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JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS,
DEFENCE AND TRADE

TRADE SUBCOMMITTEE

**Reference: Australia's trade and investment relations with Asia, the Pacific and
Latin America**

FRIDAY, 22 MAY 2009

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**JOINT STANDING COMMITTEE
ON FOREIGN AFFAIRS, DEFENCE AND TRADE**

Trade Subcommittee

Friday, 22 May 2009

Members: Senator Forshaw (*Chair*), Mr Hawker (*Deputy Chair*), Senators Mark Bishop, Ferguson, Fifield, Furner, Hanson-Young, Johnston, Ludlam, Moore, O'Brien, Payne and Trood and Mr Baldwin, Mr Bevis, Ms Julie Bishop, Mr Danby, Ms Annette Ellis, Mr Gibbons, Ms Grierson, Mr Hale, Mr Ian Macfarlane, Mrs Markus, Mr Murphy, Mr Oakeshott, Ms Parke, Ms Rea, Mr Ripoll, Mr Robert, Mr Ruddock, Ms Saffin, Mr Bruce Scott, Mr Kelvin Thomson and Ms Vamvakinou

Trade Subcommittee members: Ms Saffin (*Chair*), Mr Bruce Scott (*Deputy Chair*), Senators Ferguson, Forshaw (*ex officio*) and Furner and Mr Gibbons, Mr Hale, Mr Hawker (*ex officio*), Mrs Markus, Mr Ian Macfarlane, Mr Oakeshott, Mr Ripoll and Ms Vamvakinou

Members in attendance: Senators Ferguson, Forshaw and O'Brien and Mr Hawker and Mr Murphy

Terms of reference for the inquiry:

To inquire into and report on:

Opportunities for expanding Australia's trade and investment relations with the countries of Asia, the Pacific and Latin America, with particular attention to:

- the nature of existing trade and investment relations;
- likely future trends in those relations;
- the role that these countries might play in advancing the Doha round of multilateral trade negotiations in the WTO; and
- the role of the Government in identifying opportunities and assisting Australian companies, especially those in rural and regional areas, to maximise opportunities in these regions.

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Subcommittee met at 9.57 am**QUIRK, Mr Steve, Manager of International Engagement, Australian Council for Private Education and Training****SMITH, Mr Andrew, Chief Executive Officer, Australian Council for Private Education and Training**

ACTING CHAIR (Senator Forshaw)—I declare open the second day of our public hearing in Melbourne into Australia's trade and investment relations with Asia, the Pacific and Latin America, which is being conducted by the Trade Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. We welcome our witnesses. I read out yesterday the requirements of the media, if they are here, to observe the various standing orders. We will get straight into evidence.

Gentlemen, thank you for coming along. The committee prefers that all evidence be given in public. However, if at any stage you wish to give evidence privately, you may ask to do so and the committee will consider that. We do not require evidence to be given on oath but you should still be aware that the hearings are legal proceedings of the parliament and therefore have the same standings as proceedings of the chambers. We have received a submission from you that already has been accepted for publication, and we thank you for that. I invite you to make brief opening statements, and then we will proceed to questions and discussions.

Mr Smith—Senator, thank you, and thank you for the opportunity to be here today to present. I will give just a little bit of background about our organisation. The council represents more than 1,100 members who are actively engaged in higher education, vocational education, English language and senior secondary education. We have members who range from large publicly listed companies to small businesses who operate to deliver training to as few as 20 to 30 people annually.

In terms of international education, more than 700 of our members are engaged in the delivery of international education. Roughly 170,000 students undertake education within those institutions and those 170,000 students are students from overseas who travel to Australia or are students who receive their delivery of education onshore, in their home country. Our members operate in a highly regulated business environment, and rightly so; it is a very important service that they provide to our domestic and international students. In fact, what we do as an industry association is broker the key underwriting service for consumer protection for students who undertake education in Australia from overseas. Roughly 170,000 students receive the education and every one of those students has the quality and continuity of their education underwritten by the industry itself. Our organisation brokers that arrangement.

As an organisation, we have a strategic plan that sets a very ambitious course for us in terms of being able to play a key role in both the quality of education that those students receive—because we believe that the reputation of Australian education overseas is paramount to the trade benefits that Australia receives—and we work very hard to profile the performance and profile the opportunities that our sector, the private sector, affords those students. Specifically on trade, we believe that there are a number of things that are required; we believe that an effective commitment to improving access is vital to the continuation of the industry. We believe that

discipline domestic policy setting that looks at a whole range of portfolios is necessary for education, immigration, labour market and foreign affairs as well as trade.

We have some strong beliefs about the importance of transparency and decision making, both offshore and onshore, around regulatory regimes and ensuring that the barriers put in place around trade are transparent and appropriate, but are not detrimental to the performance of Australia as a trading partner. One of the key issues for us is the ability for overseas students to enter Australia to study. An example of a specific concern of ours is the processing of visas and the timeliness of that. We have a number of other countries who are seeking to enter the international education arena and compete directly with Australia. The pace of that increasing competition is growing and we think Australia needs to remain competitive in terms of how it deals with students wishing to come to Australia or to seek an education in Australia.

As I said earlier, we are also very committed to the issue of Australia's reputation as a trading partner, particularly in our area of international education, and we are very concerned of the performance of a small number of providers around the country. We are doing all we can to address that and we believe that there are opportunities for us to work with others to address that. From our point of view, one of the specific things we have done—I know it is in your papers because it has been submitted—is an analysis of the impact of international education on the Australian economy. It is the first of its kind. It is the first time these figures have been brought together. We intend this to be the beginning of a series of reports that we will do around this area.

It really is about educating the Australian community about the importance of this industry as a trade industry and an export industry for Australia. There are a number of things that we are doing, that we are interested in and that we are concerned about. We are happy to have that conversation with the committee today.

ACTING CHAIR—Thank you. Mr Quirk, do you wish to add any comments?

Mr Quirk—Thank you, Senator. Perhaps I could speak to the report that we undertook with our partners, Access Economics. Andrew has indicated that, as the service underwriter, we understood the need for an evidence based approach to analyse this industry and to better design and manage the impact of this industry upon the economy. As the first of a series in analyses, it has developed an effective data set. I bring the committee's attention the data collections that we used. Many of those are the Australian government's own data sets. In using those data sets we have had to make some level of adaptation to generate answers to the questions that we asked. We think that points to an activity that needs to continue and be enhanced.

I also point out that we have drawn upon global data, such as that from UNESCO, to better analyse the position of this industry globally. I will point to some key indicators. The term that we would use for this committee is consumption abroad, which we understand is the common term in trade for students who travel from their home country to Australia. That industry, according to our analysis, is worth \$12.6 billion to the Australian economy. There are other figures in circulation but I draw the committee's attention to those figures incorporating both the onshore consumption abroad figure as well as offshore colleges.

It points to a very healthy industry. Again according to our figures, which are available for the first time as a result of this activity, the industry is responsible for contributing to 126,240 full-time jobs in Australia. I will repeat that: 126,240 full-time employment positions with Australia as a result of this industry. with private provider growth substantially contributing some \$5 billion in trade over the period cited in the report. The report certainly points to a very high level of positive impact upon the Australian economy and, may I say, the local economies across Australian states and territories.

In concluding this opening comment, I also bring to the committee's attention that in 2009 growth in the first quarter in this sector has been just a little above 20 per cent, indicating potentially a counter-cyclical trend in trade, and indicating that this industry is therefore perhaps more resilient in these economic times.

Senator FERGUSON—Could I clarify one figure?

Mr Quirk—Yes.

Senator FERGUSON—Did you say that the inbound education of international students is worth \$1 billion to the Australian economy?

Mr Quirk—No, \$12.6 billion.

Senator FERGUSON—That sounds better because the figures you have here are \$13.7 billion.

Mr Quirk—I beg your pardon.

Senator FERGUSON—And \$5.3 billion?

ACTING CHAIR—Which page are you referring to there?

Senator FERGUSON—Page 18 of the submission.

ACTING CHAIR—The report is quite detailed with lots of figures. I thought I heard you say \$12.6 billion.

Mr Quirk—Yes, \$12.6 billion. I am sorry if I said something different, but certainly it is not \$1 billion.

Senator FERGUSON—No, no. I thought I heard you say \$1 billion somewhere, and I could not work out where that came from. Sorry.

ACTING CHAIR—I have two quick questions about the organisation of the council. It says in your submission that you have over 1,200 member organisations. What is the size of the sector? Do you represent just about everybody?

Mr Smith—I think there are 4,500 registered training organisations in Australia, so there is quite a number registered and listed. Of those, it is hard to know just how many are still

operational. The key point is that in the 1,200 we represent, there is no other organisation that represents more than about 15 or 20 organisations in the sector. We would characterise that we would represent the sector in a way that no organisations does. As I said earlier, adding to that is the key role that we play. We are the only organisation that provides that underwriting of consumer protection arrangements for overseas students.

ACTING CHAIR—Could you just expand on that?

Mr Smith—Sure. Any student coming from overseas to study in Australia is protected. The continuity of delivery is protected under the Education Services for Overseas Students Act. Essentially, it means that if a college is unable to continue to deliver a course for one reason or another, as an industry we take responsibility for those students. We place them in another member college where they can complete their studies and achieve the qualification that they have set out to achieve.

ACTING CHAIR—Right. The second question I wanted to ask is whether the council engages in promotional activity overseas? For instance, I am familiar with what the universities and the TAFE colleges do. In China they are regularly represented there and come together to put on education forums or promotional events on a regular basis. What is happening with your sector?

Mr Smith—I will allow Steve to give you a bit of the detail, but overall there are two things that the private sector does: we actively engage in both promotion of the sector as well as create opportunities for individual institutions to promote their own offerings, and then there are the individual institutions who will take advantage of those or will do their own thing as well, when they see opportunities. But Steve is better placed than I to give some detail about the activities that we undertake.

ACTING CHAIR—I am talking about overseas activities as distinct from in this country.

Mr Quirk—Sure. Thank you, Senator. The council certainly engages in considerable offshore presence and seeks to do so as far as is possible in partnership with government initiatives as well as our colleagues in higher education and other organisations. But we certainly engage in specific activities. Board members frequently lead delegations. We are in close contact with the trade commissioners and the trade commissioner network in the East Asia and Pacific region. We regularly address forums, although I am not sure if that is the right term, of those commissioners. We are well known to them and we engage in substantial exchange.

We engage with, and increasingly so, the education agent forums. We seek to influence the activities of education agents. We are considering a preferred supplier registration arrangement for education agents along with the peak body for that group. We have activities planned for Singapore and China. In fact, our chair is in China within the week and will be at the Sino-Australian joint consultative forum on education and he will be taking the opportunity to engage with authorities in China and with our diplomatic mission in China. We are considering activities at the world agent meeting in Berlin later this year, and we are also considering our presence at the APEC Women's Leadership Forum. We certainly have a very active presence offshore.

Part of our strategic orientation over the next 12 months is to build brand recognition of the council, particularly its service guarantee as a statement of confidence to hopefully influence consumer behaviour.

Mr HAWKER—Thanks for the presentation. I must admit that those figures are fairly impressive. You mentioned, Mr Smith, that you are concerned about the performance of a small number of providers. Do you have some form of accreditation? Do you have some form of monitoring system so that if you find that someone is not doing the right thing, you can step on it quickly before it does any damage to our reputation?

Mr Smith—Minister, we do, yes.

Mr HAWKER—I must say I am not a minister.

Mr Smith—Sorry. Yes, we do. We have a code of ethics and a set of membership standards by which all members agree to abide. We have a monitoring mechanism internally through our national boards so that if there is any evidence presented to us or if we find that people are not abiding by that code of ethics, we have a range of sanctions we can apply right through to expulsion from membership. One thing that you will understand is that expulsion from membership is quite a serious matter because it no longer allows access to our consumer protection arrangements that we underwrite. It also means that the ability of people to continue to operate in the international education sector is put at risk.

The sanctions can be quite serious for a provider, giving us quite a bit of opportunity to be able to impact on the performance of people. Clearly there is a role for the regulators—a key role for the regulatory agencies at state and territory level. We work closely with those agencies as well as with the central agency, DEEWR, to ensure that it is not only us but a combined effort, if you like, across the three regulatory bodies. One of the threats to the industry is that if those cooperative arrangements are not strengthened, we risk allowing gaps for people to come through.

Mr HAWKER—Could you expand on that? Have you actually expelled anyone?

Mr Smith—We have, yes.

Mr HAWKER—Has that stopped them from continuing to provide a service?

Mr Smith—It has. That has happened in the past. More commonly, though, what we have been able to do is work closely with the providers to improve their performance. We and the regulators have been able to monitor, and we have seen improvements in performance. That is the more common outcome. But certainly we have expelled members. We also have rejected applications for membership from people who for various reasons we consider to be a higher risk category than we would like to see operating in this sector.

Mr HAWKER—You said there are still some gaps. What did you mean by that?

Mr Smith—The legislation that set up this area was set up in the year 2000. As recently as 2005 it was reviewed. A number of the recommendations from that review are yet to be taken up.

We also think that the nature of the international education market has changed and that the growth in the last three years, which is almost a doubling, has been an indication of that change. We think that there needs to be a strategic look at tightening up some of the regulatory practices and some of the regulatory framework to recognise the current circumstances. We do not believe it needs wholesale change, but there are some things we have learned over recent years that we could use to strengthen the regime.

Mr HAWKER—Would you be able to give the committee some details of that?

Mr Smith—I certainly can. I can mention a couple of things now, if that will assist.

