

GOVERNMENT RESPONSE TO REPORT 42
OF
THE JOINT STANDING COMMITTEE ON TREATIES

"Who's Afraid of the WTO? Australia and the World Trade Organization"

Government Response to the 42nd Report of the Joint Standing Committee of Treaties

The Government thanks the Joint Standing Committee on Treaties for its consideration of Australia's engagement with the WTO reviewed in the 42nd Report. The Report makes twenty-one recommendations relating to Australia's interaction with the WTO. The Government response to these recommendations is provided below.

Recommendation 1

EVALUATION OF SOCIO-ECONOMIC IMPACTS OF TRADE

The Committee recommends that the Commonwealth Government commission multi-disciplinary research to evaluate the socio-economic impact of trade liberalisation in Australia since the conclusion of the Uruguay Round in 1994 (paragraph 1.96).

The Government shares the Committee's view that it is important to provide assessments of the actual results of trade liberalisation in explaining to the wider community the benefits of these policies.

As noted in the Committee's Report, the Government has undertaken studies that demonstrate how trade generates wealth, creates employment, raises living standards, provides consumers with access to high quality products and provides business with a source of new ideas and innovation. Those analyses have, for example, estimated the proportion of jobs in Australia as a whole, and in regional areas, that depend on trade; and demonstrated that exporting firms on average afford their employees significantly better wages and conditions than non-exporting firms.

The Government will continue to explore ways of undertaking such evaluations to enable the public to make better informed assessments of the benefits of trade and the impact of trade liberalisation. As part of this effort, ABARE and other relevant Government agencies will continue to use their economic modelling tools to analyse trade liberalisation initiatives, including sector specific initiatives such as agricultural trade reform.

However, it should be noted that retrospective quantitative analyses isolating the total economic impact of trade liberalisation over a given period would be a complex matter. To attempt to differentiate the impact of trade liberalisation since 1994 from other factors, such as currency movements, ongoing structural reforms to the Australian economy and the Asian economic crisis would be both difficult and expensive. This notwithstanding, the overall consensus of most studies is that removing trade barriers globally, including in Australia, lifts living standards and delivers gains for Australia and the world economy. This conclusion holds across a wide range of assumptions about national economic behaviour and model types.

Recommendation 2

STRUCTURAL ADJUSTMENT

The Committee recommends that prior to entering any future WTO commitments, the Commonwealth Government assess whether structural adjustment measures are available and appropriate to alleviate any adverse socio-economic impacts of such actions (paragraph 1.115).

Structural adjustment considerations are a key part of the Government's economic and employment policies. In addition, industry consultations are an important element of the Government's approach to trade negotiations and the implications on Australian industry of any new WTO commitments would be fully taken into account in establishing negotiating objectives. In this context, the need for any structural assistance measures would be fully assessed by the Government.

Changes flowing from multilateral trade negotiations, such as phased tariff reductions, are by their nature unlikely to lead to rapid adjustment consequences. Changes have generally occurred over a period of time, allowing industry adjustment to take place gradually rather than rapidly and unexpectedly. Also, it is important to consider the net benefits from trade agreements in terms of increased access to export markets that may offset any negative impacts on particular sectors.

It should also be noted that, in recognition of the fact that increased trade liberalisation necessitates economic change, WTO rules do not limit a government's capacity to provide genuine structural adjustment support.

The Government has introduced sector specific programs to assist with structural adjustment associated with tariff reductions and other changes to border protection. The \$750 million Post-2000 Assistance Package for the Textile Clothing and Footwear (TCF) industry, for example, is aimed at increasing the international competitiveness of Australia's TCF industry and includes support for restructuring activities in TCF-dependent regional communities. In agriculture also, Australia provides structural adjustment assistance. Such programs include Farmbis, Farm Help (formerly the Farm Family Restart Program) and the Dairy Industry Adjustment Package (DIAP). One program within the DIAP is the Dairy Regional Adjustment Programme (Dairy RAP), which assists dairy-dependent communities by supporting business investment and community infrastructure development.

