

Submission to the PC's study on bilateral and regional trade agreements (BRTAs) – Response to the draft report

Introduction

In making this submission, we would like to strongly support the main aspects of the Submissions of the Tasman Transparency Group (TTG) which has reiterated its call for an overhaul of trade policy governance and of Greg Cutbush, who has suggested that the PC should expand its discussion of the modelling limitations of past BRTA assessments and to provide guidelines for best practice modelling in future. Our main purpose is to urge the PC to focus in its Final Report on ways of combating the pressures that have led to BRTAs being over-sold in Australia (and elsewhere).

The PC Study is a critical input to getting Australian trade policy “back on track”. Sadly, however, it is about a decade too late, coming well after we have largely jettisoned our highly successful unilateral trade policy approach, supported by multilateralism. This last decade has seen a major change in Australian trade policy from a soundly economically-based non-discriminatory trade liberalisation approach to an economically ambiguous discriminatory trade policy. This policy failure has reflected inadequate independent public scrutiny and domestic transparency. Australia unwisely adopted this approach from overseas. It had primarily started with the EU and the US, two countries that are not only non-believers in unilateralism but also pay lip-service to the Doha Round, and to multilateralism generally, and are increasingly using discriminatory liberalisation as a means of achieving their foreign policy and non-economic objectives. Even if discrimination worked economically for those world powers (which is most unlikely, as evidenced by their relative situations compared to countries like China that have taken the unilateral non-discriminatory route until recently), it certainly did not follow that this approach was in Australia’s best economic interests, a point lost then and now on our government and its many trade policy advisors.

The PC Study provides a belated chance to transparently review and question the role of BRTAs, even though the indications are that the “horse has already bolted”. Many of the economic drawbacks from discriminatory liberalisation inherent in BRTAs are already being incurred. However, the ongoing costs continue to mount. Reversing the policy failure, both domestically and in respect of the multilateral trading system, to remove these costs, while challenging, is becoming increasingly necessary.

Agree with PC that economic benefits of BRTAs have been oversold

We believe that the PC Draft Report is acceptable as far as it goes. However, we are concerned about aspects such as comprehensiveness and, like the TTG Submission, with its ambiguous messages. We endorse the PC’s basic conclusion that the economic benefits of Australia’s BRTAs have been oversold.

Transparency dictates that at the very least Free Trade Agreements (FTAs) or BRTAs should be called Preferential (or Discriminatory) Trade Agreements

The over-selling has begun with their deceptive mis-naming. In diplomatic circles they are mainly called “free trade agreements”, which they are definitely not. They are really Preferential Trade Agreements

(PTAs) or perhaps even more pointedly, we would suggest Discriminatory Trade Agreements (DTAs).¹ This deception also finds expression in the Study's TOR where although the reference is entitled "Bilateral and Regional Trade agreements", the term "FTA" occurs four times; the correct term "PTA" is not used. An obvious implication of the PC's finding is that BRTAs have featured far too much in setting Australia's recent trade policy. We fully agree – as indicated in our initial submission they have, to use Bhagwati's impolite words, become a "pox" not only on the global trading system but on Australia's trade policy. We will therefore refer to BRTAs as PTAs in this submission, a much more accurate description that we would encourage the PC to follow in its Final Report instead of using the also deceptive term of "Bilateral and Regional Trade Agreements (BRTAs)" taken from the TOR. Its use only serves to create yet another erroneous term, of which there are already too many.

Australia has already formed its "spaghetti" bowl of PTAs, with adverse economic implications

Australia's second PTA, with Singapore (SAFTA), came into effect in mid-2003.² It started Australia's wave of PTAs which, in 7 years, has seen the number escalate to 6 PTAs, covering 13 of Australia's trading partners. Multiple memberships of Australian PTAs have been encouraged; Singapore and Thailand are covered by two Australian PTAs. Seven PTAs are currently being negotiated, covering another 19 trading partners plus the Pacific island economies (e.g. PNG and Fiji). When negotiated, New Zealand and Singapore will each be members of three Australian PTAs; and Malaysia, Brunei, Chile, US and Vietnam will each be members of two Australian PTAs. If the two bilateral PTAs, each with Indonesia and India being considered go ahead, then Indonesia will also become a member of two Australian PTAs. As documented in the PC's Draft Report, preferential trade now dominates Australian trade and this will only increase as outstanding PTAs are completed. Consequently, non-preferential (or MFN) trade has become the exception rather than the rule of Australian trade, despite our alleged primacy and overwhelming support of the multilateral or MFN system. The adverse transformation in Australia's trade policy has been sudden and is nearing virtual completion.

