been the teaching in the universities there, as well as they're always fun to have. There's also international literature that we can subscribe to as an industry and also personally that gives us access to that sort of technology, and then we adapt it to our Australian conditions, which are significantly different of course compared to Europe and the northern parts of America, where they have temperature warming problems, whereas we have cooling problems because of the nature of our climate.

MR BANKS: Right. You might be well placed to comment on this, given your involvement in the genetics side of things. Is Australia disadvantaged by the isolation of its gene pool, inability to import genetic - - -

MR KINGMA: There has been some argument, and it is one of the issues that the Pork CRC is in fact investigating: is it isolated? One of the things, on the other hand, is, because of this isolation we don't have a whole lot of other diseases in this country.

MR BANKS: That's true, yes.

MR KINGMA: So when I talk to you about reproductive performance, if I had PRRS, that would be significantly impeded. So, yes, you are keen to get the best gene technology, but not at a price that introduces a disease that gives you a cost impediment. It's a revolving argument and it hasn't been resolved, because we need to keep that one thing that we do have, the isolation of the herd, as a significant advantage. I've given you a politician's answer, but that's the reality of it.

MR BANKS: Yes.

MR KINGMA: It is one side, if you open up for import of genetic material, but as an industry we need to investigate whether we can bring that genetic material in safely, without the risk of that. While the veterinary community argues about the causes of PMWS and there are no definitive answers, whenever you talk to US or Canadian farmers, they say, "Whatever you do as an industry, you must keep this disease out of your country because it devastates you." Until someone can be definitive about what causes it, how it's caused, how it's spread, you're very reluctant as an industry to then promote the importation of genetic material without all of that basic understanding, because I guess we live in a country where we've viewed some "oopses" and you regret it. I certainly look at the rabbits on my back lawn and think that regularly.

MR BANKS: Yes. Or in Queensland I guess you have those big toads.

MR KINGMA: Yes, exactly. So the industry proceeds with caution, and I think rightly so.

MR BANKS: You talked about productivity and performance, and indicate in your submission that you've obviously improved in a number of respects.

MR KINGMA: Yes.

MR BANKS: Is there any variation across the industry? I suppose what I'm getting to is that safeguard action is a temporary measure. In part, it's designed to provide a breathing space to restructure or do things that would create a sustainable industry going forward. Can I just get you to comment on whether part of that sustainability may involve some rationalisation overall, and to what extent one observes variation in productivity within the industry.

MR KINGMA: Certainly whenever you have a sample, on a standard deviation curve you must have the extremes of both sides, so to suggest there is no deviation is ludicrous. Yes, there will be some rationalisation. There's been some fairly significant rationalisation when you actually view the farm numbers over the last period, but we've never had such a dramatic rationalisation, if you like, in the last two months - in any other period in the history of the industry. I guess that's why you're seeing the intensity of farmers.

It's hard to get the exact numbers because of what I described as the 10-month lag by the time you take the gestation through to the final slaughtering, but indications are that there's been significant rationalisation that's occurred already. Which ones would be the first to rationalise? Probably the ones that have factors of production in there and costs of production in there that are not competitive. Simple economics would say the first ones to not be able to sustain are the ones that are sitting on the edge before it occurs. The next ones to go are the ones that, you know, are progressively up the bell curve, if you like, of a standard deviation curve on cost competitive.

The great risk of this situation is that, because of the skew of the imports and the consequent skew in the marketplace, you rationalise too many out of the industry and that you in fact weaken the industry significantly over the period of time and that we end up in a position that we have an industry that's laden with debt from survival, and lack of investment and the consequent poor performance from that.

The worst thing to do to the industry at this point in time is to cause that spiral to go down. I guess that's the simplistic basis of the pig - is that we don't see a world without competition but we believe this is an extraordinary circumstance and we believe also that the agreement says, "Well, if you find yourself in an extraordinary circumstance, we do have a relief valve there for the industry not to get significant and irreparable damage."

