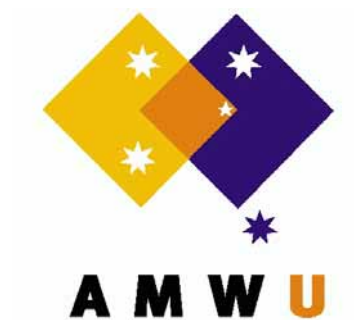


AUSTRALIAN MANUFACTURING WORKERS' UNION



**Submission to Productivity Commission Review of Bilateral and
Regional Trade Agreements**

March 2010

1. The Australian Manufacturing Workers' Union (the AMWU) is pleased to participate in the Productivity Commission's review of the impact of bilateral and regional trade agreements on Australia. Further to the Commission's consultation process outlined in the issues paper issued in December 2009, it is the AMWU's intention to lodge this preliminary submission, review the Commission's draft interim report and then determine how best to proceed with our participation. AMWU's preliminary submission to this Productivity Commission Review is brief, but we draw the Commission's attention to our extensive submission to the "Mortimer Review"¹ for a more detailed overview of our assessment of these matters including the consultancy work undertaken for us by National Institute of Economic and Industry Research (NIEIR) on Australia's free trade agreements (FTAs) and related issues.² The Commission will be aware that Chapter Six of the Mortimer Review canvassed the issues associated with FTAs.
2. The "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" is known as the Australian Manufacturing Workers' Union (AMWU). The AMWU represents over 110,000 members working across major sectors of the Australian economy. AMWU members are throughout Australia's manufacturing industry, including metal manufacturing, printing and graphic arts, food and vehicle building, repair and service. They also comprise a significant proportion of workers in Australian mining, building and construction, aircraft and airline operations, laboratory, technical, supervisory and public sector employment. The AMWU has members across virtually all skills, classifications and occupations, and the vast majority of them are employed by private corporations. It is the impact of Australia's trade agreements on these members, and the businesses and industries in

¹ Mortimer, D, et al, *Winning in World Markets -; Meeting the competitive challenge of the new global economy - Review of Export Policies and Programs*, Report to the Department of Foreign Affairs and Trade, 1 September 2008

² The AMWU's submission can be found at www.dfat.gov.au/trade/export_review/submissions_received/AustralianMetalWokersUnion.pdf

which they work, which is the main concern to us in this inquiry – and should, in our submission, be of central concern to the Commission.

Current Issues in the Regional and Bilateral FTA Debate

3. In his recent speech in February 2010 to the Foreign Correspondents' Association, the Minister for Trade Simon Crean noted the call by the G20 for the urgent conclusion of the Doha multilateral trade negotiations and the potential global benefits of an agreement. The Minister went on to re-iterate the conventional wisdom that while multilateral agreements are best, bilateral and regional trade agreements - if negotiated consistent with the letter and spirit of the WTO articles of association and "rules of the game" - can advance Australia's national interest. Given that Australia has six bilateral or regional FTAs in place, seven under negotiation and two under consideration it is timely that we take stock of the costs and benefits of trade liberalisation in general and bilateral and regional FTAs in particular and consider options for the future.

Evidence-based analysis?

4. There is actually very little factual evidence that suggests Australia is benefiting from our bilateral and regional FTAs. The recent Mortimer Review indicated that Australia's trade balance *deteriorated* with each relevant agreement partner with respect to each of the Singapore-Australia, Thailand-Australia and United States-Australia Free Trade Agreements.³ Similarly, trade intensity had either declined or remained neutral with respect to each nation.⁴ This confirms the previous views of the AMWU.⁵
5. Econometric modelling undertaken during inquiries into whether FTAs benefit Australia (such as those in respect of AUSFTA) have also attempted to quantify some of the sovereignty related "trade offs" of such

³ Mortimer Review, op cit at note 1, Chapter 6

⁴ *ibid*

⁵ Australian Manufacturing Workers' Union, *The Potential Employment Impacts of the Australia-China Free Trade Agreement*, Sydney, April 2007.

