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SENATE

SELECT COMMITTEE ON THE FREE TRADE AGREEMENT BETWEEN AUSTRALIA AND THE UNITED STATES OF AMERICA

Reference: Free Trade Agreement between Australia and the USA

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SENATE

SELECT COMMITTEE ON THE FREE TRADE AGREEMENT BETWEEN AUSTRALIA AND THE UNITED STATES OF AMERICA

Wednesday, 16 June 2004

Members: Senators Cook *(Chair)*; Senator Brandis *(Deputy Chair)*; Senators Boswell, Conroy, Ferris, Harris, O'Brien and Ridgeway

Senators in attendance: Senators Brandis, Cook, Harris, O'Brien and Ridgeway

Terms of reference for the inquiry:

To inquire into and report on:

1. The Free Trade Agreement between Australia and the United States of America to ensure it is in Australia's national interest; and
2. The impacts of the agreement on Australia's economic, trade, investment and social and environment policies, including, but not limited to, agriculture, health, education and the media.

WITNESSES

BARNARD, Dr Peter, General Manager, Economic Planning and Market Services, Meat and Livestock Australia 20

SCHRADER, Dr Tracy, National Vice President, Doctors Reform Society 1

Committee met at 3.46 p.m.

SCHRADER, Dr Tracy, National Vice President, Doctors Reform Society

CHAIR—Welcome, Dr Schrader. I have an opening statement to read but I will refrain from doing so. It contains standard matters, of which I am sure you are aware, about appearing before a Senate committee. Thank you for presenting the Doctors Reform Society submission. Please address us on it and we will then ask you some questions.

Dr Schrader—I would like to thank you for the opportunity to address the hearing and contribute our views to the inquiry. The Doctors Reform Society is an organisation of Australian doctors concerned with the provision of universal high-quality health care. We believe this should be on need and not on the ability to pay. We do not represent the interests of doctors but are concerned with health care in Australia.

The Doctors Reform Society has previously addressed our concerns on health and health care delivery implications of economic globalisation and international trade agreements in submissions to the Department of Foreign Affairs and Trade and to the Senate inquiry into the General Agreement on Trade in Services and an Australia-US free trade agreement. In our submission to this inquiry we have dealt with our concerns specifically in relation to health care in Australia under the Australia-US free trade agreement. Today I will briefly outline the concerns, which are dealt with in more detail in our submission.

First, I would like to address our main broad concern before discussing the specifics of the agreement. Our main objection is that health care and the Pharmaceutical Benefits Scheme are incorporated in this international trade agreement in the first place. We believe matters such as health care should not be negotiated in international trade agreements. The fundamental purpose of international trade agreements is to reduce barriers to trade. Barriers to trade in services are largely domestic regulations. Through this trade agreement, Australian health care policy, including that for pharmaceuticals, will be linked to the nation with the most inefficient and inequitable health and pharmaceuticals system of OECD nations.

Again, to emphasise this point, this is a trade agreement. The priority is to open up trade. Commercial interests take priority. Public health principles, equity and universality are not priorities. Australian negotiators and representatives of the Department of Health and Ageing are keen to emphasise that most of the agreement in relation to pharmaceuticals reflects the status quo and that changes are minor. However, this is now incorporated into a trade agreement where the principles are vastly different from the underlying objectives of the PBS—that is, comprehensiveness, universality and responsible community cost. This will be open to further discussion and negotiation and possible dispute resolution in a trade tribunal, whereas previously policy decisions on the PBS have occurred under Australian guidelines, with public health principles and the welfare of the Australian people at heart.

This free trade agreement sets a dangerous precedent. It is the first time that a pharmaceuticals scheme or a country's pharmaceutical policy is specifically in a trade agreement. Previously, trade agreements have dealt with policies on pharmaceutical patents. The concerns in relation to the PBS are more apparent and rightly have received a lot of attention—and you have received a lot of submissions on this matter. The Doctors Reform Society have other concerns in relation to

health care that may not be as apparent and that are buried in the services section in chapter 10 and annex 2.

As you know, the Australia-US free trade agreement is a top-down agreement using a negative list approach, so any service not explicitly excluded automatically comes under the terms of the agreement. Thus, the issue of clearly defining exclusions is crucial. We do not believe that health care is unambiguously excluded, and it may consequently become open to market forces and US style corporatisation. There are serious questions about how health care is defined. In the agreement, health care must be a 'social service established or maintained for a public purpose' to be excluded from the agreement. A US definition can differ markedly from other definitions and what we may consider. The US Trade Representative has previously indicated a narrow interpretation: that the exclusion only applies where services are both entirely government financed and publicly delivered. This was in relation to NAFTA, the North American Free Trade Agreement with Canada, in a similarly worded exclusion.

There are also unanswered questions over the classification system used. WTO classification puts medical, dental, nursing, midwifery, physiotherapy and paramedical services not occurring in a hospital under 'Professional services' in the business services section and not in the health related and social services section. Health insurance is classified under non-life insurance in 'Financial services'. Health insurance has not been excluded, so it will come under the full obligations of the agreement. There is a grave concern also of how Medicare, Australia's universal health insurer through the HIC, will fit in this picture.

I will summarise the main concerns the DRS has on the specifics of the agreement in relation to health care that are outlined in our submission. Public services are not protected from the market thrust of the agreement. Article 10.1, part 4, is the same as the contentious article 1.3 of the GATS. Health care is not unambiguously excluded, thus open to market forces and US style corporatisation. Health professional qualifications, licensing and standards within health facilities are not to be unnecessary barriers to trade and are to be not more burdensome than necessary.

The US government and pharmaceutical companies will have greater influence over the functioning of the PBS, compromising public health principles and the price control capacity of the Pharmaceutical Benefits Advisory Committee. The introduction of an 'independent review process' of negative PBAC decisions will lead to a greater pressure on PBAC to approve more expensive drugs, even when they may not give any significant advantage over drugs that are already available. And the creation of a medicines working group with the US government will be another mechanism for the US pharmaceutical industry, through their government, to continue to pressure the Australian government to make further changes to pharmaceutical policy that will lead to greater profits for the US industry.

The increased patent rights for pharmaceutical companies will delay the entry of new generic drugs onto the market by the generic industry, thus maintaining higher prices for longer and higher costs for the PBS and, ultimately, the Australian people. There is the beginning of direct to consumer advertising of pharmaceutical drugs by the inclusion of a clause on Internet direct to consumer advertising. This opens up direct to consumer advertising for further discussion and negotiation under trade priorities rather than public health merits. There will be opportunity for further pressure from pharmaceutical companies. Finally, what is considered necessary to protect

human life or health, whether a particular health service is a social service for a public purpose, public health measures such as tobacco and alcohol control, and pharmaceutical policy will all be open to interpretation by trade dispute panels whose priority is reducing trade barriers, not public health.

To conclude, the DRS believes there will be profound long-term effects on the Australian social fabric and national democratic processes from this agreement. These have not been taken into account by economic modelling. We believe these greatly outweigh possible dubious economic benefits. As Professor John Quiggin from the University of Queensland has said, in these integration—rather than free trade—agreements the smaller, less powerful nation integrates or adopts the economic and social institutions of the larger, more powerful nation. I do not believe this is in the interests of the Australian people, especially in relation to health care. For these reasons the Doctors Reform Society does not believe the Australia-US free trade agreement should be accepted. Thank you.