Having such a complex web of PTAS, involving cross-membership, is clearly an inefficient trading outcome for Australia. It runs directly counter to establishing a transparent, predictable and non-interventionist trading regime.

PC Draft Report falls well short of what is required

¹ Of Australia's six BRTAs, five are called "free trade agreements; the sixth, with New Zealand, is called the "Closer Economic Relations Trade Agreement". Of the seven BRTAs under negotiation, five are called "free trade agreements"; the sixth with Pacific islands is called a "closer economic relations agreement" and the seventh, with Brunei, Chile, New Zealand, Singapore, Peru, the United States and Vietnam, is called a "partnership agreement". The two BRTAs under consideration are called "free trade agreements."

² ANZCERTA came into force in 1983, and reflects the very close relationship existing between Australia and New Zealand, including the relative free movement of people, including migration, and access to each other's labour markets. Thus, while not a customs or economic union, it has the high level of integration often associated with such arrangements. Moreover, ANZCERTA was implemented at a time when both countries were rapidly liberalising unilaterally, such that the prospects of trade diversion were substantially lowered. Thus, the economic benefits accruing to Australia and New Zealand from trade liberalisation do not reflect ANZCERTA but the success of their unilateral MFN trade reforms, which also reduced its side effects.

We believe the PC's Draft Report does not go far enough in its analysis or discussion of the policy implications of its findings. While it again, very correctly, highlights the economic superiority to Australia (and other economies) of unilateral liberalisation, this message is lost and not reinforced in its recommendations. The report seems to be trying to have an "each way bet", and this "schizophrenic" approach seriously weakens its policy value. Indeed, its recommendations, even though sensible individually, as a package fall well short of that required to get Australian trade policy "back on track" to improving national welfare.

A major case in point is the Draft Report's basic finding that the economic benefits of PTAs have been oversold. Because the Draft Report does not sufficiently explain how and why this happened, it is very unclear how adopting the Report's recommendations would prevent it from occurring again. The PC's Final Report must correct this glaring deficiency. The overselling of PTAs occurs in other countries, and this policy failure is not uniquely Australian.³ This suggests general processes are failing and that these need to be rectified, in the same way that Australia and some other countries had to previously win the domestic debate favouring unilateralism over multilateralism. The fact that the solution to the proliferation of PTAs may also have global dimensions does not of course justify Australia making the same mistakes. The domestic debate must again reinforce the economic supremacy of unilateralism but this time over PTAs, which raises domestic transparency issues, as highlighted in the TTG's submissions. Putting this need for greater domestic transparency also in a multilateral setting highlights that stopping PTAs from being a "pox" inherited on Australian trade policy is also linked to achieving similar results overseas (see our previous Submission No. 32).

PTAs reflect strong political economy factors and not economic considerations

The political economy bias in favour of trade agreements (whether multilateral or bilateral) over unilateralism is obvious. All governments have a trade minister, served by a trade department. The rationale for their existence is trade agreements, whether multilateral or bilateral. Simply put, for them unilateralism is not good for business. It undermines their influence and relevance. That, combined with the fact that many countries, like Australia, now have trade and foreign affair departments under the one roof, means that non-economic trade issues, such as political, foreign affairs and selective commercial considerations, often drives trade policy measures.⁴ This mismatch of instruments and

³ This has prompted many to argue that a solution is to tighten the WTO rules on PTAs, namely GATT Article XXIV (goods) and GATS Article V (services). Australia has tried in vain for many years to enlist support for such changes, but changes introduced in the Uruguay Round were largely cosmetic, and the implementation of the Committee of Regional Trade Agreements and associated procedures aimed at greater transparency, although a step in the right direction, have been dogged with shallow findings that have not delivered the anticipated benefits. While Australia should continue pushing for such reforms in the WTO, these efforts alone are unlikely to resolve the problem given that most WTO Members' governments (and negotiators) do not want to curtail their options to pursue PTAs (i.e. Dracula is unlikely to place controls on consuming blood from the blood bank).