I would have thought 10 per cent of the industry disappearing in 10 weeks constitutes, in anyone's language, a significant event. If that was in the dairy industry or in the sheep industry or in the car industry, or any other industry that was larger in numbers, it would get a great response from the nation. Just because we're only 2000 farmers, it probably doesn't appear to have the same significance, but for the 2000 farmers and their workforce it has a great impact.

MR BANKS: When you say 10 per cent, you're referring there to herd - - -

MR KINGMA: Herd slaughtering.

MR BANKS: Yes. What do you say to the point - you were probably here when it was made - from those representing the United States producers that - it was made in the context of them not being a cause of serious injury - - -

MR KINGMA: Yes.

MR BANKS: - - - but in fact imports from the States have declined over the last few months.

MR KINGMA: I guess I'd make the first observation that you can make statistics say anything, but from once again a farmer's perspective, I don't see imports and see the USA. I don't see imports or Denmark or Canada or anywhere. I see a level of imports as a bucket, because that's what the marketplace sees too. However you fiddle with the statistics in between that, what I would say to anyone - whether you are the biggest player or the littlest player - you are the player in the market that combines to that puddle of imports that is causing the imbalance in the price at the moment and the consequent damage.

Yes, I heard that, and I didn't agree with it as an assumption, because I in fact believe it is the total of the imports rather than segmenting a group. I don't think you would have to see too far - if you excluded one group at the expense of the others, as was being suggested, that that would give them a leg up into a market share significantly, and I guess that was their aim.

MR BANKS: Just getting back to the rationalisation point, you've talked about the dangers of excessive rationalisation, and "overshooting" is a term that's been used. We've had some discussion in the hearings on that. But is there a sort of equivalent risk for the longer term sustainability of the industry that there would be not enough rationalisation occurring in a situation in which you've got protection from imports for some period of time? Another way of answering that question is: in a situation in which you had that margin of comfort over imports, where's the incentive - and you've addressed this in one of your points - for the less efficient producers to actually restructure or leave the industry?

MR KINGMA: I think the incentive in the industry and in the cost structure of the pig production world as a global world is that we are now competing, and government policy has basically said that petrol is competing with food by ethanol production, and consequently we're seeing these surges and these speculative prices in the grain.

If you're saying that people will stay in the industry artificially, I think there is probably enough evidence on the costs side of our structures to say that we're in a very, very tight climate. That does two things: it focuses people that are on the margin side of the industry to examine whether they can sustain those and it focuses the rest of us on the productivity gains and competing in the world.

Now, because the world market for grains is going to be a lot tighter, there will be a rationalisation, I think, around the whole world around protein production and the pricing of protein. However, in our circumstance, where you get a significant influx of an imported product that distorts your market, it distorts your ability to find that equilibrium. So, yes, there will be a lead and a lag, and eventually an economist will say, "The hog cycle, or the pig cycle, goes on. In two or three years it will find its own equilibrium. Leave it alone." In a small country like Australia, if you just leave it alone, it will be devoid of investment and all those gains that we've been able to make in the last, I believe, three or four years will be lost.

So I think it's an important - I think the rationalisation is taking place, and it's probably taken place in terms of those that are out of it. I think if we find ourselves, that we've got to compete at the level - that you'll start to see the core of the industry disappear, and at that point then, the industry is gone.

MR BANKS: You made the point in one of the submissions - you've made just that point. I just might get you to elaborate a bit more on that. I mean, what you're saying is that it's a one-way bet, in a sense, and it gets back probably to the overshooting argument again. But I suppose the other point I could make - I mean, the hog cycle or the cycle that - whatever we call it in Australia - is a longstanding phenomenon and predates the opening up of this market to imports. The difference that we've got now is that imports, in a sense, are probably capping the scope for upward movement in the price. I'm not sure where I was getting to with all of that. I did have a question there somewhere. Perhaps I'll come back to it.

MR KINGMA: That's fine.