CHAIR—Thank you, Dr Schrader. We will go to questions. I just want to start by saying that it is my recollection that the Doctors Reform Society appeared before the Senate Standing Committee on Foreign Affairs, Defence and Trade inquiry into GATS and the Australia-US free trade agreement. So we have had the benefit of earlier evidence from you about what the sensitive issues were in this process as far as the Australia-US free trade agreement is concerned. Harking back to your earlier evidence to that inquiry and what you are putting to us today, is there anything from the earlier evidence that you want to particularly highlight or modify, or do you stand by it?

Dr Schrader—I stand by the previous evidence. This submission is more detailed on the specifics. At that stage we had no details at all.

CHAIR—At that stage, as well, the government had made it clear in a number of policy statements that the PBS would not be involved in that agreement. You are entitled to have taken them at their word. I do not editorialise about this at this point. At some point I might have something to say about it. I can understand that in the rush to conclude an agreement, in the manner in which this was concluded, issues that had been previously off the table were brought back on the table, and that seems to have been the case with the PBS. Let me just identify that as a procedural matter.

In the broad health area, having thought about this and listened to previous submissions, there are three things that come to my mind as matters that require a bit more thought and a bit more care. The first is what the structure of the independent review mechanism might be. We have submissions from the government telling us, basically, 'This is benign; it's not going to change anything.' As recently as just this week, the minister for health said, 'No PBS prices will rise.' I have actually thought that the argument about this review structure and what it could do—emphasis on 'could'—is not that existing prices will rise but that new pharmaceuticals will be introduced into the scheme which will make the budgetary cost of the scheme untenable in the long term or the medium term. That would lead to a review of the scheme in which we adopt something, as a result, akin to the New Zealand model, where a handful of drugs are covered by the PBS and most other drugs are having to be purchased at market prices—some arrangement like that. That is what I have understood to be the argument about this review mechanism. To put

it the other way, though, if this review mechanism is benign, if it does not do anything, then the question in my mind is: what is the purpose of it and why is it included? So that is one concern.

The second concern I have is the question of patents, the issue of patent medicines and the move to generic medicine. If the patent life is to be extended in a way in which you cannot switch to generics and reduce costs, that imposes whole new costs on the system. The issue there is that most of that would be borne by the Commonwealth. Some of it would be borne by the states and the state health systems. The states advise me that they are not indemnified for any extra costs that are imposed on their structures as a consequence of adopting this agreement—so they would have to pick it up themselves as an additional cost, and I am not sure of the extent of that. That is the second box of issues.

The third box of issues is one that has not received much public airing, and it is one that I want to talk to you about in a bit more detail today. That is the issue of blood. We have had submissions to us by the Red Cross and by Baxter Healthcare about the impact on our system of voluntary collection in Australia—the voluntary nature of blood donations—to create the national blood bank for refractionation and provision of blood services to hospitals and to patients in need. The argument, as I apprehend it, is that by adopting this agreement we open the market to Baxter, which is most likely in this case, but also American companies who pay for the collection of blood, who import blood from developing countries—most notably, in the case of the United States, Mexico and Latin America—and who refractionate it in the United States. They do that to high standards, it is acknowledged. But, as the Red Cross submission goes, 40 per cent of the world's blood is supplied from the United States. If Australia gets weaned onto a US source and there is a problem with that blood supply then we will be vulnerable to the extent that there is a problem. The Red Cross point to the possibility of the migration of mad cow disease into a human disease featuring in the blood stream. I think a fair way of putting it is that that is an indication of what could happen.

Our blood system is hermetically sealed within the borders of Australia, and we are an island, and we supply it ourselves voluntarily. But sending it off to the United States for refractionation and bringing it back to Australia for use opens up the question: are we likely to create health problems or safety problems with our blood supply? That seems to me to be an issue. I am just trying to set out what I understand to be the arguments; I am not judging them. They are the three areas of my concern. Does the Doctors Reform Society want to emphasise any other area of concern outside those three? I think those three require us to look very closely at all of the details.

Dr Schrader—As I was saying, we are quite concerned about the exclusion of health care services. There are queries around tobacco and alcohol control as well.

CHAIR—But is your concern that our stern public health warnings and tobacco tax are somehow to be challenged under this agreement? Can you set it out for me?

Dr Schrader—On the importation of alcohol and tobacco, if you open up those sectors to market access and you have national treatment regulations, to allow restrictions you have to show that it is the least trade restrictive measure. If you had a public health guideline or regulation, it could be put to a dispute panel and it would have to be shown to be both necessary

and the least trade restrictive. It is just about putting these public health regulations under a trade dispute panel to make decisions on whether they are necessary.

CHAIR—We will have a look at that, but my understanding is that since all cigarettes in Australia have to meet the same level, irrespective of their source, that does not mean there is any discrimination in terms of trade law against American imports as opposed to domestically produced cigarettes. That should get us beyond the problem, but we will have a look at the issues you have raised.

Dr Schrader—Yes, that is in the national treatment section, but it is not necessarily the same for market access. In the market access regulations you have to actually show that it is necessary and not more burdensome.

CHAIR—Can you address the question of blood?

Dr Schrader—We did not actually deal with that in our submission, but I think it brings up the point of the dangers of bringing market principles into guidelines on public health issues.

CHAIR—We are running against a fairly sharp deadline now, but if on reflection there are additional comments you wish to make will you let us know?

Dr Schrader—Yes.

Senator RIDGEWAY—As a very quick follow-on from one of the questions Senator Cook asked—and I do not know whether you have a view about this—I want to ask about smoking in pubs and clubs.

Dr Schrader—I do not know how that is related.

Senator RIDGEWAY—With respect to New South Wales laws about the banning and so on, do you perceive that that might be considered as being a trade barrier and challengeable by the US administration or tobacco companies?

Dr Schrader—I have not thought about that regarding restrictions on where you can smoke. It is more about packaging, advertising and things like using brand names like ‘lite’.

Senator RIDGEWAY—I ask the question because I note there is an extension of this when you look at Indigenous communities, for example, and alcohol management plans that deal with both harm minimisation and prohibition, particularly in Far North Queensland. The government have reserved the right to be able to deal with domestic measures or special measures. I wonder whether that is the sort of thing they had in mind. I am not sure what it actually means. It is probably a question for the government.

Dr Schrader—The sale of alcohol could quite easily come under it but I do not know about restrictions on where you can drink.

Senator RIDGEWAY—I go to the question of health professional qualifications and what you see as the unnecessary barriers for trade et cetera. I know you have raised this in your

submission. I wonder whether you could talk a little more about specific examples of particular occupations where that may well become a difficulty with the free trade agreement being put in place, or examples where it has been problematic in relation to NAFTA. I notice that you have mentioned that as well.

Dr Schrader—I am unaware of whether a specific issue on this has come up in NAFTA. It is the same wording in the US free trade agreement as in GATS. It says that the regulations have to be not more burdensome than necessary. With all these health issues, there have not been any cases that have come up before dispute panels at this stage, but there have been environmental regulations cases. In those instances the trade tribunals have interpreted quite narrowly what 'necessary' means and they have interpreted it at some stages as being 'essential'. At the moment it is mainly going by environmental regulations. There was one case in Thailand on tobacco that did allow regulations within the country but they were not allowed to discriminate between foreign—overseas—and local products. As a result, the consumption of tobacco did rise.

