

**SUBMISSION TO THE PRODUCTIVITY COMMISSION STUDY
ON TRADE AGREEMENTS**

By

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This submission proposes an overhaul of the process presently used in Australia to inform public understanding about the domestic consequences of trade agreements. It contrasts the domestic gains projected by the current process with the outcome of our regional and bilateral agreements, as negotiated. The gap between the advertised and actual outcomes of these regional and bilateral trade agreements goes to the heart of our proposal that G20 leaders meet their commitment to resist protectionism by introducing a domestic transparency process that operates outside government, is independent of private interest groups and takes an economy-wide view of trade policy initiatives. Experience in negotiating our trade agreement with the US (the USFTA) illustrates the point.

In assessing the benefits for Australia from the USFTA, both before negotiations began and after the agreement was signed, the body relied on by successive governments to inform them (and us) about the domestic effects of economic policy initiatives under consideration – the Productivity Commission – was sidelined. The first assessment, made before negotiations began, suggested annual gains of A\$4 billion. That assessment assumed that the negotiations would provide prompt and comprehensive access to US markets – across all products, whether ‘sensitive’ or not. This would involve eliminating all our remaining protection against US competition and all US farm support against Australian competition. Gains of that order (and higher) were still being quoted to provide the basis for public understanding of what Australia gained from negotiations, after the agreement was signed--as though they reflected the actual outcome for Australia. Those projected gains provided the public justification for signing the agreement. 1/

As a result of Australia's preoccupation with concluding an agreement, presumably for broader strategic reasons, negotiations degenerated into a struggle to find an acceptable compromise on market access that had little to do with enhancing national economic welfare. When justifying the outcome for Australia, officials argued that the agreement deserved public support because it was ‘the best that could be achieved’ and because ‘any agreement was better than none’. As further justification for the agreement, as negotiated, the spokesman for industry groups supporting the outcome argued that 60 per cent of Australians believed it would deliver substantial net benefits for Australia. 2/ This level of public support should not be surprising, given the basis provided to inform public understanding of the outcome for Australia. That basis was the antithesis of the procedures we (and others) advocate. The confusion and contradictions in the information available hindered, rather than helped, public understanding of the difference between what could be achieved and what had been achieved. If that is the process applied to future trade negotiations, we are most unlikely to ever undertake trade agreements that deliver worthwhile gains in national wealth. We were persuaded to accept a view delivered by fiat, not by disinterested analysis, that a bilateral agreement linking ours to the largest economy in the world would bring huge (but unspecified) economic benefits to Australia.

US Trade Representative Robert Zoellick described how he approached negotiations in the USFTA :

‘Trade negotiators live in the real world and in the real world objectives must be balanced by sensitivities...The history books of free trade are filled with agreements that successfully balanced ambition with sensitivities and exclusions’ 3/

His ‘real world’ was one in which the power of ‘sensitive’ US industries resulted in their exclusion from the coverage of negotiations, or in having safeguards introduced that minimise the scope for international competition. Their power over decision-making in the United States

was dramatically demonstrated by Zoellick's explanation that the extension of farm subsidies, although a backward step, was necessary in order to secure authority to negotiate. Their influence was also evident in the agreed conditions of entry for our farm products. Australian beef producers will have to wait 18 years—and survive several more US presidential elections—before any real gains are possible. Under the agreement, as signed, they will then face permanent price-triggered barriers against entry to the US market. Some Australian farm industries will face more immediate hurdles. If the prices to US farmers decline, for reasons that may have nothing to do with Australian competition, a 'safeguards' barrier will be raised against them.

When accounting to the US Congress for the outcome of negotiations with Australia, Zoellick explained that on beef : *'We have an 18-year phase out that Prime Minister Howard personally was pushing to get lowered, which we didn't lower. And it should work well with our industry because we only increased the quota for manufactured beef.'*

On dairy products he explained that Australian negotiators had been unable to end the protection for US dairy farmers: *'And, frankly, in terms of dairy, I think we've increased our quota — didn't touch the tariffs one bit—the huge amount of about maybe US\$30 or US\$40 million a year.'* 4/

How much better would the outcome have been—for both Australia and the United States—if, instead of using a process for deciding what access would be granted that excluded 'sensitive' domestic industries from any additional Australian competition, US negotiators had been prepared to secure the greater national rewards available from reducing their own barriers ?