MR BANKS: Yes. One question I had in mind - whether it was that one or not, I'm not sure - you're implying that the industry this time will essentially drive itself out of business. Now, in the past you had the hog cycle but you had investment occurring and that was seen as part of the nature of the industry. I guess those who invested in it were those who felt they could carry the periods of loss.

MR KINGMA: That's correct.

MR BANKS: In expectation of the gains. So there is a difference now, I think, and what we're hearing is that there's been less upside more recently in this most recent period and so on. I'd just get you to comment on why you think things are so fundamentally different. Has the fact that there's less upside now fundamentally changed the economics of pig production in Australia so that it's not sustainable to have any production at all? That seems like a very extreme position to take.

MR KINGMA: The risk of the Australian industry is that we can't supply a market, and that we lose our market share. Market share in the Australian industry, that was pointed out by the last submissions, has grown some 38 per cent in the last four years. That's a significant gain.

MR BANKS: This is the fresh market.

MR KINGMA: The fresh meat market. Essentially, the pig industry, as you view it, has put a lot of focus on that because it recognised it would have significant competition from overseas and that you needed to establish your share of the fresh meat market and take a bigger slice of it, if you wanted to continue. I did supply in my submission at what cost that was for us, because our costs of carcasses went down and I gave you some maths that suggested that that was in the order of - without turning to the page - about $150,000 in my operation, the cost of feed over income from meat. It's a fairly simple, hopefully easy-to-follow calculation.

So the industry is driving towards that, but the marketplace of the industry doesn't distinguish strongly between the imports and the fresh meat market, and it's in fact when all of a sudden there is a flood of imports and they fill the deep freezers - and there's record stocks of meat held in freezers in the country - that all of a sudden people are withdrawing. Now, when you have a commodity like pigs, it's significantly different to most other commodities in animal agriculture, because if you have an excess of chickens you stop hatching and six weeks - I'm not an expert in chickens but I think it's about 21 days they hatch out; six weeks after that. So you can stop it and reintroduce it very quickly.

If you have a downward cycle in beef and sheep, you can work within your industry and say, "I'm going to put them out in the paddock," or, "I'm going to go into an alternative market." My pigs, at the end of their growth cycle, are growing at a kilo a day, so I need to choose exactly. If I want to hit that average 72-kilo rule, I can't be a week too early, I can't be a week too late, because they go out of spec. So we don't have the ability to run up and down with the normal cycles like other industries. If 10 per cent of your market all of a sudden disappears, and it only needs a very - the point made by the last speaker, it's only a very small percentage that it could possibly affect. How could that affect the market? It affects it greatly if you've got to move those pigs each week and go out into the marketplace and try and find a home for those, through customers who would traditionally take them, because their freezers are full of imported stocks. So the imported stocks in that instance have a huge - and the guy correctly says, "Well, 82 per cent of your market is in fact domestic now," but it's the 18 per cent that all of a sudden is trying to be forced quickly back into the domestic market because of the influx in imports.

What we're asking for as an industry is to say, "Hey, look, we need a time of adjustment." We recognise there's going to be competition at the end of it, there's no question about that, and anyone that is foolish enough to stay in the industry without the thought of there being competition at the end of any period of adjustment is ill advised. The industry needs to understand, and we all appreciate, that we will face competition, but we need to face competition from a position of strength rather than a position of weakness. If this situation goes on, we'll be facing our competition with a significant position of weakness. I guess that's my point: if you want to compete in the world, you need to be competing and starting from a position of strength and not from a position of weakness.

MR BANKS: Okay. As you know, APL has requested a tariff of around 60 per cent - in fact, they've made suggestions for different tariffs on middles and legs. My question to you would be: what effect might this have on the domestic fresh pork prices and demand? You're saying that there's a close connection. Would you want to offer any comment on that?

MR KINGMA: Are you asking whether a price increase on the price of pork will affect our demand, the demand from the point of view - - -

MR BANKS: Yes.