Senator RIDGEWAY—My final question relates to page 5 of your submission, which looks at giving a definition of what health care is. You identify two categories. In your opening statement you listed the range of classifications under the WTO, particularly when it comes to things like midwifery, physiotherapy and so on. I presume you are referring to where these services are provided as a community service but not necessarily in respect of the public hospital system or by government—that they may well be under some threat as a result of the free trade agreement.

Dr Schrader—It says that outside a hospital or an institutional setting they are classified under the business services.

Senator RIDGEWAY—How does that relate to the growing practice in Australia and in other parts of the world of alternative medicines, particularly—and you may not be able to answer this—in terms of the range of companies out there that are operating? I presume they are operating in a business environment. We have not heard from them but it would be interesting to hear your views on it.

Dr Schrader—I have not delved into that.

Senator HARRIS—In your introduction, on page 2, in the third paragraph, it says that the Doctors Reform Society strongly believes that health related services should not be negotiated in trade agreements. Could you explain to us why the society holds that view?

Dr Schrader—The Doctors Reform Society holds health care and health not as a commodity but as a public good. And health comes under several United Nations human rights declarations and whatever—that people have a right to health. That has been a long-held opinion. It is a relatively new thing that health is being regarded as a commodity and is being dealt with in trade agreements.

Senator HARRIS—You have also made reference to a similarity in wording or exactly the same wording contained within the definition section of the agreement and the definition of a service applied in the exercise of government authority as it appears in GATS. That definition is 'means any service which is supplied neither on a commercial basis, nor in competition with one

or more service suppliers'. Do you perceive that there is a danger through the free trade agreement that that section of GATS may be used to accelerate the privatisation of our public hospital system?

Dr Schrader—It is when the two are occurring at the same time. They often go hand in hand with international trade agreements on the international stage and privatisation on the domestic stage. They reinforce each other. More privatisation opens up services more to these international trade agreements and possible disputes. They do go hand in hand and reinforce each other.

Senator HARRIS—Would you see much more difficulty for Australia in excluding our public hospital system from possible intrusion by private services to provide those services within that infrastructure as a result of using this definition from GATS?

Dr Schrader—I think it goes further than GATS. With GATS, it is a bottom-up agreement—not all of it, but the market access section is a bottom-up one—so it is only services that you actually commit to that come under the agreement. But this agreement is a top-down one, so everything is included except what is specifically excluded. That is why I think it is more dangerous than GATS in this regard. In Australia, clearly, with our mix of public-private, this opens us up.

Senator HARRIS—On page 3, under the summary, in the fourth dot point you say that the US government and pharmaceutical companies will have greater influence over the function of the PBS, thus compromising public health principles and the price control capacity of the Pharmaceutical Benefits Advisory Committee. How does your society see that occurring?

Dr Schrader—The first thing is that it is in a trade agreement with the United States, so we are negotiating. The other thing is that this trade agreement is a continuing, ongoing negotiation through the medicines working group. There will be further discussions down the line. This is just the first foot in the door. And there is the introduction of the independent review process. Also, the medicines working group with the United States is an opening.

Senator HARRIS—In the seventh dot point, you say that increased patent rights for some pharmaceutical companies will delay the entry of new generic drugs into the market. As a doctor, how do you see that impacting on your ability to provide a health service to your patients?

Dr Schrader—If you look at the big picture, the costs will be increased for the Pharmaceutical Benefits Scheme, so how will those costs be covered? Will it be through higher taxation or diverting money from elsewhere? Will it be by higher co-payments that the patients will have to pay when they go out? Will it be by cutting back what is already available? Some of those choices will have to be made. If it is cutting back the amount of medications that are available that could have an impact. Or if people have to pay more when they go to the chemist, with higher co-payments, that has an effect on what people do. People sometimes skip their medication or spread it out and have it every second day; sometimes they do not fill the prescription.

Senator HARRIS—Would you see any possibility that, because of the continuing higher price for the proprietary line, there could be a situation where the government was unable to

bring additional or newer drugs onto the PBS purely because of the restrictions on available funds to put them there? If there were more generic medicines available do you think the government would then be able to bring on some of the newer drugs?

Dr Schrader—There would be more money available.

Senator HARRIS—To do that?

Dr Schrader—Yes.

Senator HARRIS—On page 13 in your submission you refer to the disputes process. You speak about the panel itself and how it is set up, but you also say, 'The panel can order that a law be changed or compensation paid.' Obviously that is quite a profound statement. What is the society's attitude towards something like that being in the agreement?

Dr Schrader—This follows on from the WTO as well, that they can enforce change of legislation or compensation. The thing is that this is putting public health things like the Pharmaceutical Benefits Scheme into a process where that could be a possibility. If there were a dispute and it did not get settled it could go to one of these trade tribunals to be decided.

Senator HARRIS—Does the society have any concern that the actual finding of that tribunal is final and binding, that there is no appeal?

Dr Schrader—Yes.

Senator HARRIS—Another issue I picked up on was the reference on page 6 to a 'Local presence':

A Party shall not require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Does your society have any concerns that we may actually see more American based medical services getting access into the Australian medical service segment?

Dr Schrader—We do not have a specific policy. That was bringing up the issue that if health is not excluded it would come under these sorts of guidelines. That is something that is a possibility and something we have to think about.

Senator HARRIS—Finally, on page 4, under the heading 'General exemptions for services', the submission states:

(Chapter 22 General Provisions and Exceptions, Article 22.1 General Exceptions subparagraph 2.) are the same as in GATS Article XIV which includes measures that are:

and I believe this is under 'exclusions'—

ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

What concerns does the society have in raising that issue?

Dr Schrader—It was stating what the article said and showing what the exclusions are. The one that was of concern was the one that was numbered (b): 'necessary to protect human, animal or plant life or health'. With all of these things, it has to be necessary—that is the point I was making. If there was a dispute, the country which the complaint has been brought against has to prove, to get it excluded, that it is necessary or they would have to prove that they made this regulation to protect the privacy of individuals or whatever.

Senator HARRIS—Having raised that, would that be of great concern to the society—say, in relation to a patient's personal information? This is what it is referring to—the protection of privacy of individuals and the protection of confidentiality of individual records.

Dr Schrader—Whether or not it would become an issue, it is in here, and if it did become one, it would be decided by a trade tribunal.

Senator HARRIS—And Australia would have to argue the necessity for keeping that out rather than the US having to raise the argument that it should be provided?

Dr Schrader—Yes.

Senator BRANDIS—Do you think that when this committee makes its recommendations we should be guided by an overall assessment of whether this agreement is in the national interest?

Dr Schrader—Yes.

Senator BRANDIS—You understand, don't you, that this agreement applies to virtually every sector of the economy?

Dr Schrader—Yes.

Senator BRANDIS—Some people say—I think you are somebody who does say—that there are some sectors of the economy that are losers from this agreement. You understand that that criticism has been made?

Dr Schrader—Yes.

Senator BRANDIS—You must also appreciate, if you have been following the debate about the free trade agreement, that there are other sectors of the economy which say unequivocally that they will be winners from this agreement.

Dr Schrader—That some are winners?

Senator BRANDIS—Judging from the point of view of their own industry or sector of the economy they say they will be winners. For instance, we heard from the mining industry last night. That is a case in point. You understand that, too, don't you?