agreements. This has proved difficult with widely differing estimates of either positive or negative consequences from such measures.⁶

6. An attribution analysis could be undertaken to try and identify other factors explaining why our balance of trade deteriorated during the operation of recent FTAs, and why we lost rather than gained market share in a number of manufacturing sectors. Some might argue that it is still too early to assess the extent of any gains and losses from our bilateral FTA experience. For example the Mortimer Review concluded that an econometric evaluation only be undertaken when the agreements have been in force for 10 years.⁷ Others can point to an agreement such as AANZFTA and the immediate removal of tariffs on cheese and grapes to Malaysia or wheat and sheepmeat to the Philippines and suggest that this demonstrates the benefits. However such evidence is partial at best and its proponents only focus on potential benefits and not the actual costs and benefits.
7. There is no substantive empirical as opposed to theoretical evidence⁸ to suggest Australia, at least at this point in time, has achieved significant net positive trade outcomes as a result of our recent bilateral FTAs. This is undoubtedly confronting, given the much publicised headline figures used prior to FTAs being signed about the benefits to Australia from such agreements. It is truly surprising that no “real world” scorecard exists with key performance indicators to assess whether or not what was promised by an FTA is delivered by it, and if not, the reasons why not.
8. It may be the case that more comprehensive and more regular surveys of exporters as well as Austrade and its Trade Commissioners, amongst others (as was attempted in part during the Mortimer Review), might assist monitoring the process but only if that monitoring process is objective and not viewed as overly obtrusive by participants. The solution

⁶ Senate Select Committee on the Free Trade Agreement between Australia and the United States of America, *Interim Report*, Chapter 2 “Mathematical Modelling of AUSFTA Effects”, http://www.apf.gov.au/senate_freetrade/report/interim/c02.pdf. AMWU Submission to the Joint Standing Committee on Treaties: *The proposed Australia-US FTA*, April 2004

⁷ Mortimer Review, *op cit* at note 1, at Chapter 6

⁸ For the diversity of positive and negative estimates of FTA outcomes see Priestly, Michael, “Australia’s Free Trade Agreements”, Economics Section Parliamentary Library December 2008.

to obtaining evidence on the “success” of FTAs, is multi-faceted - like a wheel with many spokes, of which surveys and on the ground intelligence-gathering by Austrade offices would be one component of regular updates. The complexity of the task is acknowledged and is a matter this inquiry could usefully progress further. Timely, accurate and accessible commercial intelligence of what is happening on the ground with Australia’s trade treaties is a valuable resource for policy makers.

Costs – the example of rules of origin

9. As the AMWU has noted in previous submissions, supporters of the benefits of bilateral and regional FTAs tend to underestimate or ignore some of the costs of such agreements. One additional layer of cost is found in the complexity of rules of origin required for preferential tariff treatment under such agreements. Ross Garnaut, amongst others, has highlighted the negative consequences of complex distorting rules of origin within FTAs⁹. The complexities are also discussed in the Mortimer review of CTC¹⁰ and RVC¹¹ rules of origin provisions in Australia’s FTAs with developing and developed countries.¹² The bottom line appears to be that AUSFTA rules of origin using the CTC method have adopted certain administrative procedures that are less of a day-to-day burden for importers and exporters - until such an import or export company is audited, when that light-touch day-to-day record-keeping is often lacking in sufficient detail.
10. The costs of differing and complex rules of origin are born by exporters, consumers and ultimately the entire world economy via the problems they create for a single properly functioning multilateral trading system. It is not in Australia’s national interest to perpetuate the “spaghetti bowl” complexities inherent in hundreds of bilateral FTAs around the world with sometimes differing rules of origin. This is of particular concern to the

⁹ R. Garnaut : “Australian, U.S. and China: Open Regionalism in an Era of Bilateral FTAs”; Speech to AsiaLink March 22, 2005.