Those same selective processes were used in Australia's preparations for the USFTA. They have been used in other bilateral negotiations as well. The feasibility study on an agreement with China, for instance, also relied on projections of possible gains for Australia from a 'nirvana' agreement that will bear no relationship to what is ultimately agreed. Although those projections were qualified to a degree in the body of the study, they were subsequently used without qualification to support the conclusion (posted on the DFAT website) that *'there would be significant economic benefits for...Australia...through the negotiation of an FTA (sic).'* Such a conclusion could not be drawn from either the projections of possible gains or from the outcome of negotiations, which had not yet begun. As happened in negotiations with the United States, the all important distinction between possible gains (as measured in the econometric projections) and the actual outcome of (future) negotiations became blurred. This is evident, for instance, in the study's conclusion that: *'Australian merchandise exports to China are estimated to increase by around A\$4.3 billion or 14.8per cent in 2015 as a result of the FTA (sic).'* The contribution to community understanding made by this slide from possible to actual outcomes is reflected in a Sydney Morning Herald editorial comment, following release of the study : *'The government has released a feasibility study which promises (sic) a \$24.5 billion bonanza for Australia from the China deal over the next decade (sic).'* 5/. The study was used to create this quite specific public expectation about the magnitude of our gains from negotiations, which had not yet begun.

Whether intended or not, the effect was to encourage a quite positive public expectation about the outcome of negotiations that had no basis in fact. It confirms the need for a public review by the Productivity Commission of future bilateral agreements, as negotiated, before they are ratified in the Parliament.

The verdict of domestic 'stakeholders'

The agreement negotiated with the US has now been operating for more than five years , and those particular industry groups that were expecting to benefit from it have had enough

experience to assess whether the process used to inform them about the forecast gains has matched reality.

They have delivered their verdict. Submissions to the PC review have brought near universal agreement that FTAs have not produced the benefits promised. For instance, Heather Rideout, CEO of the Australian Industry Group, offered this judgement in her press release following an extensive survey of her industry constituents :

"It showed that less than half of those exporting to the United States are seeing any direct benefits from AUSFTA. Also, 87 per cent believe the arrangement hasn't improved their access to US government contracts, and three-quarters of exporters reported that AUSFTA isn't effective in creating new export opportunities. Companies are experiencing similar problems with FTAs in other countries including Chile, Singapore and Thailand and the Closer Economic Agreement (CER) with New Zealand. If we consider the amount of government time and effort invested in negotiating FTAs compared with the benefits that Australian companies are gaining from these arrangements, the results are concerning." 6/

Submissions from trade unions carry the same message. For instance, the Australian Manufacturing Workers' Union had this to say :

"There is no substantive empirical evidence....to suggest Australia....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...scorecard exists...to assess whether or not what was promised by an FTA is delivered by it...." 7/

And the CPSU, in its submission, concluded that :

"Bilateral and regional trade agreements actively undermine the international trading system and the WTO, rather than support them. Countries engaging in the proliferation of bilateral and small regional trade agreements are contributing to the spread of Preferential Trade Agreements (PTAs) and seriously eroding the fundamental principle of most-favoured-nation treatment."

That submission went on to identify the following qualities required in accounting for the domestic consequences of future trade agreements :

"If there is to be the possibility for trade agreements to....deliver true benefits.... there needs to be better processes of consultation,....accountability and transparency. We have always advocated for more participatory processes which would mean that trade agreements are tabled and debated in Parliament rather than simply being negotiated behind closed doors and finally presented as a 'fait accompli'." 8/

If, as these submissions confirm, FTAs are failing to deliver the benefits promised, Garnaut and Rideout have pointed out that they also introduce a heavy burden of compliance costs on Australian business generally--including those particular industries that were expecting to gain additional market access.