⁴ The international popularity of PTAs, especially the US and the EU, is also erroneously based on efforts to try to include in them non-economic issues, such as labour standards and environmental regulations, which have been for good reasons rejected from the WTO, and should also be excluded from PTAs. Moreover, even efforts to

targets undermines the contribution sensible economic trade policies can make to national economic welfare. Yet governments, advised by trade and foreign affairs officials, are usually reluctant to publicly sell PTAs on these non-economic grounds, preferring to sell them on the promise of delivering large economic gains, often also confusing these with merely selective commercial gains that are usually also highlighted to muster domestic business support, mainly among exporters.⁵ This also suits trade officials and their ministers, since it creates the impression at home that they are exerting a major influence and driving trade policy, and not surrendering to vague foreign affairs influences. This is at the heart of the over selling of PTAs, both in Australia and abroad. And as evidenced from the WTO trade policy reviews of member countries and from our own work overseas, most countries, including Australia, have only finite resources to devote to trade policies, so that more in one area necessarily means less in others – a problem that is even more acute in developing countries. This is only one of the many ways that PTAs throw obstacles into the path of non-discriminatory liberalisation (unilateral and multilateral).

PC Final Report should identify why PTAs have been over-sold

The PC report should examine in detail the reasons for the over-selling of PTAs. This includes not only overstating their economic benefits but understating their economic costs. Although many of these costs are not easy to quantify, they are nevertheless real and substantial. Moreover, the defensive argument frequently used to support Australia entering PTAs to safeguard Australian export interests from the impact of proliferating PTAs (often called the “street gang” mentality for joining PTAs) superficially assumes that in such a world such gains will be long-lasting. In reality, the proliferation of PTAs which this short sighted approach engenders will create for all countries, including Australia, only illusory benefits. The best means of safeguarding Australian export interests is to engage in unilateral trade-related reforms that will permanently improve the competitiveness of Australian exporters to all countries, including new and emerging markets. Moreover, defensively entering PTAs risks locking Australia into arrangements, including those beyond the usual definition of trade, that could prove very costly economically e.g. the intellectual property and investment outcomes agreed by Australia under the AUSFTA. The support for PTAs by large sections of the private sector for their commercial self-interest rather than the country’s economic interests, along with the strong influence such parties usually yield on governments’ attraction to PTAs, is also a major factor explaining their popularity. But this does not mean that PTAs are good economic policy, or good for the economy, just as strong

include competition law (as opposed to competition policy) in PTAs would seem to go too far for a trade agreement, especially given the low priority and implementation issues they raise for most developing countries.

⁵ Trade economists clearly distinguish between economic and selective commercial policy. Economic policy is about maximizing national welfare from improved resource-use efficiency while commercial policy is about good old fashioned, but flawed mercantilism that believes “exports are good and imports are bad”. Through PTAs, respective governments, urged by their exporters, “negotiate or jostle” (selective commercial diplomacy) to try and get them preferential (i.e. protected) access to each other’s market so that they have a commercial advantage over third country exporters and can thus earn rents. PTAs thereby involve trading access to rents, which while commercially favouring recipient exporters may not be in their country’s best economic policy interests. Moreover, to the extent that a country to a PTA obtains “net” selective commercial benefits, its trading partner(s) to the PTA are likely to be made worse off through diversion of trade from more efficient providers.

support for tariff protection by some businesses at home does not justify providing such assistance in national welfare terms.