MR KINGMA: For the demand for pork. I often look at those prices. I can remember talking to someone and they said, "Well, what do you need? What do you need to make a difference?" and we started talking about the supermarket price of chops being about $12 a kilo. If the price of those chops became $13 a kilo, I still think we're a very competitive unit against beef and lamb and chicken. So do I think that a change in the price will affect our market share? I don't think it will, because as an industry we're not expecting such a huge - we're not expecting a 100 per cent increase in price. We're talking about increasing price at the margins.

What it will do, it will bring that equilibrium up for a period of time. In a drought year, there's not going to be huge money in pigs anyway, and only the players that seriously want to go out the end of it, irrespective of tariffs that may or may not be imposed, will stay in the game because it's the nature of our game. Will the tariff cause a reduction in consumption and have the opposite effect to that desired? I don't believe it will, because we are a significantly cheaper commodity than those alternatives in terms of relative price on the supermarket shelf. The trick of course is finding that increment increase back to the farmgate, and that's where it comes down to the alternatives that the purchaser has, particularly when they're stocked up with freezerfuls.

MR BANKS: Okay. The Danes were a bit critical of the feed conversion ratios in Australia when they were talking about the competitiveness and the scope to do okay, and did some calculations that you might be interested in having a look at. I think that came from the Danish Pork Council, where they made some calculations based on current prices; if you imputed improvement in the conversion ratio and lower feed costs, that you would be profitable. By implication, they were saying that the problem was in those things, not in the imports. But you mention, in the VFF submission, that the feed conversion ratios have improved in Australia and the aim is to achieve 3.5 to 1 over the longer term. Do you want to just comment on that? I mean, how - - -

MR KINGMA: How feasible?

MR BANKS: Yes, and what's the longer term?

MR KINGMA: It's very feasible. The top-end farms are already achieving those sort of numbers, but you can only do it if you have high health status, good facilities and well-maintained infrastructure. I guess you keep coming back to that. If you want to achieve those, you want to see an industry at the cutting edge, on the sharp edge of it, it's got to be at a place where it can invest in that level of technology to achieve that.

Certainly, as I've pointed out, in our farm we bought a bankrupt piggery. One of the reasons it was bankrupt was because the grow-out facility, where you grow your progeny stock to market, was poorly designed. Our solution has been to take all of those growers out and build a new facility for that to gain - and certainly the herd feed conversion gain has paid for that investment. And it's significant and every 0.1 - I haven't got the figures in front of me but I certainly could calculate them - makes a significant difference if you can come down to those sort of things.

Yes, you're right and the Pork CRC - in fact its main aim is to deliver ways in which farms can lower herd feed conversion and the industry recognises that, invests heavily in it and is looking to the future to get some gains out of that. They will come around from more suitable grains, more suitable technologies and understanding the importance of our herd health and production systems. So, yes, they're right, absolutely. You achieve a profit by putting the margin between the sale price and your cost price. That's basic accounting. Most people understand that pretty well. But if you destroy the top-end sale price, it doesn't matter what you do with your costs at the bottom, you can't survive. I guess that's what the industry position was to the government: "Hey, look, this is affecting our top-end sale price to such an extent that irrespective of what we do, we will not be profitable."

MR BANKS: Okay.

MR KINGMA: It's interesting the Danes make that comment. They seem to have introduced a couple of subsidies in the last couple of months to support their farmers, recognising that their cost structures - and recognising that if they want a pig industry to be competitive, they need to support it outside the rigour that we have to go through.

MR BANKS: That raises questions about countervailing action but that's for another forum, perhaps.

MR KINGMA: Yes, I shouldn't have raised it to distract you.

MR BANKS: I don't want to worry the Danes who may be here represented. You say in your submission - this is for your own organisation, your own company - that you'd reduced your number of employees from 11 and a half, presumably one part-timer, to eight.

MR KINGMA: Yes. It's a bit like counting - "The back half of this pig is not really a pig," isn't it?

MR BANKS: That's right. What about - and it may be here and I've just missed it - - -

MR KINGMA: Ask the question.

MR BANKS: What's happened with the production on your property?