¹⁰ “Change of tariff classification”

¹¹ “Regional value content”

¹² Mortimer Review, *op cit* at note 1, Appendix G pg 195

AMWU since rules of origin complexity inevitably impact the most on manufacturing. It is a concern to the broader Australian community and the national interest in so far as such agreements inhibit the move to multilateral outcomes that go beyond bilateral or regional preferential trade agreements within a reformed WTO rules based system. That multilateral perspective, while still far from the fair trade perspective supported by AMWU, is a better starting point for a fairer and more just system of world trade.

Overestimated benefits

11. Just as supporters of trade liberalisation (including bilateral FTAs) underestimate some of the costs of such agreements they also tend to overestimate the short and longer term benefits of various forms of trade liberalisation. An example is highlighted in the two graphs below.¹³ There is actually little to suggest that two decades of trade liberalisation (including through bilateral and regional FTAs) has contributed to an ongoing and sustained improvement in Australia's manufacturing export performance. There was certainly a surge in manufacturing export growth in the decade to the mid to late 1990s, but as the AMWU has argued for sometime now, the surge was more a function of the exchange rate depreciation in the 1980s, and an activist trade and industry policy, than it was from either multilateral or bilateral trade agreements or tariff reductions. That export surge has not been sustained. Again, while a number of factors are at work in this "rise and fall" in Australia's manufacturing export performance, it is a difficult argument to maintain that trade liberalisation of any form was able to sustain improved performance – liberalisation surged, manufacturing export performance did not. At best, the conclusion offered by the Mortimer Review might have some merit where it was suggested that the

¹³ Manufacturing Alliance: *Building a Stronger More Prosperous Manufacturing Industry in Australia* October 2009 at p.13.

FTAs Australia has negotiated have left us less worse off than we would be without them.¹⁴

12. Similarly there is little evidence to confirm the contribution to sustained improvements in trend productivity growth as a result of trade liberalisation. On the contrary, the evidence suggests Australia was one of only 18 out of 123 countries where productivity growth declined by more than 50% in the current decade. This has more to do with suboptimal levels of investment in infrastructure, skills and innovation, as opposed to the performance of a handful of industry sectors or the costs and benefits of trade liberalisation.¹⁵
13. The facts above suggest to the AMWU that other, far more important factors than trade liberalisation have been at work on the big picture issues, such as manufacturing exports or productivity growth. Trade liberalisation in any form was at best a second or third order factor, marginally influencing outcomes (either positive or negative). We would still argue as we have for sometime that thousands of manufacturing workers lost their jobs or were otherwise seriously disadvantaged by various forms of trade liberalisation, including bilateral FTAs, over the last two decades.
14. Empty PR exercises might continue to pervade counter-arguments, however, such as releasing a Government commissioned report claiming that working families in Australia are up to \$3,900 a year better off as a result of two decades of trade liberalisation, not to mention the enormous benefits to manufacturing.¹⁶ That report was simply untested by peer group review. Indeed, when one economic think tank, commissioned to review its findings, requested additional data/information about industry-level outcomes several days after the launch, the information requested was not provided. We also note with some cynicism that this report was released on the first day of the ACTU Congress. At the end of the day,