The message coming from submissions to the PC study is clear. On the one hand, Australia has gained little from our preoccupation with less comprehensive regional and bilateral trade agreements. As the AI Group Chief Executive said in her submission : "If we consider the amount of government time and effort invested in negotiating FTAs compared with the benefits that Australian companies are gaining from these arrangements, the results are concerning." On the other hand, the FTAs come at a cost for Australian business generally. As Ms Rideout

observed, this results from "excessive red tape, complex compliance regimes and subtle protectionism."

Finally, the official studies released to date tell us nothing about the opportunity cost of focusing our trade efforts on these less comprehensive regional and bilateral trade agreements, at the expense of the acknowledged greater gains from restoring momentum in the WTO--or from Australia going alone with further unilateral liberalisation of our own barriers, including those 'behind-the-border'.

Implications for Australian decision-making on trade policy

At issue is not just that Australia gained so little from the agreement with the United States, as negotiated, or that the information made available to Australians at the beginning of negotiations was subsequently used to foster heightened and unrealistic public expectations about the outcome for Australia. A more important issue is whether we have learned from the experience, about how we should conduct trade policy and international trade negotiations in future. The contribution of transparency is to inform, not to manage, community understanding of what is at issue in opening domestic markets to international competition.

While there has been substantial international support for the transparency response to the domestic pressures threatening the future of the WTO system, our own trade officials have shown no support for it. They have not contested its logic. Nor have they offered an alternative response. Yet support for the multilateral system remains the government's highest trade policy priority, and that system is clearly in trouble.

The growing international support has been documented by Australian and New Zealand colleagues. Indonesia is now introducing its own transparency arrangements. Support by New Zealand's Trade Minister has been followed by a commitment to establish a transparency agency modelled on the Australian Productivity Commission. Apart from by-passing our own domestic transparency agency in preparing for international trade negotiations, the response of Australian trade officials to date has been to talk up the gains expected from the bilateral agreements being negotiated or in prospect—and pretending that these are now the main game. For instance the DFAT website proclaimed five years ago, well before the present hiatus in Doha negotiations, that "...the Australian Government's agenda for free trade agreements is the most exciting and dynamic development in Australia's trade policy history." ⁹

Public understanding of what is at issue is not enhanced by promoting bilateralism one week and multilateralism the next, or by talking multilateralism while practising bilateralism. That ambiguity increases the difficulty of addressing the shortcomings of the WTO system.

No section of the community is excluded from the transparency procedures that operate when we reduce protection unilaterally. Since the domestic issues are the same, why should there be less community involvement when we prepare to reduce protection through trade agreements? If ownership of the domestic process through which governments establish their negotiating position is restricted, so will be the domestic commitment to liberalise.

Liberalising through multilateral trade negotiations must begin with domestic processes that help governments resolve the domestic (unilateral) issues involved in liberalising through the WTO and culminate in international negotiations and agreements to reduce protection—rather than the other way around. The domestic commitment to accept the adjustment involved can then result from decisions based on what is nationally rewarding, rather than emerge as the accidental outcome of a balancing act—in the international arena—between the market opening requests of foreigners and the market-closing demands of protected domestic producers.

Promoting this response to the pressures threatening the future of the WTO system poses a major challenge for Australian trade policy. It cannot be left to trade officials. Responsibility for introducing it in international forums rests squarely with political leadership. The gains at issue for Australia are substantial, as are the costs of doing nothing.

END NOTES

1/ See submission no.36, by Professor John Ravenhill, and his contribution to the *Review of International Political Economy*, Feb. 5, 2010,

2/ Alan Oxley, *SBS Insight*, 26 October 2004

3/ In *The Australian*, 27 February 2004

4/ Reported in *The Australian*, 11 March 2004

5/ *Sydney Morning Herald*, 21 April 2005 (Emphasis added)

6/ See AIG Press Release, 7 January 2010 <http://www.aigroup.com.au/portal/site/aig/trade/>

7/ Submission no. 21

8/ Submission no. 22

9/ Department of Foreign Affairs and Trade Media Release, 27 April 2005. Canberra