More broadly, the government addresses labour market disadvantage through funding Job Network, a network of community, private and public providers which deliver employment services in Australia in areas such as job matching, job-search training, intensive assistance for the most disadvantaged unemployed, and the New Enterprise Incentive Scheme. The Government also funds a number of other general labour market and regional assistance programs which assist the unemployed and other disadvantaged people, including Work for the Dole projects, Community Development Employment Projects and the Regional Assistance Programme.

Recommendation 3

COMMUNITY INFORMATION

The Committee recommends that the Minister for Trade review all existing Commonwealth Government community information programs about international trade to ensure that the facts of trade liberalisation and the World Trade Organisation are addressed in a coordinated and well-targeted manner. Specifically, the Minister should:

- *ensure that such programs present consistent messages across the whole of government;*
- *ensure that such programs are delivered in a way that reaches their target audiences;*
- *work with State and Territory governments and industry groups to develop complementary programs and to maximise the impact and reach of such programs; and*
- *encourage industry sectors to undertake their own education programs in coordination with government trade information initiatives (paragraph 2.83).*

The Department of Foreign Affairs and Trade (DFAT) has been assessing ways of enhancing coordination of information activities on international trade, and to improving the targeting of messages. An important step in this direction has been the establishment in the Department's Trade Development Division of a new Trade Advocacy and Outreach Section to strengthen and sharpen the focus of the Government's promotion of the benefits of trade to the Australian community. The Minister for Trade announced the creation of this new unit on 29 November 2001 as one of a number of measures to strengthen and sharpen the resources dedicated to trade policy within DFAT. The Trade Advocacy and Outreach Section will address the issues raised in the recommendation and report to the Minister on further steps to enhance community information programs.

The Government already consults extensively with State and Territory governments and with industry groups on promoting the benefits of trade. Enhanced cooperation in this area has been discussed both in the National Trade Consultations and at meetings of the Trade Policy Advisory Council. The Government will continue to develop information programs cooperatively with State and Territory governments and with business.

Recommendation 4

AUDIT OF INTERNET SITE

The Committee recommends that the Minister for Trade ensure that the Department of Foreign Affairs and Trade undertake an audit of its WTO internet site, with a view to improving access to information about the benefits of trade liberalisation, the role of the WTO system, dispute cases, and ongoing negotiations (paragraph 2.91).

These recommendations are consistent with recent changes already implemented by the DFAT. The Department undertook a thorough audit and updating of the trade related information on the DFAT website in the first half of 2001. The trade material was enhanced and revamped through the design of a new 'trade portal', which has made the site considerably easier to access. The portal provides a single entry point on trade issues from the website's home page. It arranges material according to integrated and readily comprehensible themes (e.g. country, industry sector, issue). The section on the WTO, explaining its role as well as the state of negotiations and dispute cases, has also been

streamlined. There is a wide array of material on the benefits of trade liberalisation under the section on trade policy and the benefits of trade, including a sub-section on trade and regional Australia.

Recommendation 5

COMMUNITY REPRESENTATION AT WTO MINISTERIAL MEETINGS

The Committee recommends that the Commonwealth Government invite NGO members of the WTO Advisory Group to participate as community representatives on the official Australian delegation to the WTO Ministerial Meeting in Doha in November 2001 (paragraph 2.118).

Prior to the release of the Committee's report, the Minister for Trade, Mr Vaile, extended an invitation to all WTO Advisory Group members to join Australia's official delegation for Doha in June 2001. In response to Mr Vaile's invitation, the following members attended: Ms Maureen Barron, Chair, Australian Film Commission; Mr Mitchell Hooke, Chief Executive, Australian Food and Grocery Council; Mrs Cathy McGowan, Australian Women in Agriculture; Mr Mark Paterson, Chief Executive, Australian Chamber of Commerce and Industry (ACCI); Mr Leigh Purnell, Executive Director, Australian Industry Group (AIG); and Mr Jim Redden, Policy Director, Australian Council for Overseas Aid (ACFOA).

Recommendation 6

PARLIAMENTARY SCRUTINY

The Committee recommends that the Commonwealth Government propose the establishment of a Parliamentary Joint Standing Committee on Trade Liberalisation to monitor and review the impact of trade agreements on Australia, opportunities for trade expansion, and trade negotiation positions developed by the Government (paragraph 2.129).