Mr HAWKER—Yes, please do, provided that the Chairman is happy.

ACTING CHAIR—Yes.

Mr Smith—An example would be the specific requirements around the requirement to refund the students fees. There is a specific requirement that asks a provider to provide a full refund for any fees paid. Even though the example might be somebody who has paid for six months of tuition, and four months into that the provider is unable to continue to deliver, the provider is required to repay the entire six months rather than recognise the work done and refund the two months that has not been paid for. The implication of that, because of the financial pressure on a business, is that in many cases the responsible thing for them to do is for them to go into receivership because they cannot meet that obligation.

In this day and age in which we have very strong recognition of prior learning arrangements, we believe that we can take responsibility for that student and place them elsewhere. They are learning that their value is recognised. The college is responsible for money it has collected but not delivered on. It is less risk of a college being forced into receivership and therefore undermining the reputation of the industry. Another specific example would be simply on the mutual recognition arrangements for students who find themselves wishing to transfer between one state and another. Quite often the arrangements between the states are not such that true mutual recognition occurs, and students find themselves caught out between one provider and another.

A specific example would be a student who studies hairdressing in Victoria in a private college and is 20 years old. They cannot practise in New South Wales until they turn 21, despite having the same qualification as anybody else. To add salt to the wound from our point of view, had that student studied in a public provider, as a 20 year old, they do not need to wait until they turn 21 in New South Wales. There are anomalies around licensing and multi-jurisdictional regulation that need tidying up. We talk a lot about a single national system in Australia with mutual recognition. We have it in writing; we do not necessarily have it in practice.

Mr HAWKER—Would you like to give us a list of this at some stage?

Mr Smith—We certainly can, yes.

Mr HAWKER—Okay.

Mr Smith—We have a number of documents that we can provide that I think we have submitted to a number of bodies, including the Productivity Commission, on this issue.

Mr HAWKER—Yes. Thank you.

ACTING CHAIR—The secretariat will speak to you about providing that. That is good.

Mr Smith—Thanks.

Senator O'BRIEN—I am just looking at the total on 6.6.5 in your submission. Looking at the non-government sector particularly for vocational education and training, you have seen 50 per cent year on year growth in that sector. Can you tell us what areas that growth is occurring in? It seems a phenomenal rate of growth compared to everything else in the table.

Mr Smith—It is growing a whole range of areas. It is fair to say that probably a significant amount of the growth has been driven by the immigration settings and policies of the Australian government that has allowed and encouraged people to come through and fill skilled shortage areas. A lot of that growth has been students coming to Australia and identifying the opportunity to undertake a qualification in a skills shortage area and going on to seek a residency outcome in Australia. Roughly one in five students who come to Australia to study seeks that outcome. That is certainly one of the key drivers. The other has been simply the increase in supply as well. The demand has been there for some time. The Australian government has invested heavily in promotion and increasing demand. What we have been able to see is the response of the private sector in meeting that demand by increasing supply.

The range of areas vary from high capital intensive areas, such as commercial cookery where you have the requirement for specific equipment, through to accounting, information technology and some of the more professional services that perhaps have a lower capital investment but have been very much in demand in Australia for some years now.

Senator O'BRIEN—Where can we get a breakdown of the figures that comprise these areas so that we can understand the growth.

Mr Quirk—Senator, certainly I can provide that. We will provide that breakdown for you.

Senator O'BRIEN—Thank you.

Mr Quirk—Could I add that the other drivers across the sector that we will submit to the committee for consideration include the growth in private markets with the emergence of the middle class, and therefore the purchase of services such as education; secondly, the emergence of a significant financial services hub in the region, prompting the requirement for skills and professionals in the finance industry as well as skills in terms of accounting; and, thirdly, the growth of service sector economies in the region, prompting skill shortages and skill demands for service sector related skills. That will be reflected in the data that we can present you with.

Senator O'BRIEN—The other thing you touched on was the issue of visa rights and access. Are there any particular areas or countries of origin where those issues are significant barriers to participation in our education sector? Do you have any comments about those barriers?

Mr Quirk—Thank you, Senator. I will respond, if I may. A specific example would be, for example, Nepal where the visa arrangements, which require bank guarantees, are restricted to two banks, effectively creating a backlog of intending students, but onshore in Nepal preventing their entry to Australia. That is a very good example, and it is an example of a covert regulatory practice.

Senator O'BRIEN—Do you mean that it is a barrier that is not supposed to be a barrier, according to the rules. Is that what you are saying?

Mr Quirk—Thank you, Senator. I think you have put that very well.

Senator O'BRIEN—That is what you are saying!

Mr Quirk—Senator, the other more general comment I would make is that there are delays in processing student visas. They have improved dramatically but still fall short of our competitors, particularly Canada. It makes interesting reading to read through Study Canada's website, which bears an uncanny resemblance to the imagery, the emblems and the icons of the Study Australia website.

Senator O'BRIEN—The same consultant, perhaps?

Mr Quirk—Very possibly, Senator. But the lead time for the processing of students to come onshore and commence study is much shorter, and that is an opportunity. While I am talking about Canada, it is interesting that most of its provinces provide for health cover of students under the statutory health cover that is available in Canada. We are not proposing that for Australia, but it just gives an indication of the statutory arrangements that exist in countries who are our competitors for this space.

Senator O'BRIEN—I had a special interest in South America. Are there any particular issues there that you would highlight in terms of immigration or other barrier issues?

Mr Quirk—Thank you, Senator. South America represents a very significant opportunity for Australia. There is a significant capacity that is not yet exploited particularly with respect to English language development with a higher profile of English readiness. I am not suggesting high levels of English literature in South America, but I am suggesting a capacity to learn English in South America. Some economic indicators in South America would suggest that the Australian education system and capability are well poised to provide and therefore exploit.

There is also a cultural connection between the two countries and some shared cultural heritage that could be better exploited. With respect to specific opportunities, Senator, certainly in the growth areas of what is referred to in the data as community studies, which are the enabling professions and allied health, there are very significant opportunities in South America which we would be delighted to work with trade in developing.

Senator FERGUSON—Just following on from that, Senator O'Brien and I were part of a trade committee visit to South America nine years ago. They said exactly the same things to us then—you know, there were wonderful opportunities. One of the impediments, if I remember rightly and Senator O'Brien might be able to help me if I am wrong, was that in some countries

in South America there were some difficulties in obtaining visas to study in Australia, partly because the countries had a poor record of overstay. I am wondering whether that is still an issue with some students who wish to come here from South America.

Mr Quirk—We have developed very close and positive working relationships with the senior officers of DIAC. We have data from them concerning at risk countries and overstay. We understand that while there may be issues within South America, they do not represent the major risks that keep DIAC busy, as they put it to us. If there have been issues in South America, we understand them to be more episodic than systemic.

Senator FERGUSON—You raised the issue of Canada, which is the area that I wanted to ask a question about because in your table 5.1 on page 15, where you give a table indicating where students are travelling overseas to study. I was quite staggered to see how few students go to Canada compared to other comparable countries. You see that they have the same website as us, or a similar advertising arrangement. Do you have any idea why Canada does not do as well as does Australia in attracting overseas students?

Mr Smith—Just as an initial comment, Senator, it would be that Canada is one of a small number of countries that has suffered some severe shocks to their market some recent years ago, but have now overcome those and are really starting to use every possible policy lever they can to recover their ground.

Senator FERGUSON—What were the shocks?

Mr Smith—Steve will know a lot more about what has happened in those particular markets.

Mr Quirk—I am sorry your question is?

Senator FERGUSON—Why do they do so poorly?

Mr Quirk—Why do they do so poorly, despite their policy setting?

Senator FERGUSON—Yes.

Mr Quirk—There is the dual society, the two languages. Therefore providers are having to manage that set of circumstances. Even though Canada is in the American continent, there is a question of location and isolation. Frankly, the student population movement, which we have identified in our report, is substantially from the East Asia region in particular, and there is a question of climate. There are structural issues that are impacting on Canada's capacity, but the point I would want to make to this committee is that their numbers are turning around dramatically. There are incentives that are being offered by Canada that we would be wise to observe.

We have probably had the opportunity, as Andrew said, of creating considerable market share compared to much larger nations, such as the United States and the UK, but we have probably done so in an environment where foreign policy settings by those countries have had to contend with significant other issues. We have therefore secured market share in a space that has had less attention. That situation will not continue into the future. We will face considerably more

pressure from particularly those larger nations, but we are already seeing it from Canada in our foreign activities.

Senator FERGUSON—I also notice that we have a fair percentage of intensive English language courses.

Mr Quirk—Yes, we do.

Senator FERGUSON—I guess the student are predominantly from Asia, but I think the Koreans in particular, if I remember rightly, have a significant number of people who are just here for 12 months intensive language study and then go back. Do other English-speaking countries like the UK or the United States have the same percentage of people who just want to do an intensive English language course instead of rather more lengthy tertiary study?

Mr Quirk—Senator, the answer to the question is that Australia has done very well in branding itself as an English development nation where people attend in large numbers. But the specific question you have asked is: do other countries perform as well? Certainly, the US and the UK do very well with English development, and, dare I say it at the risk of raising a smile, so does Malta. It is a very pleasant environment with very pleasant people, and it is a very youth oriented place. There are many attractions for those able to pay the cost to learn their English in Malta.

Senator FERGUSON—Has the financial downturn impacted greatly on people who are coming out here for short-term courses, like English language?

Mr Quirk—It does not appear to, Senator. The indicator is that Australia's English language development branding is recognised. I will give you a figure of 40 per cent whereas comparative competitors are around 20 per cent. The English language development figures appear to be resilient and appear to be growing at the rate that we indicated generally in my opening comment, which is about 20 per cent growth.

Senator FERGUSON—Thanks, Chair.

ACTING CHAIR—Mr Murphy?

Mr MURPHY—Mr Smith, in your opening statement, you identified the problems in relation to improving access to the education sector in Australia. I presume when Mr Quirk identified the problems with visas and the Nepalese experience, that is probably one of the biggest impediments. Are there any other significant barriers to improving access to our education sector in Australia, apart from the problems with visas?

Mr Smith—I think there are some problems around being able to manage the supply and grow the supply onshore here in Australia. I come back to earlier comments around regulatory regimes and so on. We have a private sector that is actually quite nimble and able to move quickly in terms of their business models to be able to meet demand from overseas. That is often slowed down significantly by regulatory regimes and the time lines that are associated with seeking approvals to either increase numbers or increase the range of courses that colleges may offer. So we do slow our providers down quite significantly in being able to respond.

Another thing that we need to look at in terms of being able to respond more quickly to overseas markets is that our market information and our market data is sound, but it does not look closely enough at some specific issues, such as student engagement and student experience. What we are starting to see now is a range of anecdotal stories about student experience. The evidence that would suggest—and we are embarking on some work in this area—that the student experience is actually exceptionally positive. What we need to do is make sure that our students are well educated about the information they receive about coming to Australia, which leads me to a third issue—the way that education agents operate in this space.

There is very strong involvement of education agents who can recruit students to come to Australia. That is a key part of the sector. There are many people who do it exceptionally well. But there are some people whose information they provide to the students is not as extensive or accurate as we might like it to be. Certainly information availability to students who are seeking to study in Australia is an area in which I believe we could do some better work as a country.

Mr MURPHY—That is good. Your market data is sound, but that leads to another question I want to ask. Tourism Research Australia does international visitor surveys. I am wondering how sound its data is. When you look at table 2.3 on page five of the submission, it even drills down to how much our international student visitors spend on horse racing, gambling and entertainment. Being a punter and not always honest about one's losses, I am wondering how sound that data is. It creates a significant contribution to the economy—\$4.2 million, which is an extraordinary amount. I do not know whether that goes to Flemington or Crown Casino.

ACTING CHAIR—Turnover?

Mr MURPHY—That would be turnover. I would be interested to have a look at that international visitor survey and how they are ask those questions.

ACTING CHAIR—They own most of the Melbourne Cup, so it is probably the races.

Mr Smith—I think the point that we are trying to make to you is that it would be good to know a little more about what the specific questions are. Our intention here was to demonstrate just how broad the impact of this trade and export industry is across the Australian economy. My colleague, Mr Quirk, mentioned 126,000 jobs and there is a percentage of those, roughly 33,000, that are created within the education industry itself. Clearly the impact financially and in the employment sense across the entire community, including the horse racing and gambling industry, is significant.

Mr MURPHY—People probably indicate how much their turnover is, but not what the outcome is. Just one final question: this is a very good report because you give a lot of very valuable data about expenditure by the students and the contribution they make to the Australian economy while they are there. You also have tables about the flow-on effects from visits by family members and friends during the duration of their studies in Australia.

Do you have any further data down the track, for example, over five years or a decade or even longer? It is my experience from working in this area, and I was there recently, and from meeting a lot of people who have studied in Australia that they keep advertising our country. Moreover, they come back to Australia, even if it is five or 10 years down the track or even

longer, and so perhaps do their family members and friends because of the promotion they do of our country, having had such a great experience in Australia. I wonder if there is any data on that as well. There is nothing like someone visiting a country and then talking about it for the next 50 years.

Mr Smith—There are a couple of important points there. One is that, as you say and as I mentioned earlier, roughly one in five students who come here to study seek to stay in Australia, but four out of five go back to their home country, enrich their own community and, I am sure, talk very positively about their experience in Australia. They are probably as powerful as any other marketing or branding that Australia might do overseas. It is fair to say that this is the first of these reports that has been done. We are looking at this being a starting point for a number of reports. Steve will know a lot more about what is already in the market, but I think the suggestion that find out what is the value of that export of knowledge and experience is certainly something that we should consider.