CHAIR—They did not say they were going to be winners. They said they would not get an extra tonne of ore shipped as a consequence of this agreement.

Senator BRANDIS—They wholeheartedly endorsed the agreement.

CHAIR—Yes, in the national interest.

Senator BRANDIS—Do you understand that there are some sectors of the economy which say they are going to be winners from this agreement?

Dr Schrader—There may be, yes.

Senator BRANDIS—I did not ask you to comment on whether or not they were right; I was putting a much more modest proposition to you—that is, some people believe, and have testified before us, that they will be winners. Do you understand that?

Dr Schrader—That some people are saying they are winners?

Senator BRANDIS—Yes.

Dr Schrader—Yes.

Senator BRANDIS—Do you accept that that is true—that some people will be winners out of the agreement?

Dr Schrader—I do not know. I have not been following—

Senator BRANDIS—You have not been following it?

Dr Schrader—That is not my area of expertise. But yes, in these things, there are some winners, I suppose, and there are some losers.

Senator BRANDIS—The overall position of the government, I should tell you, is that we do not see any losers from this agreement, that it is all up side, that there are some sectors that miss out—not many—but that nobody is in fact worse off as a result of the agreement. But let us assume the worst and let us assume for the sake of this discussion that there are some who are losers. And let us assume that we are persuaded that that is true. Do you think that when we arrive at our conclusions we should take an overall view of the national interest, by which I mean that even though there are some areas of the economy that a majority of senators decide are prejudiced, if we nevertheless conclude that there is an overall net benefit to Australia from this agreement, we should recommend that it be adopted?

Dr Schrader—We do not believe that health care and pharmaceutical benefits should be—

Senator BRANDIS—I am not asking about health care.

Dr Schrader—That is in the agreement.

Senator BRANDIS—I am not asking you about health care.

Dr Schrader—I thought you were talking about the agreement.

Senator BRANDIS—I am asking you about what our method of approach should be to this agreement. The question which I am asking you to answer is: do you believe that if we consider that, on balance, the net outcome of this agreement is that it is in the overall best interests of the country—notwithstanding that there may be some sectors of the economy that a majority of senators are persuaded are less well-off—to adopt it, we should do so?

Dr Schrader—I do not believe it is in the interests of the country to negotiate away our social policies, our health care policies and our pharmaceutical policies in relation to getting benefits through trade, agriculture and whatever else. I do not believe that health care has a place at all in trading a balance like that.

Senator BRANDIS—I am just wondering why you will not give me a direct answer to a simple question.

Dr Schrader—That was an answer.

Senator BRANDIS—I did not ask you about any particular sector. There has to be an integrity about our approach to this agreement.

Dr Schrader—If this were just about trade—

Senator BRANDIS—No, let me finish. There has to be a methodological integrity to our approach to this agreement. We cannot approach this on the basis that we protect one particular sector rather than another particular sector. We have got the whole economy coming before us and putting in their bids. Some people are saying: 'Don't adopt this agreement. It's bad for us.' Some people are saying: 'Please adopt this agreement. It's good for us.' We have got some econometricians saying, 'Adopt the agreement because we have modelled this and it's worth billions of dollars to the economy.' We have got other economists saying: 'That's nonsense. It's not. Their methodology is flawed.' In a holistic, generic way, do you or do you not accept that we have to arrive at a conscientious assessment of where the net balance lies overall across the economy? Please do not talk to me about individual sectors, because I am putting these questions to you for the very purpose of asking you to avert your eyes above your particular lobby and consider our problem—my problem, Senator Cook's problem—in deciding what an honourable overall approach to this agreement is, what a methodology of approach is.

Dr Schrader—I think we just have to agree that you are coming from a different angle. You agree that social policies or whatever belong in a trade agreement. We are saying that they do not belong in a trade agreement. We just have a difference of opinion on that. We believe that social policies and health care policies should be excluded from a trade agreement. We just have to agree to differ.

Senator BRANDIS—The dairy people say one thing. The intellectual property people say another thing. Every sector of the economy comes here. I have put a question along these lines to many of them because I do not like to think that people come before these Senate committees as

lobbyists. I would like to think that they have at least one eye on the overall national interest rather than their particular sectoral interest. That is why I am inviting you to comment on what our overall approach, which is not limited to the imperatives of your particular lobby group or any other particular lobby group, should be.

Dr Schrader—What was the question?

Senator BRANDIS—The question is: should we take an overall view of where the net balance of national interest lies?

Dr Schrader—Yes, we should take an overall view. But in taking that overall view we should consider whether these policies should be in the trade agreement or separate from the trade agreement. Trade agreements may have benefits. Health and the economy are linked. If our social policies were excluded and you looked at just the trade impact and the economic impact, fair enough. But we should consider whether these sorts of social policies should be traded off as commodities and commercial practices.

Senator BRANDIS—There is an assumption in your response—and I am not going to pursue some sort of semantic game with you any more—that social policies are being traded off. I have been reading your submission about the PBS. At page 9, the principal criticism you seem to be making—that the prices of pharmaceuticals could, as a result of this agreement, rise by a mechanism by which they cannot rise at the moment—is specifically refuted by the negotiators. We had this discussion with them. Do you think that the negotiators who negotiated this agreement perhaps understand the legal mechanism of its operation a little better than you do?

Dr Schrader—It is not just me. There are several others with the same opinion.

Senator BRANDIS—Let us confine ourselves to your submission. Who is the author of this submission? Is it you?

Dr Schrader—It was primarily me, yes.

Senator BRANDIS—Was one of the co-authors of this submission a person with knowledge or expertise in the interpretation of international trade agreements—in other words, an international trade lawyer?

Dr Schrader—I am currently doing a Master of Public Health, and my dissertation is on free trade agreements and health. So I have been delving into legal documents. No, I am not a lawyer, but I have had consultations with legal opinions as well.

Senator BRANDIS—I am a lawyer. I do not profess to be an international trade lawyer, but I have been reading carefully what you say about the PBS and for the life of me I cannot see that the conclusions that you assert follow from the language of the clauses you set out. I just cannot see it.

Dr Schrader—Which conclusions are they?

Senator BRANDIS—That there will be an upward shift to costs. You say that about halfway down page 9. You say that, as this applies only to negative decisions, there will be an upward shift in costs.

Dr Schrader—I do not think you have to be a lawyer or a trade expert—

Senator BRANDIS—Where does it—

Dr Schrader—It seems like commonsense.

Senator BRANDIS—I do not doubt your sincerity; I am sure you think that that is what is going to happen. But when these words are properly interpreted, it is apparent that you are wrong—that the commonsense layman's view is in fact not supported by the legal mechanism by which this agreement will work. Then all this amounts to is a cri de coeur on behalf of a lobby group which is not reliably founded.

Dr Schrader—What do you think that the independent review process is for then?

Senator BRANDIS—We have been reassured by the experts who negotiated this agreement that this does not change the status quo.

Dr Schrader—I have been told that as well, but—

Senator BRANDIS—Don't you think they know what they are talking about?

Dr Schrader—At the briefing I went to—

Senator BRANDIS—You do not think they would mislead us, do you?

Dr Schrader—at the Department of Health and Ageing—

Senator O'BRIEN—Mr Chairman, I think that Senator Brandis is entitled to ask questions—

Senator BRANDIS—I am entitled to ask questions.

Senator O'BRIEN—but he is not entitled to continually interrupt the answers.