MR KINGMA: We haven't reduced our production because our view is that it is about the cost of feed over the sale price. While there is a margin between there, and currently there still is, you are applying those moneys to your fixed costs. So in my case, to reduce my sale numbers, I would reduce my profitability. We are managing to run the farm. One of the employees was my development employee, so I've cancelled all development. And that's where I can save some of the cash flow. It's a shame to do that because that would have included new farrowing quarters for 70-odd sows this year that would raise the productivity further. We've got one of those units in, but the next job was to build two more of those units that we've seen raise us in productivity.

And I guess that makes the point that I was raising, that one of the effects of these sort of periods of time is that, the longer it goes on, you lose your competitive edge into the future and that's why it's urgent from our point of view that you don't want the people that can see themselves in the industry stopping investing in the technology and the advances, because if they do, your industry is slipping further and we will not be competitive in the future. I guess it's the balls that you're juggling in the air as to what point do you encourage people to strive in the industry without putting artificial parameters in front of you? My belief is, there's enough cause for concern to do something now.

MR BANKS: I don't have too many more questions, and some of these things you'd appreciate by now we've probably discussed ad nauseam with others.

MR KINGMA: I appreciate that, yes.

MR BANKS: But you make reference here again in your own submission to the trial that you've got of sending pigs on specific diets as requested by the end user for export to Singapore.

MR KINGMA: That's true.

MR BANKS: I thought I'd just get you to talk a little bit about that and what potential you see in that. It seems to me - and I think you say yourself- it's related to some extent to scale and the ability to be able to specialise and have the scale to achieve that.

MR KINGMA: Yes. It came from a request from the industry body, that particular trial. It's a trial that the customer has sought a product that has no animal - it's basically a vegetarian pig, if you like, okay; but with certain physical attributes of the pig. That has to do with the depth of the rind and the amount of meat on the belly and different genotypes have different configurations. Some are longer and skinnier and some are broader and thicker, and all of us will claim that they have no fat. But that's come out of that. Our company was approached. I happened to have pigs that matched that description and the reason for including that was to illustrate that each of us in our own way is continuing to respond to customer demands. That request was made of me in October.

It's coming at a price. I'm actually investing in that process because the cost of the rations is some $5 a tonne more without having negotiated a price for it. I didn't include that in the submission. But it is an endeavour to find another market for our pigs that has potential. How much it will grow? The answer is, I don't know. I think each one of us will try 10 different ways of marketing our pig to try and find a niche, to get the one time that it works. Will this work? I don't know. Do I hope it works? The answer is, "Yes." Has it the potential to grow? The answer is also, "Yes," and it has the potential to grow into a market offshore which is a positive thing, not only for myself but for the industry as a whole.

MR BANKS: Okay. The only other thing I was going to just mention because it came up - and you may have been there - with the previous participants was their allegation or their comment that a big part of the problem domestically has been the diversion of export product back onto the domestic market. That's something we can look at statistically.

MR KINGMA: Yes, you'll look at it statistically and you'll find that there has been a relatively flat easing-back on the domestic market, compared to a 50 per cent, this year, increase in import numbers. I think statistically you'll do your own work and draw your own conclusions from that, but I would suggest that the numbers - and I think it's in the VFF in crude numbers, the carcass weight equivalent. But you'll notice that, for instance - and I draw your attention to page 4 of our VFF submission on table 1, some of the key statistics. If you have a look at the "imports carcass weight" - CWE stands for "carcass weight equivalent" - you will see that we have gone in 2005-2006 to, in imports, 128 to 190, which is about a 50 per cent increase. Yes, we have slipped some 5 per cent, if you like, or that 3000 tonne, on the exports. I think the maths will tell you that the most significant part of that is the 60,000 compared to the three.

MR BANKS: Okay. You mentioned just earlier that you were budgeting for a loss in this coming year. One question for me: if the price had stayed where it was at the end of last year, how well you'd be - - -

MR KINGMA: I would be break-even.

MR BANKS: You'd be breaking even. No more than that?