Mr MURPHY—It is my experience. I suggest that some further future follow-up surveys should be done of these students, say, 10 years after they have gone back to their country and find out what connection they have had with our country and with their family and friends.

Mr Smith—Thank you.

Mr MURPHY—Thank you.

Mr HAWKER—I am just following up some comments. You spoke earlier about Canada offering incentives. I think you mentioned health care, and I am wondering whether there are any others that you might be able to elaborate on.

Mr Quirk—Thank you, Mr Hawker. Your question is specific to Canada.

Mr HAWKER—Yes. You mentioned that.

Mr Quirk—Sure, okay. Thank you. Canada provides a suite of scholarships for international students that they can apply for and indeed scholarships that can be applied for, once resident in Canada. Depending on the set of criteria, there are discounts and fast-tracking of visas and entry requirements. There is a third visa scholarship practice—the facilitation of employment while they are students. It is seen as a positive and as an economic multiplier, whereas in Australia there is a tendency to think of such employment as taking jobs of Australians.

Mr HAWKER—Those scholarships are offered under their aid program?

Mr Quirk—No.

Mr HAWKER—They were government scholarships?

Mr Quirk—Certainly government scholarships and government incentives to providers to provide scholarships.

ACTING CHAIR—If there is any more information that comes to mind on that and other countries, that would be helpful because we are in a competitive market and it is handy to know what other countries are doing.

Senator FERGUSON—Thank you for an excellent submission.

ACTING CHAIR—Yes, it is very good, thank you. If there are no further questions, thank you also for coming along. It has been an interesting discussion. As we know and as Access Economics says, education services are now our third biggest export earner. I can recall a few years back that it was our fourth biggest, so it is improving. I should also seek a motion to be moved that the material from Access Economics and the two-page summary of the council be accepted as an exhibit.

Mr MURPHY—I so move.

ACTING CHAIR—I declare that carried. Thank you, gentlemen. If there are any further matters, the secretariat will speak to you about providing that additional information that we referred to earlier. You will receive a copy of the transcript, which you can check for corrections and errors of transcription, and please check with Hansard on whether there are any issues. The committee will adjourn for a short time.

[10.53 am]

ROGERS, Mr Michael, Director, Exportise (Melbourne) Pty Ltd

ACTING CHAIR—Welcome. I note we have some material from Exportise, which is a submission and an exhibit. We will move that the submission and exhibit from Exportise be accepted.

Mr MURPHY—I so move.

ACTING CHAIR—I declare the motion carried. Mr Rogers, the committee prefers all evidence to be given in public. If there is any matter you wish to discuss in private, please make a request at the time and the committee will consider it. We do not require evidence to be given on oath, but you should be aware that the hearings are legal proceedings of the parliament and have the same standing as proceedings that occur in the chambers. Thank you for attending this morning and thank you for your submission and exhibit, which you have provided. I invite you to make some opening comments, after which we will go to questions and discussion.

Mr Rogers—That is fine. Just as a bit of background, I have been the director of Exportise in Melbourne for longer than I care to remember. It is getting on for 25 years. Prior to that I was with Austrade within its grants division, and prior to that I was a tax investigator. I guess I have been on both sides of the fence, so to speak. I am not sure how much interest you gentlemen take in export incentives specifically but that is my area of interest.

ACTING CHAIR—I think I can safely say that we have a significant interest in that as part of the broad range of issues. We have had evidence from other witnesses, particularly in regard to the EMDG scheme and I notice that you refer to that. I am happy to hear what you have to say.

Mr Rogers—That is the scheme that I am involved in. I do not claim to be an expert in any particular industry, although we have clients that are across a broad range of export industries. The common thread is that all of our clients are exporters. I used to say to people, ‘You pick a product and I probably know somebody who is trying to export it.’ I am not sure that I could do that these days, but I could certainly give it a shot. I guess my interest is really pushing the barrow of what can produce results as far as what the government does is concerned. It just seems to me that there is a lot of talk that has gone on as far as whether the grants are worthwhile or not. It has been reviewed to death.

You are no doubt familiar with the Mortimer review that was done a year or so ago. The results that have come back from that effectively are in accordance with results that come back from previous reviews. They continue to say that export incentives work. My concern is that the result that comes back after that tends to be either negative or neutral. The current trade minister says that he is in favour of the grants. I have to say that we were the recipients of an extra \$50 million in the budget, but the problem was that it was right at the last minute. Up until a week or so before the budget, we were being told that there was no way that the extra money was going to be put in.

As far as I am concerned export grants do not work unless people are aware of what they are going to get when they commit to spending their money. The whole purpose of the thing is meant to encourage exporters to do a bit more as far as their marketing is concerned. If it is going to encourage them to do that they really need to know what the net cost to them is going to be when they make that decision to do an extra trip overseas, to exhibit at a trade show, or produce some additional marketing material. It is more of a windfall gain, I guess, for exporters find out at such a late stage that they are going to get some support. The government is very good at telling exporters that they should plan ahead, but they do not do the right thing in helping them to do that.

When I first started in this business the grants scheme was a fairly open access scheme. It did not cover all types of exporters, but at the time it probably covered the majority of people who were trying to export. In the last 25 years the nature of Australia's exporters has changed a lot. The people who try to export products—things you can put in a box or put on a ship or a plane and sent it off—has decreased, and the number of people who are trying to do something in other fields, such as services, intellectual property, know-how and things of that nature, has increased. The legislation has been amended many times to try to keep up with that, but there are still too many impediments that are built into the scheme.

The bureaucrats who run it really are not experienced in the real world. They see their role more as a risk management and fraud control type of role rather than the way I see it, which is that the scheme should be there primarily to generate the substantial net benefit that the export grants scheme says in its preamble. That is what it is meant to be there for, but unfortunately that is not the way it turns out. Most of the changes that have been made over the last 20 years in real terms have been cost-cutting exercises. If you go back to 1982-83, the budget was actually \$280 million spread across two grants schemes that were both aimed at generating export earnings. The government at that time decided that it did not want to spend that much. The government cut it back. It gradually built itself up again to about \$240 million and then another cost-cutting exercise capped it at \$150 million in about 1995-96. It has been stuck there ever since with little bits and pieces added on.

I did the research myself to go back to that 1982 figure, then just increase that by the CPI, and you get to a figure that is over \$900 million. I would say that if the research says that the grants scheme works and produces results, then why would we not be continuing to spend the extra dollars to get the results? What we really have now is a scheme that is aimed at very small operators. All the big guys have been pushed out of it. The argument is that they do not need assistance. I fronted to talk to the guys on the Mortimer review. David Mortimer was of that opinion himself; but my concern is that the companies that he runs are the billion dollar companies. There are a hell of a lot between the billion dollar companies and the very small companies that get assisted by the grants scheme now.

If you are trying to pick the winners from the current crop of people who claim export grants, it is quite difficult to do. There will be some people in there who will produce great results, but they are nowhere near as numerous as they were when I first started. When I first started, there was no turnover cap. It was a case of anybody being able to have a go. You could fairly easily pick a lot of these companies that were going to generate big results. As I have stated in my submission, it is not rocket science to look at marketing effort and say, 'Well, if you've got a

company that is already a successful exporter, to try to ramp him up to the next level is a lot more definite than picking the little guys.'

We had a period during the time of the last government where the target within Austrade was to double the number of exporters. Realistically, that was never going to happen. What actually happened was that you had a lot of the Austrade guys and the trade side guys running around beating the bushes and trying to find people who could generate \$5,000 worth of export sales. To my way of thinking, that is just rubbish. You are not going to get any substantial export increases by looking for those sorts of guys. You will occasionally find one that will generate big results in the future, but if you accumulate all that money and you give it to some larger organisations and say, 'Here you go, guys. This is to encourage you to jump into a new market', you would get much better results.

Bottom line is: if you spend more money and you put everybody in there, you are not using the scheme to make it possible for one Australian company to compete against another Australian company; you are encouraging them to get out there and to generate some decent results. With the new markets these days in places like India I am sure you will get plenty of feedback as to how difficult it is. I have a brother who spent a year living in India and two years before that going backwards and forwards dealing at very high levels. In the end he said, 'I cannot take this any more; I have had enough.'

ACTING CHAIR—That is like Keith Lynch, or the late Keith Lynch.

Mr Rogers—He is now in Abu Dhabi and I think he is working on the same sort of process there. It is not as bad as India but the bottom line is that it is hard work. My point is: if you are to make this scheme one, first, it has to be definite as to what people are going to get and, second, the targeting needs to be readjusted to pick the companies that can work. I am not saying forget about the little guys because occasionally you will get somebody in the small end of town who will turn into a great success story. If you want to get results you have to lift the bar a bit and not kick them out of the scheme when they are just getting going.

ACTING CHAIR—I wish to clarify couple of things. I pick up, first, on your earlier remarks. You said that you were with Austrade?

Mr Rogers—Yes, 25 years ago.

ACTING CHAIR—Were you here or were you overseas?

Mr Rogers—I was working in the grants division.

ACTING CHAIR—As a start-off question you mentioned the Mortimer review. A month or so ago David Mortimer appeared before the committee in Sydney at an earlier hearing. Do you have any specific comments about the recommendations in the Mortimer review?

Mr Rogers—My comment would be—

ACTING CHAIR—I understand the nature of your submission, that it should be more focused and not just on the little guys.

Mr Rogers—The only complaint I have about the recommendations is that the recommendations were to cut back to five years the number of years.

ACTING CHAIR—From eight years?

Mr Rogers—From eight, yes. Currently it is eight. The recommendation was to cut it back to five years. The only companies that would be classified as successful exporters within five years would be those that were very straightforward. For elaborate type exporters, such as high technology type things and biomedical it would take longer than that.

ACTING CHAIR—Yes. The government has not yet formally responded to the Mortimer review. We had the recent budget decision and the extra \$50 million. Some of the comments that you made support other evidence that has been given to us, for example, yesterday in estimates committees and at a previous hearing. Under the current scheme you can get up to eight grants.

Mr Rogers—That is correct.

ACTING CHAIR—In theory at least should that not assist those companies that started out small and that are building their market over a period? You said that some companies should have more of a focus—I think you mentioned a figure of \$5 million and said that they should try to grow that to \$10 million. At the moment does the scheme not have enough flexibility over the course of eight grants to help those companies?

Mr Rogers—Not really. The problem is that this scheme goes back to 1974 and a limited number of grants were excluded from the calculation. Any grants that were less than \$5,000 or \$3.5 thousand before 1985 were not counted. Anything else is counted. Because of the way in which the legislation currently stands it is tight on who is considered to be running a business. If somebody within a business were making claims back in the 1970s or the 1980s and he decided that exports were too hard for him and he dropped out, there might be a change in the ownership of the business and the new owners might come in and say, 'There is an opportunity now for our product to be exported.' When they go back to Australia and say, 'Are we entitled to do this?' the authorities will look up their history and say, 'Sorry guides, you made eight claims back in the 1980s. You are not entitled.'

ACTING CHAIR—Another thing that has happened is that they have reduced the threshold from \$15,000 to \$10,000. I imagine that you are not terribly supportive of that?

Mr Rogers—In theory I am supportive, but in practice because of the way in which it has been administered, they are not really even committed to that. A number of small claims were lodged last year. Austrade came along, looked at them, and said, 'We think you guys are just operating hobbies' and laid the claims. At the small end of trade Austrade auditors are difficult to convince that it is a genuine attempt to export.

ACTING CHAIR—One of the things about which I have a concern—I do not know what the answer to it is—is that if one accepts that the amount of money is not what it should be, given how much it was at the start and given that it has been topped up and will be cut back again, it was designed to encourage a lot more export development. In real terms a lot of applications are going into a decreasing pool with a lower threshold. The end result of that have been the

complaints we have had over the last couple of years. The scheme went from being in surplus and money being handed back a few years ago to people waiting to see how much they would get, and getting a lot less in their second tranche of payments than they might otherwise have budgeted for.

Mr Rogers—In the very early days there was no cap on the payments; it was what it was. The way I understand it is that the guys in Treasury hated that with a vengeance. They wanted a definite figure to put in their accounts. You cannot do that with pension payments or with unemployment benefits, so why would we have an exception for this?

ACTING CHAIR—Three or four years ago I think they were handing money back.

Mr Rogers—They were.

ACTING CHAIR—Because it was not being allocated.

Mr Rogers—The reason for that is that the rules had been changed, once again, to restrict the payments. If you go back before the surplus you will find that in three years it was overspent. They modified the rules to push people out. That was when they cut back the turnover limit from \$50 million to \$30 million. They cut back the maximum grant from 200 to 250. Back in the early days there were 11 categories of expense on the application forms and category 11 was called 'other.' Basically, that was anything you could come up with that looked like a genuine marketing cost. You could shove it into that column. In one of the cost-cutting exercises they cut it back to eight categories and nothing called 'other.' It tightened up the criteria a lot. That was nice for the bureaucrats who were administering it but the question to ask is whether it was good for exporters. Clearly, the answer would be no.

ACTING CHAIR—I will go to the representative from the other place.

