

Submission to the Joint Standing Committee on Foreign Affairs

Australia's Trade and Investment Relationship with the United Kingdom

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1. Timing of future Trade Negotiations with the UK

Australian Trade Minister Steven Ciobo has [ruled out](#) negotiating free-trade deals with the UK until Britain has formally completed its departure from the European Union. A practical first step is to ascertain when this is likely to be. The reality is that it may be many years before Australia can seriously contemplate negotiating a Free Trade Agreement (FTA) with the UK. Why?

According to Article II of GATT, the UK is to provide MFN treatment on terms which are "no less favourable than provided for in its national schedule". At the moment the UK doesn't have one. Here lies the problem. The current UK schedules for goods and services were not negotiated by the UK, but on its behalf by the European Commission. An important question is whether the UK can simply "cut and paste" the EU schedules to create national schedules. This is far from clear.

What is well established in the WTO is that no country can unilaterally decide what its rights and obligations are; they are to be negotiated with other members with the outcome agreed to on the basis of consensus. If the UK unilaterally adopts the EU schedules as its own, all WTO countries will have to agree on the outcome of negotiations establishing the UK schedule. According to the WTO Director General, "pretty much all of the UK's trade [with the world] would somehow have to be negotiated ... These negotiations will be "torturous".

For example, there are around 500 EU tariff line items subject to tariff quotas with duty free access to the EU market up to a cut-off point. These are administered by the European Commission on a "first-come, first-served" basis. The future allocation of these quantitative limits between the EU and UK will have to be negotiated. So too for the sharing of tariff quotas that the EU faces in other markets such as Japan. Also, further negotiations will be required for the allocation between the EU and the UK of the WTO sanctioned 72,378 million Euros of support for agriculture. There are numerous such examples.

If the UK has not completed its negotiations with the EU and WTO members within two years, trade will still take place. Nevertheless, commercial interests will certainly suffer. Uncertainty will prevail as long as the negotiations on what constitutes definitive market access continue. There will be considerable uncertainty and uncertainty is the greatest non-tariff barrier to trade.

2. Australia's role

While it may be some years before Australian officials can formally negotiate Post Brexit trading arrangements with the UK, there is no reason why it cannot informally undertake consultations now on what these arrangements could be both post BREXIT and in the interim.

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Further, given that the UK will be looking for support in regularising its situation in the WTO, Australia should play a supportive role whenever possible. It should make every effort to accelerate the process of the UK "stand-alone" membership of the WTO and be accommodating wherever possible, particularly given that other UK negotiations will on occasion be with opportunistic and politically driven trading partners.

3. Way forward

In a more general sense, the GATT and then the WTO were created to avoid precisely the disturbances facing the world trading system today. There has been a fragmentation of the multilateral trading system with the proliferation of so called free trade areas and every indication of a return to protectionism and "beggar thy neighbour" policies. The fault lies largely with the WTO which has failed to adjust to the paradigm shifts (outsourcing, on line trading etc.) that have taken place in global trade.

The WTO comprises 164 governments trading according to mutually agreed rights and obligations with a powerful compliance mechanism. It is inconceivable that a comparable system could be created today, notwithstanding the immediate need. Given the importance of a rules based non-discriminatory trading system to both Australia and the UK – based on past history and future needs – they should step forward as champions of a serious rethink of how the WTO system can be revitalised to address the numerous contemporary problems facing the world trading system.

My own thinking is heavily influenced by the fact that I was for 18 years Director at both the GATT and the WTO and then Senior Counsellor in the Office of the WTO Director General.