CHAIR—I think that is right.

Dr Schrader—At the briefing I went to with the Department of Health and Ageing they actually at the end had to agree that they could not give a guarantee that prices would not rise.

Senator BRANDIS—Nobody can give a guarantee that prices will not rise in any sector of the economy, but that is not—

Dr Schrader—Due to this.

Senator BRANDIS—I see—you say due to this.

Dr Schrader—Because—

Senator BRANDIS—You see, Dr Schrader—

Dr Schrader—What do you think that the independent review process is for?

Senator BRANDIS—What we have been told by the senior public servants in the department who are experts in this field of international trade law is that they have given us the reassurances that the legal effect of the agreement is not as has been asserted by you—and a couple of other people as well. I must say that I am not inclined to believe that people like that would deceive us. They are the experts. They are the people who are the experts in the legal operation of this treaty language. Why should we disbelieve them?

Dr Schrader—What is the point of introducing these things in the first place then? This has been a big aim of the pharmaceutical industry from the very start—and the US government—to introduce processes like this. If you read the US Trade Representative's reports and PhRMA reports, they are out to increase worldwide pharmaceutical prices.

Senator BRANDIS—I am sure they are.

Dr Schrader—And this is one way they have of introducing this process.

Senator BRANDIS—Dr Schrader, nobody is going to give you an argument that the American pharmaceutical industry, just like any other industry, is not eager to increase its profitability or to increase its prices.

Dr Schrader—It is the most profitable industry—

Senator BRANDIS—I see you say that and I see you make some remarks about the amount of money they contribute to American political campaigns, which is very interesting. It is very interesting by way of background and it reveals motives that I suspect we did not even need to be told about to have worked out already—that is, they want to make as much profit as possible. But whatever their motives may be, if the agreement, properly construed from a legal point of view, does not give them any comfort in serving that objective, so what? What is the relevance of their motive other than the fact that, like all business people, they want to increase their profits?

Dr Schrader—It is now introduced into this trade agreement, so it is actually opening the door for further negotiations. Even if the prices do not go up now, straightaway, it is an ongoing thing and the processes are open now.

Senator BRANDIS—I see. Perhaps I misunderstood you. Is the point you are making that there might be further negotiations and the shape of the agreement might change as a result of those further negotiations?

Dr Schrader—That is one point but I believe as it is now it will change as well.

Senator BRANDIS—That is a possibility, though. That is conjecture, isn't it? Okay, let us say that a President is elected to the White House who feels indebted to the pharmaceutical industry—and I suppose they all do; that certainly does not change—and that the pharmaceutical industry puts pressure on whomsoever he or she may be in the Oval Office at that time and the President wants to reopen the FTA. That is theoretically possible. That is just conjecture, isn't it?

Dr Schrader—Pharmaceutical industry representatives are already on boards in the United States.

Senator BRANDIS—It sounds to me, with respect, that your concerns—and anything can happen in the future, I suppose—as to what might happen are conjecture. You are not saying, 'This is the effect of the agreement.' You are saying, 'The agreement could maybe be changed in the future,' as a result of this pressure which we know exists, in a way that is detrimental.

Dr Schrader—No, we are saying there are changes already that will put pressure on the Pharmaceutical Benefits Scheme and there is the opportunity to continue this process because it is now within this trade agreement and the medicines working group is to discuss these issues.

Senator BRANDIS—We could argue this until the cows come home and I do not want to waste time; I just want to try to draw you out and encourage you to think that perhaps some of your assertions may be good polemic but not good law. For example, in relation to clause 2 of the side letter, of which you make much, you set it out on page 9 as follows:

Australia shall provide an opportunity for independent review of PBAC determinations, where an application has not resulted in a PBAC recommendation to list.

That is not a review mechanism in relation to drug prices as such; that is a review mechanism about a determination by the PBAC not to list a pharmaceutical and, as we are told by the public servants and the experts, that review mechanism already exists under existing Australian law.

Dr Schrader—What it gets down to is this: the Tambling review at that stage did not recommend a review process, for various reasons. At some stage it might change, and under Australian guidelines we would decide that. But that is under Australian guidelines and with the Australian interest at heart, whereas this is now in a trade agreement, not with the Australian interest at heart or under the principles of the PBS; it is under the principles of rewarding innovation and recognising research and development.

Senator BRANDIS—But the only reviewable decision to which clause 2 of the side letter refers is a refusal by the PBAC to recommend a listing. That is all that is about.

Dr Schrader—Yes, but, as I said, it is now within a trade agreement, so, if a dispute arises, it goes under the trade rules, which are set out in the principles in the introduction of annex 2-C, which is about rewarding innovation and recognising research and development. But—

Senator BRANDIS—That is all flummery—all that sort of language.

Dr Schrader—No, that is the guideline—

Senator BRANDIS—It also talks about keeping medicines affordable. I do not know if you are trying to be objective or not, but why would an objective appraisal of this agreement—

Senator HARRIS—Chair, that is a clear imputation.

Senator BRANDIS—No. The witness is not obliged to be objective.

Senator HARRIS—Your statement was that you did not know—

Senator BRANDIS—I do not know whether you are trying to be objective or not. I do not.

Senator HARRIS—That is impugning the witness.

Senator BRANDIS—No, it is not.

Senator HARRIS—It is horribly close.

Senator BRANDIS—No, it is not. You are perfectly entitled to be as subjective, polemical and propagandist as you like.

CHAIR—Order!

Senator BRANDIS—You are perfectly within your rights.

CHAIR—I understand your interjection, Senator Harris, and I understand that Senator Brandis understands it as well. There is no point in debating it, but, Senator Brandis, I ask you to try to concentrate on the question and please get on with the hearing.

Senator BRANDIS—I do have this problem though in relation to certain witnesses. Everybody who has come before us has been sincere and genuinely motivated about the national interest. Some witnesses have said, 'I come before you as an expert in a particular field and I am going to give you the benefit of my objective, expert appraisal.' Other witnesses—perfectly within their rights—have come before us not claiming that but saying, 'I am really here to stake a case for my sectoral interest and my sectoral lobby group.' There are some submissions—and, with respect, yours is one—where I honestly cannot work out whether you are saying this is an objective appraisal of the agreement or whether you are making an argument. If it is an objective appraisal, I wonder why you disregard language in the agreement that, for example, stipulates that one of its objectives is to keep medicines affordable—just disregard that as though it did not exist—and only concentrate on other words.

Dr Schrader—What was your question?

Senator BRANDIS—My question is this: are you making an argument or are you trying to offer us an objective assessment of what this agreement means?

Dr Schrader—The Doctors Reform Society—

Senator BRANDIS—If you are doing the latter, why are you leaving out relevant language?

Dr Schrader—as I said at the beginning, is about health care in Australia, delivering an equitable, affordable, good quality health care system. That is what we are about.

Senator BRANDIS—That is what the Howard government is about, too. That is what the Labor Party says it is about. That is kind of motherhood language.

Dr Schrader—In this agreement there are no words about equitable, universal—

Senator BRANDIS—There are words about affordable. Truly, why are you doing this to us? Why are you picking out language from the agreement that suits your argument while disregarding language that does not? You sound like a politician, with respect.

CHAIR—I think we are getting to the point where we are debating each other around the table.

Senator BRANDIS—It is not really.

Dr Schrader—Let us read it.