This political economy is a major explanation behind the over-selling of PTAs in Australia and elsewhere (for the same reason that multilateralism is often oversold compared to unilateralism as the best approach to a country's liberalisation). It is reflected in the fact that most of the Australian econometric or modelling studies trying to quantify the economic benefits do not cover all the costs (many of which are hard to reliably quantify) and have lacked objectivity. While they have been done by credible "independent" economic consultants, their commissioning and oversight by DFAT, the policy department advising the trade minister and government on trade, has compromised the consultant's objectivity and tarnished the results. This has been a strong risk given that the mere commissioning of such an *ex ante* Study usually signals the trade minister's and Government's support for the particular PTA. There has been no case to our knowledge of a proposed Australian PTA being abandoned on the basis of an *ex ante* modelling Study finding insufficient economic benefits as none, not even ones that involve little trade or face barriers that have never been or likely to be overcome in a trade agreement, have shown anything but extreme "outer" envelope estimates of the economic benefits.

An illustrative case study e.g. AUSFTA would help understanding of the systemic bias towards PTAs

Explaining the bias in the Australian system towards negotiating PTAs could also be helped by the PC using an illustrative case study, such as the AUSFTA, to explain how the overselling and exaggerated economic claims develop. This is the one PTA where a second DFAT-commissioned "independent" study of the actual agreement was done, but this did not stop it from being over-sold. Surprisingly, this Study found even larger economic benefits than the *ex ante* Study even though the agricultural benefits were in the end trivial due to the exclusion or very long phased reductions in US trade barriers (e.g. sugar and beef), based on incorporating huge spurious gains from Australia's discriminatorily raising the "screening" threshold applied just to US investors. One of Australia's most renowned economists, Professor Ross Garnaut, said at the time that the initial DFAT-commissioned modelling study quantifying the economic benefits of AUSFTA "did not even pass the laugh test."⁶ It is difficult to see how the PC's draft recommendation to ensure that a pre-signing study of the economic benefits of future PTAs is done to ensure that the actual agreement is assessed, will stop the over-selling without also some major institutional and policy changes. AUSFTA was probably the worst case of over-selling, and was probably also the most political!

TORs of DFAT-commissioned modelling studies favour PTAs

Reflecting political economy factors it is not surprising to see that the DFAT-commissioned modelling studies on PTAs are stacked or biased in favour of finding sufficient economic benefits to support the PTA being considered. The TOR generally are very similar across all studies. For example, the main TOR of the Indian-Australia "Joint Free Trade Agreement (FTA) Feasibility Study" were to:

⁶ Professor Ross Garnaut, *Ross Garnaut says Government's FTA report laughable*, AM Transcript, 4 May 2004 [available at: <http://www.abc.net.au/am/content/2004/s1100916.htm>].

- *“Identify the benefits that India and Australia would derive from a WTO-consistent FTA;*
- *Assess the feasibility of a comprehensive FTA covering goods, services and investment as well as other cross-cutting issues such as intellectual property, sanitary and phytosanitary issues, technical barriers to trade, competition policy and government procurement;*
- *Assess prospects for expansion of trade in goods through liberalisation of tariffs and nontariff measures;*
- *Assess prospects for expansion of trade in services across a substantial range of sectors, including through labour mobility and encouragement of mutual recognition arrangements; and*
- *Explore how to create a favourable environment for investment in both directions.*

For the purposes of this Study, a Free Trade Agreement (FTA), has a wide coverage including goods, services and investment. In India, FTAs are commonly understood as goods-only agreements whereas a Comprehensive Economic Cooperation Agreement (CECA) includes goods, services, investment and other areas of cooperation. In Australia, FTAs are understood as comprehensive agreements.”⁷

Even a quick reading of this TOR reveals strong bias in favour of finding sufficient economic benefits in favour of the PTA. For instance, the word “cost” is not mentioned in the TOR, and the “expansion of trade” to be measured is clearly that of Australian-Indian trade, without any consideration where this trade may come from i.e. trade diversion or creation. It is also worth noting that the private economic modeling commissioned by DFAT was managed and overseen by the Australia-India FTA Task Force, and while completed in August 2008, it was not released publicly until May 2010.

It is also revealing in this case to examine the Government/DFAT Ministerial Media Release associated with the Government’s announcement of the results of the Joint Study. The Trade Minister’s Media Release stated that:

“The joint study finds that an Australia- India FTA is feasible. It makes a strong economic case that both Australia and India would gain significant economic benefits from a comprehensive FTA. An FTA would open up trade, investment and job opportunities in both countries,” Mr Crean said.