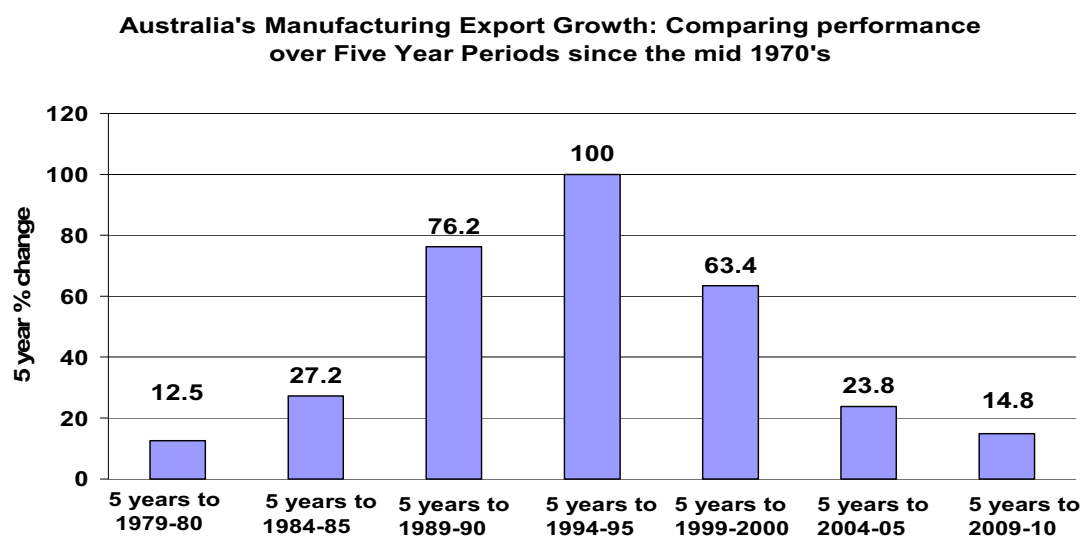
¹⁴ Mortimer Review, *op cit* at note 1, at p.97

¹⁵ Manufacturing Alliance Submission to the House of Representatives Economics Committee, *Inquiry into Productivity*, 2009

¹⁶ Minister of Trade Press release on CIE study June 1 2009

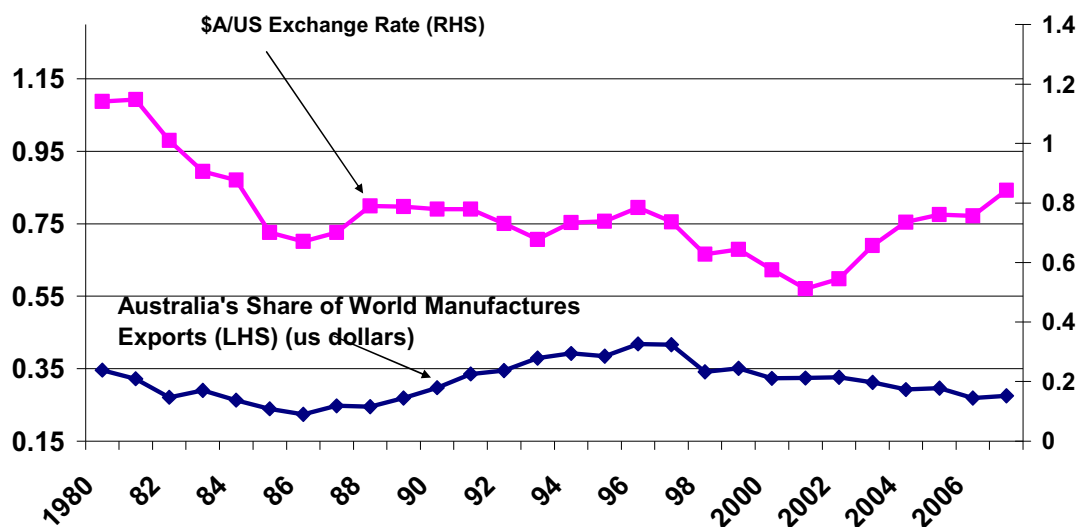
Professor Richard Freeman is probably right to title his National Bureau of Economic Research (NBER) working paper “*Trade Wars: The Exaggerated Impact of Trade in Economic Debate*”.

15. The Productivity Commission and its predecessor (the IAC) have clashed with AMWU and many others on these matters for the past 30 years. However the reality is that during the second decade of the 21st century, the impact of how much and how well Australian firms and Governments invest in infrastructure, skills and innovation will be the key driver of success in an increasingly competitive global economy. The impact of such investments on productivity, the living standards of working people, their families and the well being of their communities swamps the impact of any form of further trade liberalisation.¹⁷



¹⁷ Importantly, this also includes how such investments combine with other initiatives that upgrade the management systems and organisational capability of firms. Any arguments about the “cold shower” effects of trade liberalisation on managerial and firm performance in an environment of high tariffs is by now well past its used by date. As the recent “Management Matters in Australia” report suggests the issues of management and productivity at the firm level are associated with very different drivers.