CHAIR—I wonder whether we are learning anything from this exchange or whether we are just—

Dr Schrader—Let us read the principles.

Senator BRANDIS—Let us look at the agreed principles.

CHAIR—I do want to move on to the next witness, because we are now half an hour over time.

Senator BRANDIS—They mention the important role played by innovative pharmaceutical products—

Dr Schrader—There is one 'innovative'.

Senator BRANDIS—You think that is a kind of word—

Dr Schrader—How many times is 'innovative' in the principles?

Senator BRANDIS—You think innovative is a bad thing? Delivering high-quality health care—is that good or bad? That is a good thing, isn't it?

Dr Schrader—It is the way it is phrased—the important role played by innovative pharmaceutical products in delivering high-quality health care.

Senator BRANDIS—In (b) it refers to 'appropriate government support'. That is rather conformable with the ideology with which you approach this.

Dr Schrader—It is the importance of research and development.

Senator BRANDIS—That is good, too, isn't it?

Dr Schrader—That is the emphasis: the importance of research and development.

Senator BRANDIS—Research and development is good, isn't it? Is that good or bad? That is where you start—

Dr Schrader—In relation to Pharmaceutical Benefits Scheme as it is at the moment, it is not just research and development for the sake of research and development; it is research and development if it gives an added bonus to the health of people. The Pharmaceutical Benefits Scheme weighs up: does this drug give us an added benefit to what is already available? That is how we should look at it, not at rewarding pharmaceutical companies.

Senator BRANDIS—That scheme has been the policy of both sides of Australian politics since the Second World War, I think.

Dr Schrader—This does not say that.

CHAIR—Order! Senator Brandis, I wonder whether you are able to bring your questions to a conclusion.

Dr Schrader—Can I just say that this did not say that in here, though.

Senator BRANDIS—What it does say in 1(c)—and these are words you have also not chosen to refer us to—is:

> ... the need to promote timely and affordable access to innovative pharmaceuticals through transparent, expeditious and accountable procedures, without impeding a Party's ability to apply appropriate standards of quality, safety and efficacy; ...

Dr Schrader—They have 'innovative' in there too.

Senator BRANDIS—That is right—and 'affordability'.

Dr Schrader—Innovative is a subjective word; it is not objective.

Senator BRANDIS—This is my point, Dr Schrader. Why come along here and give us an ideological view of a legal text by selectively quoting language that suits an argument while omitting language of equal weight in the clauses of the agreement that do not suit your argument. That is what you have done.

Dr Schrader—That is your opinion.

Senator BRANDIS—You have not directed our attention to 'affordability', for example, as a criteria, have you?

Dr Schrader—You have to read the 'affordability' in the whole context. If you read it in the whole context, you get a totally different opinion from it to the one that you get if you read the principles of the Pharmaceutical Benefits Scheme. If you read those and then read this, it is totally different. I think you should read 'affordability' in there in the context of the whole.

Senator BRANDIS—I just note that you have not chosen to refer us to it, but you have chosen to refer us to words that support your argument.

CHAIR—Dr Schrader, I referred earlier to the Red Cross and Baxter Healthcare submissions on blood. They were given last Tuesday, 8 June. If you would look at those, I would appreciate a comment. Thank you very much.

[4.47 p.m.]

BARNARD, Dr Peter, General Manager, Economic Planning and Market Services, Meat and Livestock Australia

CHAIR—Welcome, Dr Barnard. Thank you for making your time available. I take it you are speaking to both submissions—one from the Cattle Council of Australia and the other from the Australian Meat Industry Council.

Dr Barnard—Yes.

CHAIR—I invite you to address those submissions, and then we will ask you some questions.

Dr Barnard—Thank you, Chairman. Meat and Livestock Australia is an organisation that does research and marketing activities on behalf of the Australian sheepmeat and beef industries. My organisation, Meat and Livestock Australia, welcome this opportunity to appear before this committee. The submission, as you would realise, not only has the imprimatur of Meat and Livestock Australia but also is supported by all the major beef and sheepmeat representative organisations in Australia—the Cattle Council of Australia, the Sheepmeat Council of Australia, the Australian Meat Industry Council representing processors and exporters, and the Australian Lot Feeders Association. On balance, those organisations support the agreement.

I will put the US market in context with respect to the Australian beef and sheepmeat industries. The US is our largest beef market. By volume, we ship about 370,000 or 380,000 tonnes of beef a year to the United States, worth anywhere between $1.2 billion and $1.6 billion a year. It is also our largest sheepmeat market. We export about 30,000 tonnes of lamb there each year, worth about a quarter of a billion dollars. Clearly, the trade conditions that apply into the United States are important for the Australian beef and sheepmeat industries.

Trade is relatively free currently between Australia and the United States in sheepmeat, although I am sure all members of this committee will remember that only a few years ago our sheepmeat trade into that market was constrained. But our beef shipments into the United States have always faced a quota constraint of 378,214 tonnes per annum. Clearly, any freeing up of trade into that market is important.

I do not think it is any secret that we are disappointed in some aspects of the agreement. We are disappointed at the long time frame to transition. We are disappointed that safeguards apply ad infinitum, beyond the 18 years of transition. But having noted that, on balance it provides us with increased access to that market worth a considerable amount to the Australian industry. So despite being disappointed in some aspects of the agreement—and I have never been involved in an agreement where I have not been disappointed in some aspects—we support the agreement. We also place on record our appreciation of the efforts of the DFAT and government negotiators who, under difficult circumstances, came out with the best outcome possible. That concludes my opening statement.

Senator O'BRIEN—You are here representing—

Dr Barnard—Meat and Livestock Australia. I do not have the Cattle Council's submission with me. I have read it and was involved—

Senator O'BRIEN—There are some differences.

Dr Barnard—I think the differences surround the intensity with which the disappointment with certain aspects of the agreement are expressed. I think they are differences in degree rather than absolute differences.

Senator O'BRIEN—Should we rely on their assessment of the value to beef farmers or on the red meat industry submission?

Dr Barnard—Both assessments are compatible. They are expressed in different forms. From memory, the Cattle Council expressed their benefits in terms of a per farmer or per cow value. We have expressed our benefits in terms of absolute amounts. Subsequent to writing this submission, we did get the Centre for International Economics, who we have used as consultants to our organisation for many years, to do an assessment of the present value of the net benefits to the Australian beef industry. They came out with a figure of between about $1.1 billion and $1.7 billion, depending on the assumptions made. I do not believe you could think of many initiatives for the beef industry that would yield that amount of benefits.

Senator O'BRIEN—Is that over 18 years?

Dr Barnard—Yes, that is over 18 years.

Senator O'BRIEN—On page 6 of the submission you talk about $22 million per annum in the years that the full beef quota is achieved from the elimination of quota tariff.

Dr Barnard—Yes.

Senator O'BRIEN—In other evidence given to this committee, the Australian Consumers Association suggested to us that every reduction in tariff is reflected in a reduction in price. What would you say to that proposition in relation to the reduction in tariff in the United States?

Dr Barnard—Some of the tariff is borne by Australian farmers and clearly some of the tariff is borne by consumers in the United States. There is no doubt about that whatsoever. The degree to which each party bears some of the tariff depends on market circumstances at the time, but I would certainly agree with the proposition that not all of that tariff represents a cost to Australian farmers. I would agree that the assessments of value in this submission are simplistic. What I am saying to you is that we have done the full job since writing this submission. We got the CIE to do the analysis that takes into account where the incidence of the tariff lies, and they came out with a figure of $1.1 billion to $1.6 billion over the life of the agreement.