“An FTA with India will continue the momentum of Australia’s economic integration with Asia – the fastest growing region in the world.”

⁷ Australian Government (DFAT) and Government of India (Ministry of Commerce and Industry), *Joint Free Trade Agreement (FTA) Feasibility Study*, 2010 [available at: <http://www.dfat.gov.au/geo/india/fta-study/Australia-India-Joint-FTA-Feasibility-Study.html>].

Independent modelling conducted for the study ... indicates that an Australia-India FTA could result in a net increase in Australia's GDP by up to US\$32 billion (A\$45.5 billion) and India's GDP by up to US\$34 billion (A\$48.3 billion) over a period of 20 years.

India is Australia's fastest-growing major two-way trading partner, reflecting the largely complementary nature of the two economies. Two-way trade grew 55 per cent to nearly \$22 billion in 2008-09.

*"India is the world's largest democracy and is a market of 1.2 billion people. Its youthful population, diversified economy and growth trajectory present significant opportunity for Australian business, especially in the agriculture, energy, manufacturing, mining and services sectors," Mr Crean said."*⁸

This highly positive and assertive reporting of the economic gains to both economies is in line with the independent study itself, which placed no specific "health warnings" on the estimated benefits and reported them as if they were gospel, albeit as a range of "outer envelope" estimates. Creating such an impression is entirely mis-leading (even deceptive) and compounds the past over-selling of PTAs, especially given the many courageous assumptions made in the Study. While the Joint Study introduced one very general warning, even this was quickly ignored in the reporting of the results. It stated that:

"Economic modelling is necessarily based on certain assumptions and the results of the modelling for this study should be regarded as indicative rather than as exact estimates....The results indicate that the welfare of the two countries would increase with the conclusion of an FTA. The welfare gains for both the countries could be in the range of 0.15 and 1.14 per cent of Gross Domestic Product (GDP) for India and 0.23 and 1.17 per cent of GDP for Australia. An Australia-India FTA could result in a modest positive impact on total global economic output".

No ranges or qualifications were given in the Trade Minister's Media Release referred to above which seemingly only reported the upper bound estimates. Moreover, it only reported the dollar values rather than the GDP percentage growth figures which looked far less impressive.

We would encourage the PC to conduct a similar analysis, either as part of the case study of AUSFTA suggested in this Submission, or for all Australian PTAs to see if similar over-selling was associated with the mis-leading reporting of the modelling estimates by the "independent" consultants in their studies, by DFAT and, on its advice, the trade minister.

Scant mention in the PC Draft Report of the Mortimer Review seems inconsistent with TOR and a major gap that leaves the reader unsure of why the two reviews seem to conclude differently

The TOR requests the PC to "have regard to the report of the independent Review of Export Policies and Programs ...and the work undertaken by the associated FTA Reference Panel." However, the draft report does not do this, even though its recommendations on the future role of PTAs in Australia's trade policy

⁸ Minister of Trade, *Major step towards a Free Trade Agreement between Australia and India*, 4 May 2010 [available at: http://www.trademinister.gov.au/releases/2010/sc_100504.html].

would seem at odds with the Panel's proposals. The PC Draft Report should explain this by indicating the weaknesses in the "Independent" Review of Export Policies and Programs, again commissioned by DFAT.

PC's Draft Report inadequately distinguishes "integration" from "liberalisation"

Another central issue contributing to the Report's ambiguity, inadequate focus and muddy thinking is that it inadequately distinguishes "integration" from "liberalisation". They are different, and "integration" *per se* is not the objective of trade policy, which is trade liberalisation that generates economic benefits to Australia; "integration" is the by-product. Non-discriminatory liberalisation will itself promote the efficient degree and form of integration Australia should have with its trading partners, and this will differ across products, partners and regions. Discriminatory liberalisation to promote pre-determined degrees and forms of integration with certain selected trading partners, based on Government intervention, is bound to create inefficient integration from Australia's economic perspective. Better to non-discriminatorily liberalize and let market forces determine the optimal level and form of regional versus global integration. MFN liberalisation will promote both efficiently, while PTAs risks promoting inefficient regional integration at the expense of more efficient global integration. Also, a focus on integration through preferences is almost certain to result in their high utilisation and little genuine trade liberalisation and maximised economic benefits.