MR KINGMA: Yes, maybe a little profit. When you're faced with a loss, it sharpens your wit and the first thing you do is you say, "I can't afford more investment." Last year we invested $100,000 into a farrowing shed. It employed that extra person to do some new developments and to improve some - we refurbished a dry sow shed. So those investments have gone. I was able to break even. I would be able to sustain an investment as well as return a modest return on investment at those prices, because essentially the grain price is going to be pretty flat-line.

MR BANKS: What would have to happen to the grain prices, given current output prices, for you to be turning a profit now?

MR KINGMA: To the current - - -

MR BANKS: Grain prices.

MR KINGMA: Grain prices? I hadn't thought of it like that. I'll try and get my head around it.

MR BANKS: What are you paying now, if we just think in terms of wheat?

MR KINGMA: I currently pay around $400 a tonne, average price, all feed. In previous years I have got in around the $280 to $300 a tonne processed fee. $10 a tonne for feed price is worth four cents a kilo in cost of production, so you're saying there's about a 40-cent break. The only comment that I would make to that is that I don't think it is realistic to live in a world of hope that grain prices are going to return back to 160, 180 dollars per tonne. I don't think anywhere in the world of pig production that that's going to occur. So the reason I didn't have those numbers in a submission is because they don't form any part of my reality.

MR BANKS: Grain obviously is an important part of the cost of your business and the conversion ratio research reflects that, I think.

MR KINGMA: Yes.

MR BANKS: But does VFF have a view on the single desk or the ethanol policy as contributors to high grain costs?

MR KINGMA: I need to be very careful when I represent the VFF's view.

MR BANKS: Perhaps I should ask you with your other hat on.

MR KINGMA: The VFF constitutes grain farmers who have a very strong view of proponents to the single desk and - - -

MR BANKS: They're predominantly supporters in Victoria, are they, as opposed to WA?

MR KINGMA: Yes, and to a grain farmer who is an end user and who is required on the one hand to face a world market - and there's been a lot of discussion about, "We must be competitors in a world environment and produce competitively against other countries." I find myself faced with the position that our market is given good access via the imports of pigmeat, but my main cost doesn't enjoy the same rationale, and so when you have a single desk what you end up doing is you pay the higher of international price or, in drought years, the international price plus the cost of bringing it into the country becomes the domestic price. So am I a fan of the single market and the way that the wheat industry is organised? No, I'm not, because it's a cost impediment to our industry. But I need to publicly state that that's not a VFF position, it is a pig producer's position.

MR BANKS: All right. That will be clear on the transcript, I'm sure. I don't have any more questions. As I said, other questions I might have asked you I have asked others and we have had quite a lot of discussions through these proceedings.

MR KINGMA: That's fine.

MR BANKS: Did you have any further comment to make?

MR KINGMA: No. I think I have had a very good hearing, thank you very much.

MR BANKS: Thank you. I assume there is no-one else who wants to appear here in Melbourne. If not, that concludes this round of hearings today. As you know, we will be proceeding now to produce the accelerated report and complete that by 14 December, and then go on to finalise our report proper by the end of March. As indicated, the terms of reference specify that the reports will be made public. We aren't intending to have another round of hearings, but we would welcome submissions from you in the period between the accelerated report and the final report. The final report will focus in particular on the areas of the terms of reference that relate to the adjustment of the industry or the efficiency and productivity of the industry going forward; longer-term issues about its sustainability, I guess.

It remains for me to thank all those who have appeared and provided submissions and, indeed, met with the commission along the way. That has been a great source of information for us and we've had the advantage also of participants commenting on the submissions of others, which has also been very helpful to us. Those who wish to make further submissions have a limited time to do it. I'd encourage you to get any further comment or submissions in to us within the next seven days so that we can reflect them in what we want to say in our accelerated report. I will just break for a moment.

MR BANKS: I have received additional information that can support the submission from J.W. and G.E. Bourke Pty Ltd. Thank you for that, in relation to feed costs. With that, thank you again for appearing today. I thank all participants and we now conclude the hearings.

AT 5.22 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY

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