Senator O'BRIEN—That is not the tariff value; that is some other value.

Dr Barnard—It is both the tariff value and the quota value.

Senator O'BRIEN—Twenty-two million dollars per year over 18 years is the tariff value. That $22 million per year is assuming that full tariff value is passed back by importers.

Dr Barnard—That is correct.

Senator O'BRIEN—So it is less than $22 million.

Dr Barnard—Absolutely.

Senator O'BRIEN—That is probably less than 10 per cent of the gain over 18 years. I am assuming that $22 million over 18 years is $160 million, $180 million or $200 million.

Dr Barnard—That is right. Most of the gain undoubtedly occurs in gaining the extra quota access to that market.

Senator O'BRIEN—The gain of extra quota access is affected by safeguards, is it?

Dr Barnard—Yes, there are two types of safeguards that apply. The one that applies during the 18 years is a quantitative safeguard and the other that disappointingly continues to apply after the 18 years is a price safeguard.

Senator O'BRIEN—According to the Cattle Council's submission, the price trigger would have been triggered six times in the last decade.

Dr Barnard—That is correct. I did that work, so I am well familiar with it. We went over the last decade and looked at how often prices declined more than 6.5 per cent compared to a two-year average, which was six out of the 10 years.

Senator O'BRIEN—What is the circumstance within the 18 years in terms of the safeguard? Can you explain how that works?

Dr Barnard—It is a quantitative safeguard. If the volume of imports exceeds by more than 10 per cent the WTO quota plus the additional FTA quota, then the above quota tariff basically bounces back pretty close to the 26.4 per cent—not quite to the 26.4 per cent—depending on the year. It is pretty close.

Senator O'BRIEN—Is the market assumed to grow in proportion to the current break-up between grinding, manufacturing beef and more choice cuts?

Dr Barnard—A pleasing aspect of the trade to the United States over the last half decade has been a growth in our chilled beef trade—our table meats. I think we will possibly see further growth in that area.

Senator O'BRIEN—That is off a very low base.

Dr Barnard—Yes.

Senator O'BRIEN—We are talking 20,000 tonnes?

Dr Barnard—It is 30,000 tonnes.

Senator O'BRIEN—That is 30,000 out of 380,000 tonnes.

Dr Barnard—Yes. It is still relatively small. Certainly our major business into the United States will continue to be in the grinding beef area.

Senator O'BRIEN—Let us make the rough assumption that close to eight per cent is non-grinding, non-manufacturing beef and that we are going to see that grow. Where do we ship the consequent increase in production in the quality cuts without a growth in the US market?

Dr Barnard—Do not forget that those three loin cuts do not represent a very significant proportion of the entire animal, so in fact the United States is already our second largest chilled beef market. Japan is our largest chilled beef market; the United States is our second largest chilled beef market.

Senator O'BRIEN—Japan is by a long way, isn't it?

Dr Barnard—Yes, the Japanese market would presently be about 180,000 tonnes of chilled beef cuts, both grass fed and grain fed. In the future, we would imagine that our chilled beef cuts would continue to go domestically of course, to Japan, to the United States and to Korea, which we also see as a growth market.

Senator O'BRIEN—And 7,000 tonnes to Europe when we can get it in.

Dr Barnard—That is right—very small amounts to Europe. A good barbecue.

Senator O'BRIEN—Yes. The assumption is $3,600 per tonne.

Dr Barnard—Yes, that is probably right. It would be of that order, certainly.

Senator O'BRIEN—That is obviously a grinding beef price.

Dr Barnard—Yes. They vary enormously. Beef prices, particularly in export markets, over the sort of period that we are talking about here, go up and down like a yoyo. It is an unfortunate aspect of the trade.

Senator O'BRIEN—If we were to make $1.3 billion to $1.6 billion over 18 years, we are talking about figures that are less than those in the Cattle Council's submission of $121 million to $154 million per year—or do I misunderstand their submission?

Dr Barnard—Unfortunately, I do not have their submission before me so I cannot comment on detailed material like that.

Senator O'BRIEN—It is on page 4, in a passage where they talk about one cow per producer. They qualify that at $121 million growing to $154 million. If that, in their view, equates to one cow per producer, it is significantly less than one cow per producer. Eighteen times that is a lot more than—

Dr Barnard—I think at one stage they were saying it equates more to a car per producer than to a cow per producer.

Senator O'BRIEN—It might be a hindquarter.

Dr Barnard—Given the marginal profitability of a lot of Australian agriculture, I would take a cow per producer.

Senator O'BRIEN—Or a hindquarter or whatever it is. In terms of the regional impact here, CIE seem to think that a lot of the beef that went into the US market came from Northern Australia. What proportion comes from the dairy industry?

Dr Barnard—Can I take that question on notice. There would be—

Senator O'BRIEN—There are significant plants in Victoria.

Dr Barnard—A significant proportion would come from the dairy industry. Certainly one plant in Victoria totally specialises in that trade.

Senator O'BRIEN—And a couple of others are substantially specialised.

Dr Barnard—Absolutely, yes.

Senator O'BRIEN—So there is a big quantity of grinding beef coming out of the dairy industry in Victoria.

Dr Barnard—Yes. It would be true to say that the majority would come from the northern industry, but there would certainly be—

Senator O'BRIEN—From the big herds up there. What is the consequence of a change in the size of the US herd for our access to the market and for price?

Dr Barnard—As you know, Senator Cook was instrumental in negotiating a favourable outcome for the Australian beef industry in the Uruguay Round, where our quota increased from about 300,000 tonnes to 378,000 tonnes.

CHAIR—It is very kind of you to remind everyone of that. I am sometimes accused of being a failure, and every time I am I point to this beef outcome.

Dr Barnard—It was a very commendable outcome, in our view. In many of those years—in fact in the majority of them—we have not used that 378,000 tonnes. That is because the United States since 1996 has been in a herd liquidation phase, and when they are in a herd liquidation phase prices decline substantially and the market becomes unattractive to us simply because they

have more of the local product available. Over the last 12 to 24 months they have commenced herd rebuilding. Their cow slaughter rates have gone down, which means that manufacturing beef prices have increased significantly and therefore the market becomes attractive to us again. There are some years over the next 18 in which we do not think we will meet that quota.

Senator O'BRIEN—How many years in the CIE model make that assumption? That is the question that I have asked.

Dr Barnard—I can certainly get that information to you. There were quite a few years in the first 10 when we were hitting the quota; I just cannot remember the exact number. It was quite a few in the first 10 years. That is because we put reasonably strong demand assumptions in there, based on a couple of factors. We are now dealing with lower exchange rates than we have historically been dealing with. More important than that is the growth in the chilled beef trade. Even though it is still small, it is now significant. Finally, of course, there is the fact that our manufacturing beef demand has broadened in the United States with McDonald's, the largest hamburger seller in the United States, now buying our product. Of course it traditionally did not do that.

Senator O'BRIEN—*Super Size Me* will be interesting in that context. On the impact question, we could increase our yields from the US market with no increase in the quota by increasing the proportion of the quality cuts, but then we would have to sell all the grinding beef somewhere else.