The PC's mis-placed thinking on this is revealed by doing a word count on the number of times "liberalisation" and "liberalising" occurs relative to "integrating" and "integration" in the Draft Report. The relative numbers are a total of 25 times for "liberalisation" (4 times) and "liberalising" (21 times) compared with a total of 130 times for "integration" (127 times) and "integrating" (3 times). The words "liberalisation" and "integration" each appear twice in the Study's TOR, and moreover a reading of it shows that "integration" is only directly relevant to one of the seven scoping points of the TOR.

While "liberalisation" has an objective economic meaning, namely removing trade barriers non-discriminatorily to ensure trade creation, "integration" is subjective with far less certain economic benefits due to mainly encouraging trade diversion.⁹ Indeed, "integration" means different things to different people as well as governments. It is not defined in the TOR or in the PC Report, especially in the context of Australia's trade policy setting. We would argue that unless it is defined or interpreted to mean a customs union or economic union, the term is bereft of any practical meaning for setting Australian trade policy. And to our knowledge Australia's negotiation of PTAs is not predicated on forming such unions, so that to talk about integration in the context of our PTAs undermines Australia's trade policy contribution to national welfare. Moreover, the term "integration" has greater policy relevance at the global rather than the regional level since efficiency, specialisation and pursuing

⁹ In other words instead of being trade creating by replacing domestic production with more efficient imports, PTAs are prone to be trade diverting and simply replace imports from cheaper non-preferential sources with imports from more expensive preferential trading partners, such that domestic production is not displaced and resource use efficiency unaffected, or even worsened. All that happens is that tariff revenue (or quasi-rents in the case of services) is replaced by the preferential trading partners earning rents and deadweight losses in economic efficiency occurring.

comparative advantage are global issues requiring global supply chains and supporting logistics to be intra-regional or world-wide links.

PC's Draft Report fails to discuss the implications of its own findings on using PTAs as a means of helping our poor neighbours e.g. PACER for Pacific Islands

The Draft Report's discussion of the role of Australia's PTAs in helping to develop economically our poorer Asian and Pacific neighbours (e.g. PACER) is glib and superficial. Most noticeably, it makes little attempt to assess the implications of the PC's own findings, that Australia has itself oversold the economic benefits from PTAs, on the economic value to our developing trading partners of entering PTAs, including with Australia. If we have oversold their economic benefits to Australia and unilateralism is by far the best approach, than surely this has large implications for the efficacy of using Australian PTAs, supported by Australian technical and aid assistance, as a means of assisting our developing trading partners. It also has implications for the desirability of Australia providing "aid for trade" to developing partners as part of its BRTA's negotiations with them. The PC should extend its examination of these implications for Australia's approach to international aid assistance, including placing too much emphasis on narrow DFAT bilateral and regional trade, including foreign and selective commercial policy, considerations, which risk overly politicising and commercialising Australia's aid program and inefficiently allocating scarce funds, to the detriment of the effectiveness of its overseas development assistance.¹⁰ Our poorer trading partners need substantial foreign aid and trade policy assistance, but not in this context or form, and following this route risks introducing the worst aspects of the flawed EU trade assistance program into the Australian system.

Adverse implications of PTAs for APEC

Australia, as the founder of APEC, has attached priority to its implementation and has frequently taken initiatives aimed at trying to improve its influence, especially as a strong vehicle of regional non-discriminatory trade and investment liberalisation. Central to this were the Bogor goals, whereby developed APEC members would achieve "free trade" in goods and services and "open" investment by 2010, and developing countries by 2020 through so-called "concerted unilateralism". But at the same