Changes in Australia's world share of manufactures exports compared to Changes in the \$A/US Exchange Rate



16. We note that the Commission's issues paper discusses the possibility that individual domestic industries may be harmed by entry into trade agreements.¹⁸ However, the Commission will also need to consider the broader possibility that some or all of Australia's bilateral/regional FTAs (either in whole or in part) have not been in Australia's national interest. Theoretical assertions and abstract modelling of the benefits of Australia's FTAs entered into since 2003 are basically all that exists to "demonstrate" that FTA trade liberalisation is a "win-win" outcome.

Beyond costs and benefits –Sovereignty and the National Interest

17. In considering what the Commission refers to as "third wave" trade agreements there are other more complex issues that go far beyond the costs and benefits of liberalising trade flows. For example the AMWU has consistently argued that it was not in Australia's national interest to compromise the nation's sovereignty by including issues such as

¹⁸ Issues Paper at 13

- procurement¹⁹ and liberalisation of foreign investment in the Australia-US FTA.²⁰ We are still waiting for someone to demonstrate to us why it was in the national interest under AUSFTA to lift the Foreign Investment Review Board threshold for reviewing foreign acquisitions from \$50 million to more than \$800 million. As we said at the time, that meant that more than 99% of Australia's manufacturing firms could be taken over and the manufacturing moved offshore, or the IP taken offshore, without any FIRB review of whether this was in the national interest let alone the interests of those workers whose livelihoods would be affected.
18. There are now consequences flowing on from this, with other nations (such as China) wanting comparable deals – wanting what the USA got and more. The implications are obvious for over 99% of Australia's junior mining industry companies and their prospective mineral deposits or energy exploration leases. The AMWU looks forward to engaging on this and other sovereignty related issues with the Commission during this inquiry.
 19. Similarly, in our submission on the AANZFTA, we argued that it was not in Australia's national interest to include in our trade agreements arrangements for the movement in and out of Australia of temporary workers, workers who may be vulnerable to exploitation. Australia's sovereignty over migration, with respect to mechanisms such as 457 Visas, and Australia's right to incorporate appropriate labour market testing regulations are not things to be "traded off" for what are at most alleged and short-term transitory trade gains.
 20. Firmly identifying what elements of Australia's sovereignty are not negotiable in bilateral and regional FTAs is important. Chapter two of the ALP National platform clearly states at paragraphs 68,69 and 72:

¹⁹ AMWU submission to Senate Select Committee on the Free Trade Agreement between Australia and the United States of America, Appendix 1 "The Implications of AUSFTA for Government Procurement", May 2004 (at <http://www.aph.gov.au/senate/freetrade/submissions/sub463att1.pdf>).

²⁰ The work AMWU commissioned from the NIEIR on the sovereignty issues of FTAs such as AUSFTA is a major source for this debate.

“Labor supports current WTO rules that allow all nations to determine for themselves the appropriate public/private mix in their health, education, water and welfare sectors, to determine the distribution of government funding within these sectors, and to protect their cultural industries

....Labor will vigorously oppose any WTO rules, interpretations or proposals that would require Australia to privatise its health, education and welfare sectors, reduce government rights to determine the distribution of government funding within these sectors, or which would require us to remove protection of our cultural industries. Labor will oppose attempts to privatise water services under WTO rules. As part of Australia's forward trade objectives Labor believes that Australian, state, and local governments should retain the flexibility to implement effective policies to encourage industry development, research and development, regional development and appropriate environmental, employment and procurement standards...