Mr MURPHY—Michael, I will be the devil's advocate for a minute because I have been working in this area over the past 18 months. I will start by giving a commercial to the trade minister who fought hard in cabinet to get that \$50 million back into the EMDG scheme. I take your point. For the purposes of the exporters they would have liked to have known earlier whether we were going to get that money. I think Simon Crean deserves a lot of credit for that. I know that you know your way around Austrade and that you have a lot of clients. In the time that I was parliamentary secretary to Simon Crean—and I say this with respect—one of the criticisms was that many people who were promoting this scheme, people such as you, were using it as an opportunity for improving exporters' budget bottom line.

That was something that I heard all around Australia. I say that against the background that I, too, share your view that the EMDG scheme is a good scheme that has helped to improve our export performance. I begin by asking what feedback you have given to Leith Doodie, your Victorian manager, and to Peter O'Byrne, the chief executive officer.

Mr Rogers—I cross palms with Leith every now and then. In fact, I know him from back in the days when he worked with Elders. He was one of their senior overseas guys. Back in those days I dealt with applications that Elders were doing. I do not have a lot of day-to-day connection with him; I deal much more with the grants division. So far as Peter O'Byrne is

concerned, I do not have any direct dealings with him. Our consultants association is part of the Australian Institute of Export and the senior management of the institute deal at that level. I do not have direct dealings there.

ACTING CHAIR—Which consultants association are you talking about?

Mr Rogers—It is the export consultants group.

ACTING CHAIR—That is Peter Campbell's?

Mr Rogers—Yes. Peter Campbell was the chairman of that group and that position has currently meshed.

ACTING CHAIR—It is my understanding that he gave evidence in Sydney.

Mr Rogers—I am aware of that. I am quite happy to acknowledge that consultants have a vested interest in the scheme. Clearly, we have a vested interest. I would say that the people who like to try to poke holes in the scheme, in particular, people within Austrade, have an equal vested interest. Their administration costs are kept at 5 per cent of the grant budget and, typically, those costs are 5 per cent. They spend every cent. If they want to point at us I just point straight back at them in relation to their administration costs and everything else.

ACTING CHAIR—Do they also have a category called 'other'?

Mr Rogers—I think they have a category called 'five per cent'.

Mr MURPHY—Michael, I have met enough exporters around Australia to be satisfied that this is a good scheme, that it has helped individuals immeasurably, and that it has contributed significantly to our export performance. In your introductory marks you alluded to the fact that Treasury wanted to drill down and obtain a precise figure.

Mr Rogers—Yes.

Mr MURPHY—Some people in Treasury believe that the EMDG scheme should be abolished. They could quickly save that \$150 million, even though we have dropped from \$280 million over the past 30 odd years.

Mr Rogers—I am aware of that, yes. I agree; they would get rid of it in a heartbeat. Those guys refer to it as corporate welfare.

Mr MURPHY—Yes.

Mr Rogers—The question is whether or not it works. The Mortimer review says that it does work. Going back, Helen Hughes and Peter Jollie said that it did. Every review that has ever been done has said that it works. Why are these guys in Treasury entitled to push the view that it is welfare and it is not worth spending?

Mr MURPHY—Probably because some people like you have worked for Austrade before. They know the complexities and the opportunities that the scheme offers to make a career out of it. Fair enough—go and use that. People who have looked at what has been done most probably think that this is a nice little sinecure. Someone is making people aware that they can put a nice little injection of taxpayers' funds into their budget bottom line to improve their balance sheet.

ACTING CHAIR—I just make a point that should not be forgotten. The scheme works on the basis that you have to expend money upfront and you get an entitlement to 50 per cent I think as a maximum.

Mr Rogers—That is correct.

ACTING CHAIR—It is not just money for nothing.

Mr Rogers—It is not just money for nothing.

Mr MURPHY—With great respect you are a terrific witness to have in relation to these issues.

ACTING CHAIR—Do you have a question?

Mr MURPHY—The previous government supported the scheme despite the \$50 million shortfall.

Mr Rogers—With reservations.

Mr MURPHY—We all support it. You made this point in your submission:

We should be looking for the large increases that can be achieved by existing exporters being prepared to take risks to enter new markets and also to support all new entrants so that the occasional big success story will get their chance to make a start.

Both you and I know that we try to pick winners. I want you to tell us how. It is difficult picking winners because you identified that in your submission. Why should the government be pouring more money into people who have been successful to make them grow even larger? The people in Treasury would argue, 'How long does the taxpayer have to hold the hand of the smaller exporters?' They should know enough to be able to improve their own export performance without asking the taxpayer. We can give all these other people who have never had a chance something to get them started. One day they, too, might become success stories.

Mr Rogers—The applications to which I referred earlier that were disallowed this year were from a group of people who consider themselves to be inventors. They came up with some little invention and they are taking it off to America with the idea that they will licence the invention. Invent Help is the company that is driving it. When these people come in the door Invent Help says to them, 'Your chances of success are one in 64.' That is what they anticipate. One in 64 of those people that are taken off to a trade show in the United States of America will in fact succeed with getting it going.

That is probably as low as you can get so far as success stories are concerned. When we were running this project called the New Exporter Development Scheme we were looking to double the number of exporters. We were running around looking at very small operators who substantially did not have the capacity to generate a lot of export sales. We have done applications for artists and all sorts of people. In real terms, even if an artist is successful, his or her time is limited. That artist cannot produce enough products to ever be a multimillion dollar exporter. You will never get a lot of clout out of that.

Should the government continue to help somebody even though he or she already has \$5 million worth of exports? If a company is doing \$5 million worth of exports, the chances are it is \$15 million to \$20 million in total and it is being run by somebody your age or my age who has been quite successful, who has paid for his house, whose kids have finished at school, he has his holiday house and he is thinking, 'Do I really want to spend a big chunk of my time on airplanes trying to break into some new market? Unless somebody is behind him pushing him, prodding him and saying, 'Come on, you could do pretty well in India' he will say, 'No, I am not really interested.'

Mr MURPHY—Michael, I was astounded, astonished and amazed when I went to Coffs Harbour last year and I met a lady who received an enormous amount of help from Austrade, through the EMDG scheme, to set up psychic services all around the world. She is bringing in hundreds of thousands of dollars in export revenue to our country. We are talking about picking winners. I applauded Austrade's—

ACTING CHAIR—She picked herself!

Mr Rogers—She predicted it.

Mr MURPHY—She was extraordinary. I agree with you; the EMDG scheme works, but I think we have to help everyone. There is an argument because I have talked to proven performers who would like more assistance to grow even larger. As a government we have to get the balance right.

ACTING CHAIR—How do you grow larger if you can predict the future? Is there a future beyond the future?

Mr MURPHY—I suggest that this committee should go and meet this lady. I would never have picked her. There were all sorts of arguments about whether we should give taxpayers' money to someone who provides psychic services. She has a huge network all around the world working for us and working for—

ACTING CHAIR—The next thing we will be doing it for opinion polls. We need to move on.

Mr Rogers—The issue with her though is that if she is doing it on a personal basis there is a cap on how much she can do.

Mr MURPHY—That is true.

Mr Rogers—She does not have a machine where she can just keep cranking the stuff out faster. If she turns into a piece of software then there is no cap. But there is a limit as to what she can produce. Last week I had a client on the phone who is an opal exporter. He has had lots of claims in the past. He changed the nature of his company, came back and said, ‘Can I start again or can I get my eighth claim?’ He had read in the press that the number of claims had been increased from seven to eight. When I looked back at his history I found that his history showed he had had 15, so he was out.

Nevertheless, he would be capable, given some export grant support, of getting a much better result than the psychic. As to whether it is good value for money for the government, if somebody is producing good results he or she is generating more taxable income. A lot of the money is going back in tax on the performance that he or she is generating; the grant itself is taxable so the payback is quite substantial anyway. For somebody who succeeds the payback will be more than the grant payments. If you get big enough results overall it will be revenue neutral or it will even be positive.

Mr MURPHY—Mr Chairman, I wish to ask one more question.

ACTING CHAIR—We are running out of time.

Mr MURPHY—We have a very good witness here. I want you to explain this. Under the heading ‘Does the current EMDG scheme work?’ you state:

I believe that the range is somewhere between \$7 and \$25 of export earnings for every dollar of EMDG that is paid to exporters.

Mr Rogers—These are the figures that have been come up with by the various reviews that have been done. The research is—

Mr MURPHY—Do you accept that?

Mr Rogers—Yes, I do.

ACTING CHAIR—I think the multiplier is quite high. Maybe we should get the psychic to do the picking of the winners with great synergy. Mr Hawker?

Mr HAWKER—Thank you for your evidence, Mr Rogers; it has been very valuable. You referred earlier to the usual problem. Bureaucrats are not really experienced but I think most of the trade commissioners have had some experience, which is a slightly separate part of Austrade from what we are dealing with here, that is, the EMDG. A perennial problem for governments is that they have to be accountable for public moneys.

Mr Rogers—Yes.

Mr HAWKER—Do you have an alternative suggestion to make about how the grants could be allocated to make them more effective?

Mr Rogers—If the budget is to be fixed it probably wants to be left substantially alone. The only difference I would suggest is that the administration of the scheme needs to be given some fairly clear directives that helping exporters is a number one priority and that risk management and fraud control are secondary. It has reached the stage where Austrade has within its organisation what it calls a special investigations unit, which comprises two or three Federal police who operate within the same office as the general part of the grants area.

These guys spend a lot of time coaching the general auditors, and their coaching appears to be suggesting that the average exporter is in fact a criminal. They come out to do a grant assessment. Rather than looking to see whether they have somebody successful who should be supported they are more interested in finding fault so that the special investigations guys can meet their key performance indicators. In other words, fine people are defrauding the system. If you want a specific example, last year we had a case in which they accused one of our clients of doing something wrong.

But because of their position in the operation they do not have to tell you what it is that they have got. They just suggested that this guy was doing something untoward and they knocked his grant application out from \$100,000 to \$20,000 and suggested that he was spending 20 per cent of his time on a marketing product, even though he was generating \$5 million to \$6 million worth of exported Australian wine into Hong Kong and China. I defy anybody to do that in 20 per cent of their time.

Mr HAWKER—Thank you.

ACTING CHAIR—Yesterday we had a witness who made the same point. They would rather have somebody who was a partner than risk manage.

Mr Rogers—That is what I say to the Austrade people. I say that we should see ourselves as having the same role, that is, to assist exporters, rather than an ‘us’ and ‘them’ attitude.’

Senator O’BRIEN—I have a quick question for Mr Rogers. You gave the example of a company that is exporting \$5 million worth of goods and you suggested that perhaps this scheme would be better used continuing to support them to increase their exports into a particular market. Is that the best way that we could encourage that of their other qualifying non-WTO offending assistance that we could give when someone is already in a market to encourage them to spend their money to expand?

Mr Rogers—There does not seem to be. This scheme has been reviewed to death over its 30-year lifetime. Nobody seems to have been able to come up with a better way to do it. I guess that successive governments liked the idea of something new and sexy. It is tried and true method and exporters like it. You get general consensus within the export community that this is a good way to do it. There are lots of other government schemes around that have discretionary money.

When people ask us about those my initial request to them is to find out what is the budget. If it is a small budget and it is discretionary you could spend a lot of time chasing them around trying to get some money. I know that the current minister likes the scheme that was around years ago called ITES, which effectively was a loan scheme. When a company gets a government loan a lot of work goes into administering that loan and reporting on it.

The companies that go after those loans are not necessarily the best targets because they are people who have the time to chase the money and a lot of them do not intend to repay it anyway. They want to use their efforts to work out how to get the money and then not pay it back. With the export grants you do it this way, you spend your money and after the event the government will give you some money back and that is it—no more reports; just get on with your business of exporting.

Senator O'BRIEN—I am thinking of the criticism you made about capping the number of claims you can make on the scheme. I was wondering whether, for example—and I do not know whether this is compliant—if a government were to suggest that additional earnings might be favourably tax treated, would that be a sufficient incentive for business to seek to expand existing export capacity?

Mr Rogers—I think you will find that anything that is related to the actual sales will breach the WTO rules. Another suggestion that I could throw back to you is that instead of having a number of years for which you claim grants, it would be a number of dollars. Let us say that businesses starts off slowly and claim small grants. They would not necessarily be finished after five or eight years; it would be after they had claimed grants of X amount of dollars that they would be finished. They might start slowly, hit some sort of critical mass and that is the time when they needs some assistance—when there was still something left in the tank for them.

ACTING CHAIR—Yesterday witnesses raised that issue relating to when they were able to access the money. At the one end, if you are exporting a service, as it were, as distinct from developing and exporting a product, there are different time lags.

Mr Rogers—Further changes need to be made to the legislation to account for services. Services have become more prevalent in recent years but a lot of companies that look like they will be successful in selling services offshore need to set up an entity in the country they are dealing with. If they leave their expenses sitting in that offshore entity they are not eligible to make their claim. We spend quite a bit of our time trying to manoeuvre their bookwork to make it fit the grant legislation. People who do it on their own do not see the problem until after they have lodged their application and then it is too late.

Mr MURPHY—I think that is a very good thing.

ACTING CHAIR—I refer to the consultant industry which provides services to people who seek to utilise the EMDG scheme. How many are there?

Mr Rogers—Within our—

ACTING CHAIR—I probably should have asked Mr Campbell's organisation that question.

Mr Rogers—I am part of the same organisation. The number of members of the association is just over 100. If you look at Austrade's database of those they consider to be consultants who have lodged claims you will find that it is a bit over 200. That will include anybody who has put his or her name on an application. Sometimes it will just be their external accountant who declares himself to be a consultant, but who only does that one application. Those consultants

who do reasonable numbers comprise quite a small community—probably fewer than 50 do substantial numbers.