¹⁰ By commercialisation we mean the use of Australian trade policy to obtain commercial advantages for a few exporters to PTA partner countries at partner countries' expense (see footnote 5). This runs counter to what most people would consider should be the goal of Australian aid policy when dealing with less developed trading partners. A good example is the recently triggered PACER-Plus negotiations with Pacific Islands, which Australia and New Zealand negotiated as a commercial trade policy measure to safeguard their exporter interests in these island economies from being preferentially disadvantaged by them negotiating an EU reciprocal Economic Partnership Agreement. While this may be commercially worthwhile for some Australian exporters (and perhaps even for Australian GDP) it is unlikely to be in the economic interests of our Pacific island neighbours, which would be better advised to unilaterally liberalise their markets on an MFN basis. Australia window-dressing these unbalanced negotiations with its poorer neighbouring countries, by providing technical assistance and funding to seemingly make such membership more attractive for them, including teaching them how to negotiate the Australia-way to safeguard their interests, risks making Australian aid complicit in this, and our aid program adopting the worst aspects of the EU model. Also, as indicated later in our Submission, letting the Pacific Island economies join ANZCERTA rather than negotiating PACER would have made more economic sense for all.

time, Australia is wounding APEC by facilitating its splintering into PTAs among APEC members and non-members, thus creating a discriminatory and non-transparent APEC trading regime, the very opposite to what APEC was formed to create, with significant initial success.

No developed APEC economy, including Australia, has gone close to meeting their voluntary commitment of “free and open trade and investment.” The fact that other countries have failed to meet its commitments of course is no economic justification for Australia not doing so. Moreover, because the Bogor goals were expressed in non-discriminatory (MFN) terms, discriminatory liberalisation through PTAs cannot by definition get Australia (or any other country) closer to meeting its Bogor goals. This requires MFN liberalisation, which can only be achieved through multilateralism or as intended, and especially now that the WTO has become an impotent liberalisation body system, through the unilateralism by APEC economies, including Australia.

Suggested recommendations for the PC to consider

The Draft Report’s key recommendations, even if adopted in full, would not prevent the economic benefits of future PTAs from being oversold (i.e. overcome the distortions created in Australia’s trade policies from future negotiation of PTAs), or redress distortions from existing agreements. With this in mind, we would like the PC to consider the following.

- In the interests of transparency (and plain honesty) the *deceptive term ‘free trade agreement’ in the title of Australian PTAs should be replaced with either “preferential trade agreement” or “discriminatory trade agreement.”* This would include future PTAs but should also entail re-naming of existing PTAs, and ideally would extend to replacing other misleading euphemisms (e.g. partnership agreements or closer economic relations agreements);
- The PC conduct an independent *public review or “report card” of Australia’s PTAs for the Government every 3 to 5 years.* Measuring their economic impact is more reliable (even though still difficult) *ex post* than *ex ante*, and would allow a continuous public scrutiny and assessment of their contribution to national welfare. This would also help constrain over-selling of future PTAs by placing transparency disciplines on the official mis-reporting of modelling results and if, for example, this process continually showed that any such benefits from agreements fell well short of those initially claimed. Such reviews should become part of the PC’s reporting functions, enshrined in its Act. To help meet this reporting function, the PC should research the best means of making the PTAs transparent and of measuring (and quantifying to the extent possible) the economic benefits and costs of these arrangements, not only individually but collectively. This is very important since measuring properly the economic benefits of PTAs as a group will be much less than summing the individually benefits measured for each PTA, especially given that several trading partners belong to multiple Australian PTAs (this would involve double counting of the benefits);
- In addition to this, the *PC could be responsible for conducting or overseeing economic consultants to prepare the econometric or modelling ex ante and ex post studies of individual PTAs.* This would enable consistency between the studies and ensure their independence. Model

structures, functional forms and parameter values used can make a large qualitative difference to the modelling results, and hence it is important that they be conducted consistently and at least overseen by experts in this field, and not by trade officials that are too close to the decision-making and may have vested interests.