...Labor will not allow trade agreements to limit the capacity of the Australian Government to determine immigration policies which promote education and training, permanent rather than temporary migration, local employment and fair employment standards. Labor will ensure that future trade agreements do not prevent Australia effectively regulating temporary migration. Labor will ensure trade agreements promote the recruitment of labour locally, and protect the wages and conditions of local workers”²¹

21. The AMWU submits that the policy statements above should be adhered to by any Australian Government. They should be enforced through the Joint Standing Committee on Treaties (JSCOT) treaty process. The days of sacrificing Australia's sovereignty through behind the scenes bilateral or regional trade deals should be over. This is vital, particularly given that the Trans Pacific Partnership Agreement (TPPA) negotiations will commence in mid-March 2010. This proposed agreement purports to put

²¹ ALP National Platform, Chapter 2

a range of “off the table” sovereignty issues back on the agenda, because the Australian government has agreed to negotiate a new agreement with the US, Chile, Peru, Brunei, Singapore, New Zealand and Vietnam. Once again Australia will face issues it confronted during the US-Australia FTA including US proposals for limitations on the Pharmaceutical Benefits Scheme (PBS), investor-state dispute resolution processes that would give private foreign investors rights they do not currently have to sue the Australian Government, liberalisation of genetically modified food regulations, local content rules in audio-visual media, weakening of quarantine regulations, and the list goes on.

22. The framework for a negotiation such as for a proposed TPPA should be buttressed by two core principles common to public international law. One, respect for the sovereignty of negotiating nations, and two respect for immutable international standards of international human rights and respect for the natural environment. Without such a sound foundation, any agreement reached will be an insubstantial edifice behind which private commercial considerations will be paramount, and national sovereignty undermined – again with obvious public costs, but public benefit which is obscure at best.
23. For these reasons, the AMWU supports the incorporation of core labour standards and environment clauses in trade agreements. We note the detailed documentation of the emergence of an international consensus on these issues in the ACTU submission and we support the ACTU’s position on how these issues are best included in trade agreements.²² Core labour standards and environmentally sustainable development are universal human rights and immutable minimum standards, and as such, are quite distinct from matters such as procurement policies or FIRB threshold review levels. We recognise that it is the sovereign right of states to establish and regulate higher standards than the minimum, but derogation below recognised minimum standards to gain a competitive advantage in attracting investment or promoting trade is inconsistent with

²² We also note the extensive work that Aftinet has undertaken on these issues.

the international consensus and the objective of improving living standards through sustainable development. The same holds true for environmental standards; with the environment likely to become a more complex and challenging issue in coming years.

Modelling

24. The AMWU notes the difficulty of assessing the costs and benefits of including sovereignty related issues in bilateral or regional trade agreements. These difficulties come on top of the usual contested terrain of econometric modelling of the costs and benefits of the trade related components of such agreements.²³ Questions need to be asked about the assumptions which underlie the econometric models which have been used to judge the value of trade liberalisation and FTAs, particularly as part of the national interest test assessment process required of trade agreements under the JSCOT process. The Commission would be well aware of the substantial literature critiquing CGE models²⁴ in analysing trade agreements.²⁵
25. If the Commission intends to undertake modelling in this review we would suggest that in order to provide some balance, a reputable economic think tank such as the NIEIR be asked to undertake the same modelling (with their “IMP” modelling suite) as that undertaken by the Commission (with its CGE models). In this way, very different assumptions about the impact of relative prices, export elasticities and other factors (including attempted modelling of sovereignty-type issues) can be taken into account in assessing the costs and benefits of trade agreements. NIEIR or other critics of CGE modelling of trade agreements should also be commissioned to critique the CGE methodology and suggest alternatives to and the weight to be accorded to the modelling component of the national interest assessment process

²³ For the great diversity of econometric estimates of the costs and benefits of AUSFTA see Senate *Interim Report on AUSFTA*: Chapter Two

²⁴ Taylor, Lance and von Armin, Rudiger, *Modelling the Impact of Trade Liberalisation: A Critique of General Equilibrium Models*, Oxfam International 2007

²⁵ See also AMWU submission to Mortimer (*op cit* at note 1) and AMWU: *The potential Employment Impacts of an Australian China Free Trade Agreement*, *op cit* at note 5.

of trade treaties as part of the JSCOT process. This material should be included in an appendix to the Commission's draft Report for comments by inquiry participants.