My company, Exportise, is in various states. Another company called Export Solutions is also in various states. Once you get past that there are a lot of small operators. Quite a few of them are former Austrade people who know the way the system works. It is very much demand driven. At times I say to clients, ‘There really should not be a need for people like us.’ But, unfortunately, even when Austrade is simplifying things it generates a lot more business for us.

ACTING CHAIR—I wish to ask you two questions about Austrade, given your experience, albeit 25 years ago. However, you obviously had a—

Mr Rogers—I am still face-to-face, yes.

ACTING CHAIR—You never forget and you still work in that area. Yesterday we had a witness who said that he sought some advice or assistance from Austrade in France. The information he was after was pretty basic stuff. He asked, ‘If I employ somebody what would be my obligations under French law’—what we would call industrial relations or human resources issues—‘for things such as health and safety, wages and all those sorts of things?’ He said that they could not help him. He was pretty disappointed and sceptical about the fact that they were unable to help him. Do you have any comment?

Let me give as a second example a case of which I am personally aware. When you talk to people you get both ends of the spectrum. Either they say, ‘Austrade has been terrific in this country’, or they say, ‘They are hopeless.’ I was given an instance many years ago in Singapore when I was there. They said, ‘One of the huge markets in Asia is in diamonds, gems, opals and all those sorts of things’—in other words, jewellery. Heaps and heaps of trade shows and fairs are on and people come along to buy expensive jewellery.

There are great opportunities for small and medium size businesses in Australia where we produce the product in an open market. Because it was not a big company this person said to me, ‘Austrade cannot help us. They are not interested.’ They believed that Australians were missing out on a lot of opportunities—people who were into cutting diamonds, making rings and all that sort of jewellery that had a big potential. Can you defend Austrade?

Mr Rogers—I would say on the whole that Austrade does a very good job in the overseas posts. But we need to keep in mind that they are a bit like me—they are trying to be everything to everybody. At least while I am doing this it comes down to a common goal of just putting the paperwork together and getting their grant application in. They have to be experts on all products in whatever market they are in. It is not possible for any one person to be an expert in everything. Typically, my advice is that if you are dealing with Austrade in an overseas post you should find out what they are interested in. If you have somebody who is a heavy engineering person he will not know too much about jewellery or fashion for that matter. If you find the right person you will get people coming back with glowing reports.

ACTING CHAIR—I suppose it comes back to having the people and the resources. But, as I said, I visited Chile where people talk favourably about the work that they have done over there.

Mr Rogers—The only real complaint I would be concerned about with Austrade posts—and even Austrade within Australia—is being careful about anything that is commercial in confidence. They collect information on a particular company’s opportunity and then they are a bit easy going about distributing that to other companies within the same industry. They might think that they are helping more companies to go into that market, but if it is a particular opportunity that a company has identified it needs to be treated as confidential.

ACTING CHAIR—Do you get a sense from your experience that they are not really interested in small to medium size exporters?

Mr Rogers—It changes from year to year as to what the target is. During the time that the target was double the number of exporters they were very interested in the small guys. They were running around and doing damage to some people’s markets where consolidation was coming through a merchant. In order to get more exporters they were backing up to the suppliers and saying, ‘You guys could export direct.’ They might end up with five exporters instead of it all being channelled through one central point. However, they would be doing damage to Australian companies along the way.

ACTING CHAIR—A comment that was made to me by the person in Singapore was that he was some sort of trade fair for jewellery. Small operators from a number of companies—the people making the watches, diamond rings, or whatever—were all there. But Australia was hardly on the map because they felt that Austrade was not interested in helping them get into that sort of market.

Mr Rogers—From my experience in that particular field I would say that Australia would be hard pressed to do very well in final product. They are doing better on gemstones but the final product is labour intensive and it is not really ideal for Australia to export. They are more likely to be taking the gemstones over there, making the final product, and then bringing it back to Australia or taking it to other parts of the world.

ACTING CHAIR—Any further questions? If not, thank you for appearing before the committee, Mr Rogers.

[11.48 am]

KENNEDY, Mr Timothy John, Assistant National Secretary, National Union of Workers

LYNCH, Ms Katharine (Kate), Chief Executive Officer, Generic Medicines Industry Association

OLDHAM, Dr Timothy Charles, President, Asia Pacific, Hospira

O'SULLIVAN, Mr Charles Edward, Director of Scientific Affairs, ANZ, Hospira, Pty Ltd

THOMAS, Mr Jason, Consultant, Hospira Australia

ACTING CHAIR—Thank you for coming along this morning to this inquiry of the Trade Subcommittee on Australia's trade and investment relations with Asia, the Pacific and Latin America. We may have received a submission from you. I should indicate the usual preliminaries, that is, that we prefer all evidence to be given in public but if there are any matters that you wish to discuss in private make a request at that time and we will consider it. We do not require you to give evidence on oath but these proceedings are treated in the same way as proceedings in the House of Representatives or the Senate. I now invite you to make an opening statement. Do you all wish to make an opening statement? I will leave it to you to work out who will do so. We have available to us about 45 minutes.

Mr Thomas—Thank you for having us here and for the initial informal chat that we had in Canberra back in February. I commence by saying that the issue we are dealing with now has culminated in almost 18 months of negotiation between industry and the federal and state governments at all levels, that is, the generic pharmaceutical sector, the biotech sector, the unions represented here, on an issue that has large and significant export potential for Australia. This has culminated at a time when we are faced with difficult economic circumstances, but there are large opportunities. We have an industry and a company that are at the forefront of being able to take advantage of that opportunity. The employee representatives have great potential for what they can achieve over the next 10 to 15 years, as you will hear from these guys. I will let Tim Oldham kick off first and perhaps we will then hear from the others later. Thank you very much.

ACTING CHAIR—Thank you.

Dr Oldham—I thank the subcommittee for the opportunity to speak with you today. As you have seen in the paper before you we have previously briefed several members of this committee. Today we will briefly outline what this multi-sector coalition is recommending, how it fits with government policy objectives, and what are the benefits to Australia. Today we will spend most of our time talking about how to mitigate potential risks and objections to what appears to be a policy that is recognised as being good trade policy across all levels of government and many sectors.

Our recommendations are as follows. Generic manufacturers in Australia have proven that they can compete globally. Manufacture for Export is the ability for generic manufacturers to produce medicines for export markets only before the expiry of the relevant Australian patent term extension. Manufacture for Export can be implemented by amending section 78 of the Patents Act 1990 to allow Manufacture for Export purposes only as a limited exception to infringement during the period of patent term extensions. Numerous methods of crafting that amendment are possible, depending on the specific outcomes, objections, or risks that are being sought to be overcome.

As an immediate first step we propose or encourage engaging with government and an agreed independent adviser to see how this could be done rather than whether it could be done. We have provided legal advice, trade advice and a business case to government. We know that the proposal is contrary to historical advice from various departments, but we do not know the specific objections that stand in the way of implementing this policy and, therefore, we cannot choose the specific variations of Manufacture for Export to meet those objections. This discussion should happen soon.

In Hospira's case, for example, our next product is weeks away from been committed to India. The industry makes decisions every month on where it will manufacture its new products. Every month is a further loss of potential exports for Australia. Why is MfE consistent with government policy? In November 2008 Prime Minister Rudd said:

I said before I became Prime Minister that I did not want to be a Prime Minister of a country that did not manufacture any more. I meant it then, I meant it now and I mean it for the future.

Consistent with this theme, the government has spent considerable time and billions of dollars securing jobs in the automotive industry. Pharmaceutical manufacturing represents Australia's second largest manufacturing exporter, employing 15,000 jobs in high-paid manufacturing jobs. The generic industry alone employs almost 2,000 in manufacturing. Recently we have seen our manufacturing base eroded in pharmaceuticals, with major originator pharmaceutical companies such as Merck Sharp and Dohme, Johnson and Johnson and GlaxoSmithKline all reducing their manufacturing operations in Australia.

Manufacture for Export removes a self-imposed, behind the border barrier to our own manufacturers from growing the export base represented by pharmaceuticals today, and it comes at no financial cost to government. Manufacture for Export has spill over effects in the form of skills and capabilities for our biotech industry, increased opportunities for collaboration between industry and academia, and a pathway to commercialised local R and D in Australia.

Let me turn briefly now to the benefits of MfE to Australia. Before I go through some specific statistics, I will hand over to Tim Kennedy to provide some general observations from the perspective of the pharmaceutical workforce on the benefits of MfE.

Mr Kennedy—Thank you, Tim. The union represents workers in this industry in a range of companies, not only Hospira but also Sigma pharmaceuticals and Alphapharm come to mind. We are a large union in this area and we see these jobs and the types of jobs that these companies produce in Australia as premium jobs. Highly skilled and high-paid workforces work for these

companies. For example, Hospira in Mulgrave is a plant of 500 people. It has been there for many years and it generates highly skilled high-paid jobs.

We think that public policy and governments such as this one need to encourage investment in this type of industry and secure those jobs. We think that the Manufacture for Export proposal that is before us today is a simple way in which the government can make a clear policy decision and take action that states, 'We want to make certain that companies such as these have an incentive to invest in this country.'

We have a comparative advantage in this area as opposed, in some respects, to the members we represent in the automotive industry, in that we have a good education system here in Australia, we have a good regulation, we have a good clean environment, and we have a good competency or skills base. It is an area in which Australia can complete very well.

I know that this committee would be more than aware that in this current economic crisis countries around the world—especially countries that we like to say are in our peer group—will be looking for measures in their own areas to secure employment. The pharmaceutical industry, especially the generics aspect of it, is growing at a significant rate. Tim will go into that later. We think that, from a union perspective—we have spoken to our members about this—a smart decision would be to find ways to ensure that we can do the manufacturing here for export. These generics will be manufactured and these companies will manufacture them.

The decision they need to make is, 'Will we manufacture it here, in India, or in Mexico for the markets that we already have?' We need to find ways to say, 'You should invest here and you should manufacture them here.' Clearly, it is not for us to provide much comment about the solution, but if you look at section 78 of the Patents Act you find that the proposal being put is very targeted. If we amend that provision to make Manufacture for Export of generics only an exemption to the infringement in that section, on the face of it companies such as Hospira will have the confidence to invest here and to manufacture these generics, for example, the ones to which Tim referred earlier. They need to make a decision in the short term.

The solution will not cost the government any money; you do not have to stump up money and say, 'We will have a training program', or what have you. That can flow from that. It will not prejudice the originator companies. I think that Tim will speak a bit more about that later. It sends a clear message to companies such as Hospira and also a clear message from the government to the Australian public that we are determined to make decisions that can generate high-skilled jobs in this country—stuff over which we have a comparative advantage—not baseline stuff. I have represented workers in the automotive sector, especially in tyre manufacturing.

Tyre manufacturing is now a base commodity. You can do that anywhere, it is cheap to set up and you do not need a lot of skills. As a result we have no more tyre manufacturers in Australia. That is a product of globalisation. This is an area where we have a comparative advantage and that is why we are supporting this proposal today. Hopefully, this committee will put in a strong recommendation to the appropriate ministers and we can get this change in the act. I will leave it there, Tim.

Dr Oldham—Thank you, Tim. Let me put some size around the opportunity. The generic pharmaceuticals market worldwide is projected to grow at 14 per cent a year in the foreseeable future, compared with high, single digit growth rates for the industry overall. It is the fastest growing segment of pharmaceuticals today. We have proven capability to manufacture generics for global markets. My own company, Hospira, manufactures in Australia and exports to 65 countries around the world, including the United States of America, Europe, Korea, China and parts of the subcontinent. There are products worth \$US150 billion today for whom patents will expire in the next six years.

Today, Australian manufacturers will be chosen as the manufacturing location for very few of those. Why is that? Very simply, patent extensions in Australia expire, on average, one to one and a half years later in Australia than in the United States or the European Union. Some markets do not offer patent extensions at all. Companies in the generic sector choose a single manufacturing site for their global supply and it is therefore essential that they choose a plant in a location that can meet market formation or patent expiry in every market around the world. That will be Australia in less than 10 per cent of cases for us at Hospira.

More broadly, as early as 2002 the Intellectual Property Research Institute of Australia estimated that at least two-thirds of patents expire later in Australia than in any other country in the world. As a result, Hospira has already moved some production offshore. In 2004 we constructed a new oncology facility in India, primarily because of patent extension limitations that prevented our facility in Melbourne from being a global launch location.

As Tim has mentioned, Manufacture for Export provides security for existing facilities that today generate 24 per cent of Australia's fully formulated manufacturing exports. It enables those facilities to compete to be that global manufacturing location for these newly forming generic markets. If successful, we could potentially increase Australia's pharmaceutical exports across the sector by 10 per cent—from \$3.9 billion today. MfE also provides much-needed local manufacturing capacity for biotechs and/or it increases the range of projects for which they can compete.

We know of one company in Queensland that has benefited from government support to build its capabilities and manufacturing infrastructure that would welcome MfE because of the increased range of products for which it could bid. MfE could even benefit patentees. For example, Pfizer operates two manufacturing plants in Australia. At the beginning of this year, Pfizer established or created an established products division—its version of generics. In the past four months Pfizer has in-licensed 128 generic molecules from two Indian companies. It would be surprising if Pfizer's Australian facilities would not like to bid for some of the volumes coming out of Pfizer's generic strategy.