Dr Barnard—That is exactly right.

Senator O'BRIEN—The basic problem is that, whatever model you have, if you are selling more grinding beef you have to find somewhere to sell the value cuts and if you sell more value cuts there is a whole lot of grinding beef you have to sell somewhere else.

Dr Barnard—That is right.

Senator O'BRIEN—That is why I am wondering how fragile this model is in the context of the variables of the US herd, the Australian herd, domestic prices, US prices, what happens to other importers, the nature of the market and how the hamburger chains are going.

Dr Barnard—And a whole host of other factors—exchange rates, interest rates, the value of alternative agricultural pursuits in Australia and so on. The future is of course very uncertain. What I can say is that it is our honest assessment; it is our best guess at what the agreement is worth to our industry. Whether those numbers come to be realised at the end of the day really depends on some of the factors that you mention.

Senator O'BRIEN—And there is very little in it for anything but beef in the red meat sector?

Dr Barnard—That is true. The two other commodities that we look after are, firstly, goats, and trade was basically free into the United States for goat meat. The other one was lamb and mutton, of course—it is a significant mutton trade—and they were subject to tariff only regimes. They were relatively low tariffs, although it is pleasing to us that they are going to be removed.

Senator O'BRIEN—Again, we have the question of who gets the benefit from that. Is it fair to say that the position of the industry is that you would rather have something than not and in the context of taking that or nothing you will take what is on offer?

Dr Barnard—Absolutely. We believe that the benefits are not insignificant. Of course we would have liked more. In particular we would have liked a faster transition and the complete absence of safeguards in the longer term. We have not got that. Trade negotiations are about the art of pragmatism at the end of the day and on balance we think this is a good agreement for our industry.

Senator O'BRIEN—Do you accept Senator Brandis's entreaty to us to assess this on all issues and not just one industry's issues?

Dr Barnard—Absolutely. I think you must do that.

Senator HARRIS—Just for my personal information as well as the committee, were you involved in any of the negotiations on behalf of the two groups that you are representing here today?

Dr Barnard—I was in Washington for the period of the negotiations in January.

Senator HARRIS—That is helpful. Is the Australian beef trade subject to the influences of the futures market or do we trade basically with America on a spot price basis?

Dr Barnard—It is mainly on either a spot basis or relatively short selling terms.

Senator HARRIS—So if there is an upturn in the market it is more likely for the benefits of that to come through to Australia rather than somebody who is actually trading?

Dr Barnard—Absolutely.

Senator HARRIS—That is good. In relation to the actual model itself, are you aware of how many different scenarios were run through the model? It is one thing to set out the parameters and say that this is the model that we are actually going to use. I would assume that there would be a considerable number of factors influencing the model, some of them being the relationship of the Australian dollar to the US dollar, demand in the market, availability et cetera. How many variations were run through the model before the figures that we have before us were accepted as being a balanced scenario?

Dr Barnard—Certainly the sensitivity was tested on a number of key variables. They were things like exchange rates and US supplies over the period, and we have done other work. I do not think that we did it on this particular occasion but we have done other work on the entry of the South Americans, for instance, into that market. The South Americans at the moment are excluded from the US market but potentially will enter over the time period of this agreement.

Senator HARRIS—During the discussions, or even during previous discussions with the Americans, were you able to determine whether the Americans were reasonably satisfied with Australia's quality assurance and our certification of our abattoirs for export?

Dr Barnard—I can say that generally the Americans are entirely happy with the systems in Australia. Australia is the largest beef exporter in the world and the largest sheepmeat exporter in the world. We export to over a hundred countries. Each of those countries imposes pretty exacting requirements on Australian processors and Australian exporters. I can proudly say that I think our industry applies standards as high as or higher than those applied anywhere else in the world.

Senator HARRIS—In relation to Australia's ability to trace back, if there were a chemical or a mineral residue found, are the Americans reasonably happy with the process that we have in place to be able to trace that product back?

Dr Barnard—We have a much superior system in that regard than the Americans themselves have currently. Each property in Australia is identified with a code and product can be traced back either to a particular property or to a number of properties associated with a batch.

Senator HARRIS—In relation to the market currently—you were talking about approximately 380,000 tonnes—what percentage of that would be made up in what I would term the 'burger' sector of the market? What would that be approximately?

Dr Barnard—About 280,000 tonnes.

Senator HARRIS—So a fair percentage of that market. You made a comment before referring to safeguards. Am I correct in understanding that within the agreement there is a section referring to safeguards? For the committee could you just expand on its purpose and what the significance could be for Australia?

Dr Barnard—Frankly, I think the purpose is quite apparent—to continue to constrain access to a degree of imports to the United States market. As I previously indicated, there are two types of safeguards applying to beef that are outlined in the agreement. The first applies during the 18 years of transition. The second one, the set of safeguards that will apply in perpetuity, is price based safeguards. And of course after the end of the 18 years effectively there is free access because the above-quota tariff, which is currently 26.4 per cent, comes down to zero and you have got free access. There is an exception. The Americans have introduced a clause that says that if prices decline in the United States by more than 6.5 per cent, that above-quota tariff will come into play once again. So effectively, you have got a tariff hurdle there that you have got to overcome—

Senator HARRIS—That is actually built in already once—

Dr Barnard—Into the agreement, in perpetuity.

Senator HARRIS—I find that last piece of information extremely helpful. I was looking for a possibility of a similarity with America opening their seafood trade, I believe almost without any tariff whatsoever and very few quotas. The irony of that is that in Australia the Australian government at the same time is shutting down the industry's ability to get out there and fish to send it over. I was just concerned that within those safeguards there may have been a bit of double jeopardy in relation to beef.

Dr Barnard—Certainly it is an aspect of the agreement that we wish was not there. Having said that, safeguards are a pretty common feature of international trade agreements.

Senator HARRIS—Could they work for Australia's benefit as well?

Dr Barnard—Certainly there have been occasions in the past when Australia has been entitled—at least based on our assessment—to apply safeguards. One of the cases within the last five years or so was the Australian pork industry. Prices in the Australian pork industry were suffering and assessment was made by the Productivity Commission of whether the safeguards provisions of the WTO agreement could apply to the Australian pork industry. The conclusion drawn by that government authority was that they could.

CHAIR—I have some questions which I would like you to take on notice. The first one goes to the MFN clause. Do you have a view about whether we should, without reopening the agreement, approach the United States on the basis of saying that if they do a better deal in agriculture with a third party or parties then that better deal should automatically flow to Australia? I have in mind what has happened with sugar with the Central American Free Trade Agreement. The proposition was not actually put on behalf of the agricultural industry at large. The second area of my interest is that the elephant in the room here is subsidies. We cannot address US subsidies in a bilateral free trade agreement. I was going to talk to you about how you see the American ability to increase subsidies to offset some of your advantages. That is against the trend of how America is talking about the direction of subsidies at the moment and, importantly, how the Europeans, it would seem, are talking about it too. This is an 18-year time line. Is there a need for some comfort in that area?

Dr Barnard—I could possibly answer the second question pretty quickly. I think the first is an interesting question which perhaps I will take on notice. The beef industry, unlike a number of other US agricultural industries, does not get much by way of safeguards, and I do not think it ever will.

CHAIR—Thanks very much. We could have gone on a lot longer obviously but you have made yourself available and we do appreciate it.

Committee adjourned at 5.23 p.m.