26. We note that such a robust approach would be in keeping with the independent and balanced view the Commission promotes on its website where it notes "*The Productivity Commission is the Australian Government's independent research and advisory body*", and with the legislative framework of the of the *Productivity Commission Act 1998*. Section 8(3) of that Act provides:

"The Commission, in all reports on matters referred to it, must provide a variety of viewpoints and options representing alternative means of addressing the issues in the report."

We submit that for an inquiry such as this, comparing one CGE model against another, or constructing a panel of like-minded folk to review the modelling, and then for the Commission to write up a report, is simply not sufficient to discharge the requirements on the Commission under the Act:

"...If the report relies on formal mathematical economic modelling, the Commission must either:

(a) if practicable—utilise at least 2 different economic models, with the assumptions and results of those models made explicit in the report; or

(b) if it is not practicable to utilise at least 2 different economic models, appoint, and report on the views of, an independent reference panel on the modelling.²⁶

We submit that critics of CGE modelling of trade agreements such as Dr Jim Stanford, Dr Peter Brain, Lance Taylor and Rudiger von Arnim should be commissioned to provide independent input into the inquiry

²⁶ s.8(3), *Productivity Commission Act 1998*

with their inputs included as a separate appendix to both the preliminary and final reports rather than simply being summarised by the staff of the Commission. Their input is directly relevant to the Commission's issues paper, particularly any insights these authors could provide on alternative quantitative/qualitative assessments required for the JSCOT process and the various national interest tests and the strengths and weaknesses of the existing approaches. In the AMWU's assessment this is the best way to fulfil the statutory requirements the Productivity Commission must satisfy in conducting this inquiry. The process we have described above will provide all participants to the inquiry alternative perspectives from acknowledged experts in the field.

Conclusions

27. The AMWU has participated in the trade liberalisation debate for several decades now. Our position is well known. From a risk management perspective we understand the arguments of those who suggest that, to some extent, bilateral and regional trade agreements might be viewed as a "second best" type of insurance policy. At one level it might be argued that such arrangements act as an insurance policy to ensure that Australia doesn't lose markets and jobs, in a context where multilateral agreements are not being achieved. An example of this would be where other countries have stitched up trade deals for preferential access for their auto and dairy exports with nations, or regions to which we export, but with which we have no preferential deals.
28. At another level it might be argued that such trade agreements are a second best type of insurance policy because we live in a world of global economic imbalances, regional geo-political tensions and uncertainties associated with matters ranging from energy security to the costs of recovering from the GFC. In such an environment, where multilateralism appears at a stalemate and when issues surrounding climate change may pose new challenges to an open trading system, it might be argued that using such preferential trade agreements for keeping access to

relatively open markets of Australia's key trading partners matters a lot to the job and income security of Australian workers.

29. The obvious questions to ask, then, are how much insurance do you really get with these arrangements, and what do you have to pay for this second best insurance policy? There is also the key issue of whether there are unintended costs and consequences of such an approach: nations find themselves locked into bilateral and regional arrangements because unscrambling "the spaghetti bowl" is increasingly complex, as is getting back to the multilateral foundations that have the potential to serve as the "first best" insurance policy for the global economy
30. The AMWU takes these issues seriously. We will consult with our trade union colleagues, and engage in the Commission's "working through process" to address these and other issues during the inquiry. We acknowledge that we come to the table with a strong view that the so-called "second best" insurance policy is neither fair nor free. In our assessment such a policy has limited coverage, high costs, and unintended consequences that may well pose a significant barrier to ultimately achieving gains from a fairer, more broadly-based multilateral system that could be of the most enduring benefit to working people. The issues are complex and we welcome an honest, open and productive debate. We look forward to assessing the progress of the Commission's consultation process and study its Interim Report when it is released.