Let me turn now to the potential risks and/or objections that have been raised against MfE. Medicines Australia's response to MfE was encapsulated in the Pharmaceutical Research and Manufacturers Association's special 301 submission to the United States trade representative this year. They said:

We are also aware of a possibility that the Australian Patents Act will be amended to allow the manufacture of medicines that are generic copies of innovative medicines that currently benefit from Australian patent term extensions for export to international markets where relevant patents had expired. If implemented, this measure would:

- undermine the legitimate and exclusive rights of patentees in Australia to exploit their inventions;
- contravene Australia's obligations under TRIPS and the FDA
- create a dangerous precedent for other nations which may, in the first instance, provoke a chain reaction of retaliatory trade policy measures and ultimately undermine international efforts to implement global standards of IP protection; and
- hamper efforts to improve access to innovative medicines.

We submit to the committee that everyone of those arguments is fundamentally flawed and we will step through each of them in turn. First, we believe that Manufacture for Export preserves the legitimate and exclusive rights of patentees in Australia to exploit their inventions. Kate Lynch will provide the view of the Generic Medicines Industry Association on that aspect of the potential objections to MfE.

Ms Lynch—If intellectual property is to recoup investment on the invention, thereby providing a reason or incentive to invest, it is not true that more intellectual property is always better. Return on those investments is not about funding future investments; it is about rewarding that particular invention. If we get into a state of play where a particular invention continues to have ongoing protection, there is no incentive for anyone to make the next invention. It is a bit like continuing to fund the golden goose.

There is some good work around to show that if, by nature of the patent expiring, that stimulation of competition promotes further innovation. This has been borne out in the United States experience where research and development investment rose sharply after establishing more intense competition from equivalent generic medicines in the late 1980s. We saw a market in the late 1980s increase the amount of generic competition. What followed then in the 1990s was one of the most productive times of new introductions of molecules.

New molecules coming out of the United States were two to one compared to the rest of the world, in a market where there was the most active generic competition. Permanent monopolies on pharmaceutical products provide little incentive to discover new medicines. If the patent life does not expire you remove the incentive to make the next invention.

Dr Oldham—Thank you, Kate.

ACTING CHAIR—Dr Oldham, I do not wish to truncate your opening comments because I think it is pertinent to your argument or submission, but I draw your attention to the fact that we need to leave some time for questions at about 12.30 pm.

Dr Oldham—Yes, of course. Thank you for the reminder.

ACTING CHAIR—We do not have much longer to go but I think it is important for us to hear everything that you have to say.

Dr Oldham—We probably have another five minutes.

ACTING CHAIR—That is fine.

Dr Oldham—Building on what Kate just said, the Manufacture for Export proposal ensures that patent holders enjoy exactly the same period of commercial production in Australia that they enjoy today. It makes no change to protection enjoyed during the TRIPS' mandated 20 years of

patent protection. Patent extensions are already only a limited bundle of monopoly rights that are not globally harmonised, are uncertain in duration, and apply only to part of an original patent. The value of patent extensions is the extra period of selling the product in the market—not manufacturing it—and that period of selling the product in the market is preserved under Manufacture for Export.

There is no value in the exclusive right to manufacture currently granted by patent extensions. Retaining the right to sell is sufficient in the local market and in export markets where the patent has already expired. As Tim mentioned earlier, generics will enter from somewhere. The second objection relates to TRIPS and the United States free trade agreement obligations. Manufacture for Export is consistent with those obligations. Our legal advice is from former United States trade representatives and it has been reviewed by local external intellectual property lawyers. It has been provided to the government in confidence.

In summary, TRIPS does not require patent extensions, and since Manufacture for Export only impacts extensions beyond the mandated 20-year term, TRIPS does not require a WTO member to do more. I note that several countries with trade agreements with the United States do not offer patent extensions. The United States' FTA requires Australia to grant patent extensions, but it is absolutely silent on how Australia must implement them. It is strange that we in Australia feel we cannot correct an implementation that disadvantages Australian generic manufactures, not against patent holders but against manufacturers who are simply located in another country. That hardly feels like a trade agreement to us.

The free trade agreement also permits, in article 17.9.3, limited exceptions to the rights conferred during a patent extension. The test is a balancing of the interests and rights of a patent owner against those of others seeking to exploit the invention after a reasonable monopoly period. The free trade agreement prohibits export for other than registration purposes during the springboarding exception that permits R&D during the period of the patent. This is enshrined in this—

ACTING CHAIR—I was going to ask you that. Can you elaborate on what springboarding permits? You referred to R&D but what does it mean?

Dr Oldham—It means that generic manufacturers seeking to develop a generic product are able to undertake the necessary research identifying and qualifying active ingredients determining a suitable formulation, and preparing the necessary studies for submission before the patent expires. Without that exception it would be an infringement of the exclusive right to make, use, sell and manufacture the invention.

Mr Kennedy—So you hit the ground running when the patent expires.

Mr Thomas—So you have given us the car, not the keys.

ACTING CHAIR—Okay.

Dr Oldham—Exactly. If we cannot manufacture we cannot go into those other markets around the world.

ACTING CHAIR—I understand.

Dr Oldham—Australia had springboarding before the free trade agreement was introduced. That is why article 17.9.6 exists, which preserves springboarding. There was also a side letter to the free trade agreement that preserved Australia's right to export for springboarding purposes. This is often held up as being the only permitted export during the period of patent extensions. The advice we received is that that is a limited exception and that the prohibition on export during the springboarding period does not create a general export prohibition. It does not prevent us allowing other limited exceptions, like Manufacture for Export.

As I mentioned earlier, the contrary interpretation—at least the way we have implemented patent extensions—results in anything but a free trade agreement because it requires Australia to maintain a set of rules that disadvantages Australian manufacturing vis-a-vis United States manufacturers in access to the United States and other global markets. Manufacture for Export will also not create a dangerous precedent and set retaliatory actions in train should the United States or any other country object. Manufacture for Export is about creating a level playing field for generic manufacturers; it is not about tipping the balance in favour of generics over patent holders.

What country would not be expected to stand up and correct unintended consequences of treaty implementations? There are many other nations with more favourable implementations of IP protection than Australia and we reiterate that there is no shortening of practical protection in Australia as a result of Manufacture for Export. TRIPS seeks only to harmonise the 20-year period of protection. There is no harmonisation around patent extensions and any objections that could be raised could be further mitigated by other changes in a package of reforms that perhaps enable patent owners to more easily take enforcement action.

Implementing Manufacture for Export is possible without reopening the free trade agreement. At worst, the United States would object to Australia's interpretation. Australia could simply change its laws back as a last resort, but the United States would be unlikely to object. It would not look good for the United States to assert a position that created no economic benefit for its country and protected no downside for United States companies. It would be a very high risk for the United States to take what at worst is an arguable case in Australia's favour to the WTO and have a precedent set against it. Further, action would not come from the United States until Australia was placed on the priority foreign country list in the United States TR special 301 report.

We are not even mentioned at the lowest level—a special mention—despite the pharmaceutical industry asking for Australia to be put on the priority watch list and specifically mentioning Manufacture for Export. Even if Australia were eventually found to be in breach of the free trade agreement, umbrella TRIPS and WTO obligations prevent retaliatory tariff action. Finally, Manufacture for Export will not hamper access to innovative medicines and, if anything, will enhance it. Practical, effective patent protection in Australia is not affected by Manufacture for Export.

Hospira and other AusBiotech members actually benefit from patent extensions and still support Manufacture for Export. Canada offers no patent extensions and over the past 10 to 15 years has grown a world class generic manufacturer in Apotex and, at the same time, has seen its

pharmaceutical R&D intensity triple. During the same period, Australia's pharmaceutical R&D intensity has remained stagnant at the same level as Canada's was a decade ago. We have seen no genuine evidence that jobs will be lost as a result of implementing Manufacture for Export in Australia.

I close by making the observation that we are aware that the government's advice seems to be that Manufacture for Export cannot be done. But the government's advisers appear to have been consistently conservative on IP issues. Kim Weatherall, Associate Director of the Intellectual Property Research Institute of Australia wrote last month:

I have observed in discussions of copyright in Australia that the people at the Attorney-General's Department who are involved in copyright often take a very conservative view of the obligations in various copyright-related treaties.

She goes on to state:

Is this, Manufacture for Export, another potential case of Australia being the overly conscientious, stick to the full letter and spirit of the treaty law, don't rock the boat goody two shoes adopting a conservative interpretation of treaty language that prevents it taking full advantage of the flexibilities available?

In the view of the generic industry the situation we face today is not conducive to having the government's advice tested. There needs to be some open discussion between government advisers and industry on the merits of the various legal and international relations issues. While the industry appreciates that the government sees itself in a difficult position, the only way that we will feel that the government has really done its best to get the right outcome, whatever that ultimately is, is if it ensures there is a vigorous discussion between experts which the government will arbitrate.

We have a proven industry that can compete globally and we continue to develop products here, but we have, by our own actions, locked ourselves out of the ability to convert that situation into manufacturing jobs and exports. We urge the government to implement Manufacture for Export. I would be delighted to take your questions.

Senator O'BRIEN—I would like to ask a very simple question. Are you telling us that you can with springboarding develop a generic product and at end of the patent you cannot manufacture it here but you can go to India and manufacture the same product?

Dr Oldham—We can manufacture product at the end of the patent here, absolutely.

Senator O'BRIEN—Yes.

Dr Oldham—The problem is that the US market formed the year before that.

Senator O'BRIEN—Right.

Dr Oldham—To access that market, we have to be first into that market as well. That is where the majority of generic industry returns come from. So we have to take that production somewhere else. Products we make in India are developed here and we transfer them over there to make them.

Senator O'BRIEN—Is the only reason you are manufacturing in India the current law? Nevertheless, the manufacture will take place because of the availability of a market at the end of a patent in another country.

Dr Oldham—Australia represents one per cent of the world pharmaceutical market. So, 99 per cent of our markets are outside Australia. We choose a manufacturing site specifically to access those markets.

Senator O'BRIEN—In essence, what I am trying to establish is whether it is the case that no damage is caused because the production will occur in any case in another country?

Dr Oldham—That is correct.

Mr Thomas—Yes.

Mr Kennedy—That product will be manufactured because markets are opening up everywhere. What we want to do is manufacture it here and then export it so it does not hurt the originator. Otherwise Hospira will manufacture at their joint venture in India. They are going to fill that market, whether it is in Europe, Canada or wherever.

Senator O'BRIEN—Does the current legislative situation advantage the patent holder where the patent holder wants to participate in generic manufacture?

Dr Oldham—We cannot see how it will, not in this country. They are in exactly the same position as we are.

Senator O'BRIEN—Do they argue that it does?

Dr Oldham—No.

Mr MURPHY—I want to pick up on what Mr Kennedy said in his opening remarks about Australia having a competitive advantage in tyre manufacturing.

Mr Kennedy—Not in tyre manufacturing.

Mr MURPHY—I thought you said—

Mr Kennedy—The point I am making—

ACTING CHAIR—One at a time. The poor Hansard reporters cannot keep track otherwise.

Mr Kennedy—The point I was making is that in manufacturing pharmaceuticals in Australia we believe we have a competitive advantage because we have a good regulatory environment, a good education system and a highly skilled workforce. We also have a good, clean environment. We say we make a better, safer product here than in India. We say that is a competitive advantage that Australia could have and we should invest in it to maintain it, because those countries will close that gap over time. The analogy I made with tyre manufacturing is that many years ago we may have had that. It is a basic commodity now and you can do that anywhere. It is

easy to set up a tyre manufacturing plant in China and pump them out and send them here on cars.

ACTING CHAIR—Which is why we do not make them.

Mr Kennedy—That is right. That is why they do not make them back in Ohio anymore. That is why Goodyear has been shutting their plants and you can see where they are taking them. We are saying that the public policy focus should not be at that basic commodity level where we cannot compete anymore. It has to be here; this is where we can help.

Mr MURPHY—I visited Hankook in Korea some years ago. That is what prompted my question, because I wondered how the hell we could compete with the Koreans. I appreciate the clarification.

Mr HAWKER—I think you covered it very well. It is rather difficult to understand why there is such opposition. You have demolished—

ACTING CHAIR—Let's go to that. You have been lobbying and arguing about this for some time, with both the previous government and the current government. You indicated what the objections are from Medicines Australia. Have you been given any indication or encouragement that there might be some change of view? Where do you believe the problem lies? Is it in the Department of Health or the Attorney-General's Department, which you said have conservative attitudes about these things?

Dr Oldham—They are good questions and in a sense we do not know the answer.

ACTING CHAIR—The other challenge is—and it is the other point I want to make—that there is an acceptance now that generics should be available, and increasingly so. There is clearly recognition that the companies have made the investment and they should be given the opportunity to get a return on that investment. But over recent years there has been more encouragement about Australians themselves having access to generics. The jump from there to manufacture does not seem to me to be that significant. Apparently there is a major blockage somewhere.

Mr Thomas—There is a mind block here. It resides within the departments. I suspect that the individuals who have been asked to look at this case now are the same people who provided the advice originally.

ACTING CHAIR—Which department?

Mr Thomas—The Department of Foreign Affairs and Trade. They are the police on this.

ACTING CHAIR—I was going to ask you what the view of trade is.

Mr Thomas—They are police on this issue. Rather than looking at what are the potential avenues through this, their constant advice to ministers is that this simply cannot happen. That is irrespective of the time that has transpired since the free trade deal was signed, irrespective of the relaxing of the United States' approach and policing of this, and irrespective of the opening

up of Australia's ability to do what they are doing here. There needs to be paradigm shift in how the departments are looking at this.

