

## **SUBMISSION TO JOINT STANDING COMMITTEE ON TREATIES**

**by**

**The Coastwatchers Association Inc.**

**on**

### **Australia's relationship with the World Trade Organisation**

1. **Opportunities for community involvement in developing Australia's negotiating positions on matters with the WTO**

The problems and criticism being experienced by the WTO results from failure to consult with the civil community throughout the world when the Uruguay Round of GATT negotiations were taking place.

The result is a system, which serves the short-term interests of transnational corporations and large investors. This situation is unsustainable but modification of the system to an equitable one will probably be long and painful. The protests and unfortunate violence we have seen in many countries in opposition to the present situation is a prelude for what is to come unless the WTO rules are modified to provide an equitable system.

Community involvement is essential for this modification process, and will, when the consultation process is commenced, avoid the need for further protests.

2. **The transparency and accountability of WTO operations and decision making**

The WTO's decisions have been made by consensus, although the rules do allow for majority decisions. In practice what has happened is that decisions have been made by developed countries in private meetings. The other nations have accepted these decisions for a number of reasons, the most important of which was the power of the developed nations over the others. However, at the Seattle meeting the other countries opposed the developed countries for the first time. The proceedings of the WTO are democratic in name only. Such an unbalanced system cannot last.

The WTO's rules have resulted in a considerable power being ceded by national government to the WTO, which is administered by its own unelected bureaucrats. The rules of the WTO are orientated to economic factors, to the exclusion of the social, labour and environmental factors. This orientation will also lead to misery for the least powerful, that is the poor, and environmental destruction, which will eventually lead to extensive modification of the rules. Economics does not exist in a vacuum, its foundation are a stable society and a healthy environment.

3. The effectiveness of the WTO's dispute settlement procedures and the ease of access procedures

The WTO's dispute settlement procedures are one of its weakest points. The emphasis is economic. The dispute tribunals consist of a small panel of bureaucrats. The only requirement for being on the panel is international trade experience. There are virtually no conflict of interest provisions. This system is contrary to the accepted principle governing judicial independence.

The tribunals meet in secret, representation at the tribunals is expensive and beyond the resources of many small countries. Only national governments are permitted to be parties, even if a law of that country is in dispute.

Restriction of free trade by provisions enacted for public health or environmental reasons are required to be scientifically based. There is no room for the precautionary principle. Not one measure to protect society or the environment by imposing restrictions on trade has been upheld by the WTO's tribunals. Another principle adopted by the WTO, which makes protecting society or the environment virtually impossible is that the methods of producing the product subject to the dispute is not considered relevant.

4. Australia's capacity to undertake advocacy

We are not clear as to the meaning of this heading. If it means that Australia can take part in hearings before WTO tribunals, the position is that it can do so if Australia is party in the dispute. If Australia is not a party then it cannot take part.

If Australia is not a party but could be affected by the decision the WTO rules should allow it to participate.

There is nothing to stop Australia being an advocate in the more general sense of exerting its influence in determining WTO policy.

5. The involvement of peak bodies, industry groups and external lawyers in conducting WTO disputes

At present only nation states can become parties to a dispute before a WTO tribunal. Other bodies should be able to present a case particularly when the case presented by the national government fails to present important evidence to the tribunal, when the country fails to become involved at all. A significant example

of this situation is the failure of the Australian Government to adequately present Tasmania's position with regard to the importation of Canadian salmon to Australia.

6. The relationship between the WTO and regional economic arrangements

The rules setting up the WTO over rule decisions by national governments. This does not only apply to trade measures but can involve matters of national or domestic importance. If the measure involve trade in any way in a dispute the WTO can rule on them from that angle, ignoring other important social and environmental factors and national governments are bound to accept the decision or suffer punitive damages. This system is undermining the independence of nation states and reducing social, environmental and other standards to the lowest prevailing in the world.

7. The relationship between WTO agreements and other multilateral agreements, including those on trade and related matters, and on environmental, human rights and labour standards.

As stated above these matters are fundamental to the reviewing and redrafting of the WTO rules so that all relevant social and environmental as well as economic factors are considered.

8. The extent to which social, cultural and environmental considerations influence WTO priorities and decision making.

As stated above the fundamental flaw in the WTO rules is that social, cultural and environmental factors are ignored. Until this situation is rectified the WTO will continue to undermine hard won social achievements and cause immeasurable damage to the environment.

Another factor, which has caused enormous damage socially and environmentally, is the unrestrained and untaxed movement of funds around the world. This situation does not come within the terms of reference of this Committee and involve the WTO, but combined with the damage resulting from the WTO's activities, is taking the world further along the road to social and environmental disaster. It must also be dealt with.