- The PC should recommend that the *Government embark on or send it a reference on undertaking future across-the-board unilateral tariff cuts*. Australia's unilateral trade reforms have largely stalled, and implementing such tariff cuts would be a highly desirable trade policy outcome that would get Australian trade policy "back on track". It would provide efficiency gains to Australia by opening our market to more efficient imports, thereby improving consumer welfare and facilitating exports. It would also help limit the discriminatory damage associated with existing and future PTAs. Since apart from higher tariffs on motor vehicles (including a specific tariff of \$12,000 per vehicle on commercially imported second-hand cars¹¹) and textiles, clothing and footwear, Australian MFN tariffs are a maximum 5%, they should be capable of being removed or phased out very quickly. Higher tariffs on PMV and TCF should be included as part of this Review, with the objective of removing them within a relatively short time path.
- This unilateral liberalisation would effectively enable *Australia to extend on a non-discriminatory (MFN) basis the lowest tariffs under all PTAs to all trading partners (including those subject to other PTAs)*. Australia should also extend the most open concession in other areas under each PTA to all trading partners on an MFN basis. This would ensure that Australia's PTAs would be vehicles for wider unilateral/multilateral liberalisation, thereby delivering solid economic benefits to Australia. For example, it would ensure that the discriminatory measure extended to US investors into Australia under the AUSFTA giving them higher screening thresholds, not yet negotiated to any other trading partner, would be removed by unilaterally extending it to all Australian foreign investors, thereby maximising benefits to Australian national welfare.
- Australia should place a *moratorium on negotiating any new PTAs*. If the Government wants to persist with such arrangements with new trading partners, they should only be done by allowing the country to become a member of an existing PTA, on terms at least as favourable as existing conditions to be negotiated with current partners. For example, rather than negotiating a separate PACER, it would make more economic sense and be better for all members if Australia and New Zealand simply allowed our Pacific neighbours to enter ANZCERTA on existing terms. Australia should *rationalise its PTAs to remove cross-membership by trading partners* – this is inefficient and makes Australia's trade regime less transparent and more cumbersome. If we must have them, one PTA for each trading partner should suffice.

Concluding remarks

At a time when the multilateral system is failing it is regrettable that the Government has not seized the opportunity to revert to its highly successful unilateral approach to trade policy but instead has followed

¹¹ This high specific tariff rate applies to commercial imports of used cars from countries we have PTAs with, including New Zealand even though it has liberalised importation of second-hand cars.

international trends and accelerated into discriminatory liberalisation through PTAs, only compounding the WTO's demise. Doing so has only served to weaken Australia's commitment to unilateralism, thereby contributing to a global development that has eroded support for the Doha Round. Australia has many trade policy reforms that need to be pursued unilaterally to improve Australian economic welfare (and to meet its APEC Bogor liberalisation goals).

We must, for example, reform our quarantine mess, whereby Australian SPS and quarantine arrangements continue to economically unjustifiably protect Australian farmers, such as apple and pear growers, as evidenced by the recent WTO decision ruling in favour of New Zealand against Australia's restrictions on their apple exports. As this demonstrates, PTAs are not the answer to needed reforms of this type. What is needed is unilateral reforms. Also, to suggest, as the PC Draft Report does, that recent PTAs have been comprehensive because they include provisions on quarantine/SPS (as well as other matters) is again glib and shows that it hasn't examined Australia's PTAs in sufficient detail. If it had, the PC would have established that such provisions are simply referred to as 'empty shells' with no substantive requirements at all. Indeed, Australia has frequently stated Australia quarantine and SPS measures are not negotiable in its PTAs.

Moreover, some trade measures, most notably subsidies that are harming Australia's agricultural and other trading interests, cannot be reformed under PTAs. Such reforms are only possible by Australia's trading partners agreeing to reduce them non-discriminatorily under unilateral or multilateral measures. By reducing such outcomes, the prolific use of PTAs is likely to retard such reforms, and may even encourage trading partners to resort to using more subsidies and other similar measures as a means of "rabbit proofing" them from future PTA reductions.

Improving Australian economic welfare should be the basis on which approaches to trade liberalisation are assessed, and on this criterion continuing to base trade policy on discriminatory PTAs is a policy failure at home, irrespective of what trading partners implement. Unilateral approaches supported by multilateralism, as we practiced until this millennium, is by far the most efficient trade policy for Australia to pursue. Australia will not regain these approaches while ever it oversells the economic benefits of PTAs and formulates trade policy in practice on this basis.

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