Finally, every member we have come cross—government or opposition—has said that this is a no-brainer. That is also the view of industry and economists. We are struggling even to get to the table with the government to work out how this can be augmented, what are the potential risks and what the industry can do to mitigate them.

ACTING CHAIR—I will pick up on a couple of those issues. As you know, I have had the benefit of having briefings and meetings with people in the past.

Mr Thomas—Sure.

ACTING CHAIR—I think a lot of members have. You mentioned Pfizer a moment ago. Just to get this clear, you have the generic manufacturing companies—and you are here speaking on their behalf—then you have other companies, which are the Medicines Australia group, who manufacture pharmaceuticals. Do they go on and manufacture generics as well in any great quantity after their patent has expired?

Dr Oldham—Traditionally they have not; traditionally they have manufactured their own product after it has gone off patent. What we have seen in recent years is proprietary pharmaceutical companies adding full line generic divisions. Novartis has been doing that for years with the Sandoz unit. Sanofi-Aventis relaunched their Winthrop brand as a generic arm two or three years ago. Pfizer has established its products division within the last six months and has rapidly gone to scale on that. Manufacturing full line generics is new territory for proprietary pharmaceutical companies.

ACTING CHAIR—They would be your direct competitor within Australia if they did that in any substantial way.

Dr Oldham—They would become a competitor with the other six members of the Generic Medicines Industry Association.

I would like to make two other points. There is a third industry group in the pharmaceutical industry here. As you know from our original submission, AusBiotech supports Manufacture for Export. I have had members of Medicines Australia say to me privately that they cannot see a downside with Manufacture for Export for them. They will not say it publicly, but they will say it to me privately.

ACTING CHAIR—They can manufacture their own—

Dr Oldham—Product, yes, because they own the patent.

ACTING CHAIR—Can they then go on and manufacture a generic version here afterwards?

Dr Oldham—Only of a product for which they own the patent.

ACTING CHAIR—Right.

Ms Lynch—I think the quickest way to summarise the Medicines Australia position is to say that it is a philosophical one. Medicines Australia must be seen to be supporting intellectual property and that transpires to more is better, even more is even better. I think anyone looking at this objectively would agree that this is not impinging on their rights. However, it comes back to their philosophy that they must retain that position. It is philosophy, not a practical—

ACTING CHAIR—I understand how you are representing their position. I have heard it quite often that they have made this investment up front, and part of all of that is the intellectual property. They retain some ownership of that, even beyond patent.

Mr HAWKER—What would this be worth to the economy if the legislative change were made and you were able to move to manufacturing here?

Dr Oldham—To start with, there is \$150 billion worth of products coming of patent in the next five to six years. Assume that Australian manufacturers would access a small number of those—around 30 per cent—and that they get a shot at that and a reasonable share. That could increase Australia's pharmaceutical exports by 10 per cent. They are \$3.9 billion today and that could increase by another \$400 million. In Hospira's case, we have one project—that is, the project destined for India under the current regime—and if we could retain it here it would alone generate \$1.5 billion worth of exports over the next 10 years.

Putting any firmer numbers around the potential is difficult because companies configure and their research and development and manufacturing strategies around the current environment. That environment means they do not plan for manufacturing here today. But you would see more opportunities to retain products that are developed in Australia for manufacturing here. You would see biotech companies able to take their developments, many of which are contract manufacturing—for example, biologicals—into the new field of biogenerics. That alone will be worth \$50 billion in the next 10 years.

It would enable those biotech companies that are working on new, enhanced drug delivery systems—often wrapping them around established proven molecules—to take them further and manufacture commercial product here rather than having to go offshore because the base molecule is protected here. The benefits are quite—

Mr Kennedy—The gross figure of the global generic in the market is growing by 14 per cent per annum from now. Generics is big. As you indicated before, Senator, generics has a good social outcome. On those figures alone, 14 per cent growth—

Ms Lynch—The 14 per cent growth is important to note. That is in comparison to pharmaceuticals generally across the Asia-Pacific growing at less than half of that—at 6.6 per cent. The other thing to look at is the industry surveys of employment numbers of our membership base. The fact that they are stable and perhaps declining does not make a sense in a market that is growing globally at 14 per cent. Our Australian employment numbers are stable and potentially declining.

ACTING CHAIR—You made very comprehensive comments and, as Mr Hawker said, you did not really leave us too many questions. That is good. The argument from Medicines Australia is that this is a breach of international trade obligations, WTO agreements, FTAs and whatever

and you have responded to that. Have you done any assessment of that, particularly internationally? What are the views of other countries, if they have any?

Dr Oldham—Let me answer that with a couple of comments. The legal advice we sought was from US lawyers.

ACTING CHAIR—Right. You did mention the trade commissioner.

Dr Oldham—That has been validated by local Australian intellectual property and trade lawyers. We have provided that information to the government already. We sought advice from the same people as to what the US reaction would be. They provided us with a very comprehensive view of practical options open to the US even if it were to object.

I think that is a really important thing that often gets missed. This is not an area where there is a black and white answer. Therefore, it is a matter of being open to a degree of interpretation. That is what gives us a high degree of flexibility in what we choose to do. From there it becomes very important to think practically about what people are going to do. Everybody when faced with a grey legal interpretation weighs up the benefits, risks and alternatives that they could be spending their time on in terms of enforcement. This is not going to get on the radar screen in terms of enforcement.

We know that a number of smaller countries, like Canada and Israel—who are on the US TRs watch list and at some of the lower levels because of the way they have addressed their intellectual property in different areas—have taken conscious decisions to say, ‘No, we don’t want to go the full way that the US has wanted.’ They are on the US TRs watch list at low levels and they have taken their slap on the wrist, as light as it is, and they are getting on with business.

It is highly unlikely that any country would take a stronger view than the US. India is not going to because it is based on the generic industry. I have never heard of Switzerland being active in trying to increase intellectual property protection, despite the large number of patentee pharmaceutical companies based there. This is driven by the US.

ACTING CHAIR—What about the EU?

Dr Oldham—The EU is very pro-generic. They have a thriving generic industry and they are looking to drive a very fine balance between patent protection and generics.

ACTING CHAIR—It would probably be contrary to a lot of their own regulations now if these sorts of restrictions existed. Thank you very much for your appearance, and particularly for your comprehensive summary at the start, which was of great benefit to us. You will receive a copy of the transcript and you can check that for any corrections and advise accordingly.

Mr Thomas—What happens from this period on?

ACTING CHAIR—The subcommittee will prepare a report at the end of the hearings and that will be considered by the full committee. In due course it will be tabled in the Parliament. Then it is a matter for the government to respond.

Mr Thomas—Thank you very much.

ACTING CHAIR—I think we will be doing that in the next couple of months, or some time soon.

[12.38 pm]

CAREY Mr David John, Federal Secretary, Community and Public Sector Union - State Public Service Federation Group, and Executive Board Member, Representing Oceania, Public Services International

SLAPE, Mr Paul, National Secretary, Australian Services Union

ACTING CHAIR—I welcome our final witnesses today. We very much appreciate your coming along this morning.

Mr Carey—I am representing state public sector employees. But I am also a member of the Public Services International (PSI) executive board and a representative of the Asia-Pacific regional body of PSI.

ACTING CHAIR—I know you are aware of the procedures of parliamentary committees, particularly that we prefer the evidence to be given in public. However, if there are any matters that need to be discussed in private or that you would prefer to deal with in private, please make that request at the time. While evidence is not required to be given on oath, these hearings have the same status as the legal proceedings of the two chambers of Parliament. Thank you for your written submission, which has been received by the committee and made public. I invite you both to make some opening comments and then we will proceed to questions.

Mr Slape—I will make some brief opening comments, and then I will hand over to David. As he said, he is the PSI representative in this region. This is a submission on behalf of three unions. The CEPU representative could not be here today. Its submission is from the Electrical Division, obviously dealing with power generation et cetera. They are affiliated to the PSI.

ACTING CHAIR—That is the Communications, Electrical and Plumbing Union.

Mr Slape—Yes.

ACTING CHAIR—This committee deals with a lot of acronyms.

Mr Slape—We all do. We all presume everybody understands what we are talking about, but I appreciate that that is not the case.

We are affiliated to a global union federation called Public Services International, which covers people who provide public services in their various countries. We have affiliated member unions in all of the countries I think you are dealing with. However, this submission has not been lodged on behalf of the Public Services International. It has been lodged by three unions that happen to be affiliated to the PSI.

I think you will gather from our submission that we are not against free trade—we are all for free trade and fair trade. The way we approach it is that if it is going to be successful in each of the countries that we are dealing with there needs to be a properly functioning public service

sector that can provide the whole range of services that the public sector provides to its people. To assist in that process there should be free and democratic trade unions and the encouragement of the formation of free and democratic trade unions that can assist in that process. Unions give ordinary workers and people a voice and they can interact with their governments and be involved in negotiations that occur around the question of how countries trade with each other.

We think it is important that with any aid we give and any trade that we have there is some connection to ensure there is a properly functioning public sector. Often states fail when the government of the day breaks down and cannot provide those services. Then you get a range of corrupt activities, criminal elements moving in and the potential for terrorism. One of the big issues of the day for us is, I suppose, the question of migration. People have to leave those countries and they come looking for stable countries where they can live a decent life.

With those opening comments, I will hand over to David. I used to be the PSI regional representative and after 10 years I handed over to David. He is now our regional representative in this country.

Mr Carey—We have appeared before a similar committee and I imagine that if you were to look at our submission concerning relations with ASEAN to an inquiry last year—

ACTING CHAIR—That was the Foreign Affairs one.

Mr Carey—Yes. We made similar points. I should point out that we are not cutting and pasting. We make similar points before this committee because we believe that these are essential. Whether it be our foreign relations or our trading relations, they are all about the relationship of the Australian people with the peoples of other countries. They are essentially social relations.

We think that all the trade agreements should exclude the trade in services or, if they do have that right in a positive sense, that governments should regulate those services because they are usually provided by government. We have some very big problems with the North American sort of free trade agreement, which has a negative list for services. A government like Australia's would have to positively and specifically reserve certain services. Those are things like investment controls, provision of services such as water, education, health and so forth. We believe that if they are not reserved to be regulated and publicly provided, there would be an inequitable social outcome.

We have examples of that in the scope of this committee in terms of Latin America. There is at the moment an extreme situation in Columbia. There is a move in Columbia to change the constitution to give as a constitutional right access to potable water for all citizens. That means defining what is private water and what is publicly available water. I think two million people in Columbia have signed a petition to ensure that the Columbian constitution is changed to provide that pure and safe water is every Columbian citizen's right. There has now been an attack upon that by three major water service companies—Vivendi, Suez, Agua Barcelona. They are pressing the Columbian government to prohibit or forestall the passage of that legislation to give trading rights and to define the right to water in a way that would be advantageous to those private water companies as suppliers.

It is the issue of publicly available services and the ability of the government to regulate how those services are traded, if they are to be traded at all. That is central to a lot of those trade agreements. We say that Australia should insist upon governments being able to retain those services and to dictate and regulate the way that they are operated. It is essential.

ACTING CHAIR—You mentioned Columbia. Did you say that they are private companies?

Mr Carey—They are private companies involved in the provision of water services.

ACTING CHAIR—But the resource is still owned by the public.

Mr Carey—In many cases they have been privatised. Different municipalities have privatised them. A law is being passed by the national government, which would be signatory to any free trade agreement. Attempts are being made to pass legislation to give the government the ultimate right and for the constitution to guarantee access to water for each citizen. But those companies are now sponsoring legislation within Columbia to head that off and to make it tradable and to give them private rights to trade that water to those companies.

For argument's sake, only last week the Puerto Rican government threaten to sack 45,000 public sector workers who are demanding bargaining rights. It is going to suspend their collective bargaining rights as a trade union and dismiss those employees because of their demands upon the government. We should say that a condition of any agreement involving Puerto Rico or any other Latin American countries must be that they guarantee that they will recognise trade unions and allow trade unions to operate.

These are public sector employees; they are not just private sector employees. They should have the right to form a union and to have it collectively bargain on their behalf and not be subjected to repressive legislation. Guatemala has ratified all of the eight core labour standards. But the World Trade Organisation itself and the International Trade Union Congress have repeatedly criticised Guatemala's repression of trade unionists. In addition to demanding that core labour standards and rights be a condition in trade agreements, Australia must also actively take the next step—that is, to ensure that those countries implement those standards and not just simply take their word for it as a sign off.

Closer to home, Indonesia has the same problem. Indonesian public sector workers took industrial action against the government about plans to privatise the national airline services company and the airport workers. The Indonesian government then dismissed all those workers who were protesting against the privatisation and refused to recognise their union. The Indonesian government did the same thing to public sector workers who were protesting against the sale, again to private companies, of the electricity generation and supply system. Those workers were again stood down or dismissed for organising a protest.

There are examples very close to home where unions who are undertaking significant and important social activities—that is, protesting against the sale of services and what they see as the diminution of services—being dismissed by a government. These are governments with which we have close relations. The same thing happened in Thailand. Public sector employees have protested over the last couple of years about the sale of electricity generation, water and all

those sorts of publicly available services, and they have been brutally repressed. Many of them have been dismissed and not rehired.

Trade agreements that include provisions that deal with access to services—which means in many cases to countries in Asia, Latin America and the Pacific the introduction of privatisation and the sale of those public services—have direct consequences for the people who work in them. They are often dismissed, laid off or imprisoned if they protest against the impact of those trade and services agreements. I think that when the Australian government enters into those agreements it has a responsibility to ensure that as a consequence labour rights, core labour standards and the right to organise and collectively bargain are not diminished.

We have a particular problem at the moment in the Pacific. The two biggest problems in our area that we have direct knowledge of are the difficulties arising as a result of the PACER Plus arrangements and the political situation in Fiji. They are two things that directly impact upon the employees that we represent in the public sector. PACER is the Pacific Agreement on Closer Economic Relations, and PACER Plus embraces Australia and New Zealand in that agreement.

All studies—those undertaken by the WTO and international organisations such as the International Monetary Fund—have shown that agreements such as this mean that the government loses its ability to raise revenue via import duties and so forth. In the Pacific it is estimated at minimum there will be a fall in government revenue of about 10 per cent, and it could be up to about 15 per cent to 20 per cent in some Pacific countries if duties, import taxes, luxury taxes and so forth are removed by the introduction of a freer trading arrangement.

Vanuatu has had experience of that recently. It had a free trade agreement imposed on it by Europe. It took something like 10 years for Vanuatu to recover the revenue lost. It never really got back to where it was in replacing the revenue lost because of the inability to charge duties. We fear that this will happen and that unfortunately Australia will be pushing these trade agreements in the Pacific and that they will have a direct impact upon the ability of those governments to provide services that are already under the hammer because of the general poor trading environment within those countries because they do not have many options. They have limited exports, limited ability to diversify and so on. We believe that Australia should not be forcing free trade or the PACER or PACER Plus arrangements on the Pacific Island nations and that they should be given an opportunity to reserve social and other public services from those agreements. Trade in services should not be part of those agreements.

We have another problem at the moment that is very difficult. I do not know whether it is appropriate for this committee to deal with it, but there is a significant attack upon the ability of the largest public sector provider outside Australia and New Zealand in the Pacific because of the political decisions taken by the current government. Only two weeks ago, 2,500 public sector workers were dismissed by the Fiji government because they had reached the age of 55. This has resulted in a layer. If you think about it, 2,500 is a small sounding number in Australian terms. You should multiply it by 30 and you would appreciate what the effect would be on the standard of services in Australia.

Senior nurses, people managing health services, people managing legal services, people managing all sorts of government services, accounting and so forth have all just been dismissed and marched out the door. We now have a very poor situation in Fiji. Public servants have also

had their salaries compulsorily reduced. The government has abrogated pre-negotiated pay rises and people are leaving the country in droves. These are people who are usually in the middle level of the public sector. The whole of the public sector services in Fiji are being taken over or run by junior people with limited experience. We think that will have a very dramatic effect on the people of Fiji.

Australia has a role to play in trying to deal with this problem. The Fijians have lost \$US32 million from their budget because the European Union has removed its sugar industry adjustment program. Fiji's income has been slashed completely. The largest economy in the Pacific, which would have been part of the PACER agreement, is now in serious trouble. Australia should be very careful about trying to push PACER Plus and forcing the pace—pardon the pun—on PACER Plus while this difficult situation exists in Fiji.

Senator O'BRIEN—Fiji is going to be the subject of other actions that will have an impact on it because of the effective military coup and control by military and non-democratic forces.

Mr Carey—That is true.

ACTING CHAIR—I do not think this committee would be seeking to justify withdrawing those sanctions.

Mr Carey—It is a very difficult situation. It is likely to be—and probably has been by now—thrown out of the South Pacific Forum. It is probably going to be thrown out of the Commonwealth or suspended from the Commonwealth. There are all sorts of dramas. The Fijian government has been forced into seeking less scrupulous assistance from other governments in the world, notably North Asia or East Asia. Investment and loans are being sought by the Fiji government through China and so forth to prop up its income.

ACTING CHAIR—Thank you. Since you have lodged your submission, the Australian and New Zealand free trade agreement has been finalised. Do you have any comments about that agreement in the context of the issues and the concerns you have raised? I do not have it in front of me, so I am not sure how far it goes into the services area.

Mr Carey—Not extensively. But we would be disappointed that it did not include conditionality on observation of the core labour standards and the enforcement of those labour standards and so forth, the ILO conventions et cetera, as a condition of the trade agreement. I think we may well be a voice in the wilderness in saying this about free trade agreements or the trade agreements, whether it be in ASEAN or anywhere else. But we think it is an important position. I think the ACTU—with which we are also affiliated—would make exactly the same comment.

Mr MURPHY—I suppose I should declare a potential conflict of interest up front. I am a card-carrying member of the CPSU and have been since the days of the ACOA going back to 1973. I hope that does not disqualify me.

ACTING CHAIR—That is not a conflict.

Mr MURPHY—I might be seen to be a bit one-sided in my views.

Mr Carey—That is a qualification for membership.

Mr MURPHY—You can live with that I am sure. Senator Forshaw, Senator O'Brien and I have a keen interest in Latin America. I would like to move away from the Pacific for a moment. I would like your thoughts about the potential investment and trade opportunities in Latin America, and particularly in Columbia and Brazil, which are emerging so strongly in that region. Would you like to give us your views?

Mr Slape—Columbia is a very dangerous place for trade union activity. I think it has the highest murder rate of union officials in the entire world. It is all tied up with the cartels, drugs and so on. The trade unions try to stand up against some of those things.

Mr MURPHY—The president is, too. They have had a big improvement over the last four or five years. I think crime might be down by about 80 per cent. They have improved a lot, I know that.

Mr Slape—I am not sure if the attrition rate of trade union officials has dropped any. Hopefully it has.

Mr MURPHY—We would hope so.

Mr Carey—There are probably good opportunities for Australian investment and trade with those countries. I personally have always been surprised that there has been as little as there has, except for perhaps some large mining activities and so forth over the last couple of decades. They are a natural partner for Australia. As we have said before, up until now they have been very poor on their social obligations and their obligations to support international conventions dealing with the protection of the rights of employees to organise themselves.

Mr MURPHY—I note reference in your submission in the context of the WTO negotiations. I was going to ask you about that, but now you have referred to it, please expand.

Mr Carey—The PSI has an organisation based in South America. The simplest and worst examples of abuse of the right to organise et cetera are found in Latin America. It is just the most appalling place to operate. Daily there are massacres, people being arrested, mass sackings and so forth for opposing liberalisation of the economy, the sale of services and privatisation. It is essential that Australia makes the point that those sorts of behaviours are unacceptable to anyone with whom we want to expand our trading relations. I do not know whether I have answered the question.

Mr MURPHY—Are you suggesting that current trade ministers and previous trade ministers have not said anything about that? I notice that you make the point that there should be a high level of support for the freedom and opportunity of workers to participate in trade unions. We certainly have an energetic trade minister at the moment. I know how hard he works. Given his pedigree, he should be the perfect envoy and advocate.

Mr Carey—Precisely.

Mr Slape—I suppose we are trying to reinforce that. I think the tenor of our submission is not that we are trying to identify where Australia can trade and where the opportunities are. It is more that regardless of who we trade with we must ensure there is an effective public service in place to provide at least basic services to the population. If that happens, it prevents the breakdown of society that can happen in some of these countries.

On page four of our submission we note that a lot of our companies that do trade with various countries in Latin America—bearing in mind that this was written last August or September prior to the global financial crisis—

ACTING CHAIR—Yes.

Mr Slape—I am not sure how we are going currently. We have not updated this submission.

ACTING CHAIR—We understand.

Mr Slape—We are saying that free trade is good, but there are some reservations about the things that David mentioned. As one of the advanced economies and democracies of the world, Australia should be trying to promote our values, taking into account local indigenous customs and things like that. But we need to put in place a good public service, non-government organisations and a free trade union movement that can be best placed to help ensure that the country moves forward.

ACTING CHAIR—I would like to pick up on Mr Murphy's comments. Fascinating is probably not the best description of some aspects of Latin America and there is no shortage of political parties of the left and the right—

Mr Slape—And very passionate.

ACTING CHAIR—Very passionate. Without singling out any particular country, we know that the policies of some governments in the past—and even today—are not what they do in practice, irrespective of whether they say they are standing up for workers' rights or that they are strongly pro-capital and business. The way in which trade union organisations are treated leaves a lot to be desired. You mentioned improvements in the last couple of decades. An interesting feature is that 20 or 30 years ago they were all essentially military, despotic governments. The continent has come a long way—just as Indonesia has—in moving quickly to government based upon democracy and elections.

However, there are all sorts of interesting features, such as what is happening in Columbia, Venezuela et cetera. That probably demonstrates the difficulties. What interests me is what opportunities an organisation like PSI has to be involved at the cutting edge in talking to governments and the political parties and political leaders, which you have always been able to do as internationals have done in Europe, Australia or the US regardless of whether they have a conservative government.

Mr Carey—Latin America is probably one of our fastest growing areas for PSI affiliates. There are more organisations being formed there and joining the PSI grouping. That has occurred as a result of the activity of the PSI in the region. It has focused on joining collective

bargaining with service provision, particularly in the health sector. We have organised lots of health workers. For example, we have used things like retractable needles and one-use syringes and so forth. The PSI has organised their supply through the World Health Organisation on a sufficient scale. The PSI goes to the government, which previously hated unions and did not recognise them, and put a claim that said, 'In our collective agreement all our nurses, health workers and so forth will be guaranteed retractable needles and reusable syringes to prevent the transmission of AIDS and so forth.' They have made agreements with the government on the basis that the PSI sources the retractable needles cheaply, supplies them to the government, or gets the WHO to do it, and then the government ties up a collective agreement on that and other things with the union.

The union gets recognition, a collective agreement is reached, and the government gets the benefit because it gets the needles for free or cheaply because of the scale. The government starts to see that it gets a benefit from having a collective organisation that can represent workers and speak with one voice because there is actually a health outcome for it. That sort of thing is happening and that is the sort of work we are doing. That is happening in South America and South Africa, where AIDS is a big problem. The other thing that has happened since this was written is, of course, the stepping up of the size of the international commitment to funds organisations such as the Asian Development Bank (ADB), the International Monetary Fund and so forth.

ACTING CHAIR—I want to ask you about the ADB in particular because I am aware that you have quite an interaction with the bank.

Mr Carey—The Asian Development Bank has now tripled its source of funds. That figure may be even larger. It used to loan \$11 billion a year to various countries. It has moved from giving direct country aid now to investment in more private sector projects. The PSI has been getting the ADB to adopt a policy to introduce core labour standards as part of conditions for grants and funds or project funding that it supports. We have inched along, but it has become better and better.

We have dealt with Senator Sherry, who represented the Australian government before the governors of the bank in Madrid and in Bali just recently. The ADB is now getting closer to establishing a formal structure to work out and to implement core labour standards among its recipient companies or governments. We appreciate some of the work that Senator Sherry has done in supporting that and also the work of the executive director, who is based in Manila. I cannot remember that gentleman's name at the moment. It would be a valuable activity for Australia to support that with the board of governors. We are the fourth biggest donor to the ADB.

ACTING CHAIR—I was aware of the recent conferences that Senator Sherry has attended. I thought it would be handy to get that on the record. What is your union's relationship with major corporations that are involved in Latin America and also in Asia in terms of talking to them about seeking to invest and to build their trade in the region? Are they prepared to talk to you about labour standards and these issues?

Mr Slape—Our interaction with multinational companies is more with those companies that provide a service to the public sector that might have been contracted out.

ACTING CHAIR—My old union now has companies that are heavily involved in Asia in construction. In your sector in electricity, water and so on—

Mr Slape—We do that through the PSI and other global union federations. It depends where they are coming from. We perhaps have more sway with the European companies because of the European Union and its social democratic nature. There are works councils and more interaction between the company and workforce. We talk to our unions through the PSI and others and their workers say to their companies, ‘You are doing public sector work or contracting out work in this country and we expect certain labour standards to apply.’ We do have some success in that.

ACTING CHAIR—Which major Australian companies might contract for this sort of work?

Mr Slape—Vivendi, Veolia—

ACTING CHAIR—That is transport.

Mr Slape—And Thames Water. It is also now coming into Australia, or is in Australia. It is obviously involved in water. We try to build up those sorts of links.

ACTING CHAIR—With Thames Water?

Mr Carey—Not the water but the company.

ACTING CHAIR—Exactly. Let’s not import water from the Thames, although it might be cleaner than the Yarra. Are there any further comments you wish to make?

Mr Slape—While we are asking you and the government to play a role in building up public services, one of the things about the PSI is that it collects 70 per cent of its affiliation fees from unions in first world countries and spends 70 per cent in third world countries. There is that transfer of our own funding, if you like. It is designed to build up trade unions, but it is also designed to try to help them with AIDS and other health issues and things like that.

ACTING CHAIR—It is about good corporate governance and democracy.

Mr Slape—Yes. Trade unions are not always just about wages and conditions.

ACTING CHAIR—Presumably you would be involved in education and electoral support programs.

Mr Slape—That is a big thing.

Mr Carey—Some of the Australian members of our union have been part of government delegations to run elections Timor and so forth.

ACTING CHAIR—I am aware of that. Columbia is not on our current list of countries to visit.

Mr Carey—We leave that to our North American affiliates.

ACTING CHAIR—Thank you very much for your attendance today. You will receive a copy of the transcript, which you can check and send back with any corrections. I thank the Hansard staff and the committee staff—Tas Luttrell and Samantha—for their assistance.

Resolved (on motion by **Senator O'Brien**):

That, pursuant to the power conferred by paragraph 16 of the committee's resolution of appointment, this subcommittee authorises publication of the evidence given before it at public hearing this day.

Subcommittee adjourned at 1.21 pm