While it is a matter for the Parliament to decide what Committees it wishes to establish, the Government is not convinced that the establishment of a separate Parliamentary Joint Standing Committee on Trade Liberalisation is necessary. The Joint Standing Committee on Foreign Affairs, Defence and Trade and its Trade Sub-Committee already has a mandate to review and examine developments in the international trade environment and Australia's trade policies. The Government would welcome increased scrutiny by the JSCFADT of its trade policy priorities, including the WTO.

It should also be noted that the Minister for Trade reports annually to Parliament on trade policy through the Trade Objectives and Outcomes Statement (TOOS). The Statement presents a comprehensive account of the Government's trade efforts affecting all markets and sectors over the past year and its objectives for the coming year. This includes its approach to new trade agreements and initiatives, opportunities for trade expansion, and trade negotiation positions developed by the Government. The Government would welcome more discussion in Parliament, including by relevant Committees, of the policies and programs outlined in the Statement.

Recommendation 7
ANNUAL REVIEW OF WTO POLICY

The Committee recommends that the proposed Joint Standing Committee on Trade Liberalisation undertake an annual review of Australia's WTO policy, including negotiating positions, current or proposed dispute cases, compliance, and structural adjustment (paragraph 2.130).

The same considerations would apply as for recommendation 6. The Government would welcome regular debate on and scrutiny of Australia's policy towards the WTO either by the JSCFADT or otherwise in Parliament, but does not believe creation of a separate Committee is necessary for this purpose.

Recommendation 8
OFFICE OF TRADE ADVOCATE

The Committee recommends that an Office of Trade Advocate be established within the portfolio of Foreign Affairs and Trade. The Office of Trade Advocate should have responsibility for:

- *community education programs about trade liberalisation and the WTO;*
- *supporting the development of proposed WTO negotiating positions, including consultation with Sectoral Advisory Committees (recommendation 9);*
- *management of Australia's participation in WTO dispute cases, including the use of private sector legal practitioners where appropriate (recommendation 10);*
- *promoting access for small and medium-sized Australian industries to the Government's WTO disputes enquiry point;*
- *consultation mechanisms with State/Territory governments (recommendation 16); and*
- *assessment of new structural adjustment and other industry assistance programs to ensure their compliance with WTO Agreements (paragraph 2.181).*

DFAT recently strengthened and restructured the resources within the Department dedicated to trade policy and negotiations. The measures announced by the Minister for Trade, Mr Vaile, on 29 November 2001, noted above in response to Recommendation 3, included the establishment of an Office of Trade Negotiations with responsibility for all aspects of Australia's trade negotiations including the recently launched round of WTO multilateral trade negotiations and bilateral trade initiatives such as the ongoing free trade agreement negotiations with Singapore.

This initiative is in line with broader efforts to strengthen overall staff resources devoted to trade policy work in the Department, which have been boosted by 27 per cent over the last three years. The consolidation of strengthened staff resources in an integrated Office of Trade Negotiations with responsibility for the full range of Australia's trade negotiating agenda will increase the effectiveness of Australia's work in this important area. The number of senior level negotiators in Canberra and Geneva has also been boosted substantially.

The Office of Trade Negotiations will also continue to pursue vigorously Australia's trade rights through the WTO dispute settlement system. DFAT strengthened its capacity to handle dispute

settlement activity through the creation of a WTO Trade Law Branch at the beginning of 2001. The WTO Trade Law Branch is part of the new Office of Trade Negotiations.

The WTO Trade Law Branch, and the Department more generally, engage very actively in dialogue with exporters and industry groups to ensure they are aware of their WTO rights as well as the full range of WTO issues. For example, Meat and Livestock Australia – which was closely involved in both the US/lamb and ROK/beef disputes in the WTO – endorsed the Department's approach of creating and leading task forces for the management of disputes as an effective way of bringing together the specialised WTO expertise of the Department with the market knowledge of the industry to advance Australian interests. The WTO Trade Law Branch will also continue to seek to raise awareness among small and medium-sized enterprises of the opportunity they have to access WTO remedies for market access difficulties. The Department is examining ways to make the WTO disputes enquiry point more accessible to SMEs, and will continue to highlight that there are no fees for officials' services when accessing the enquiry point.

The Minister for Trade also announced on 29 November 2001 the establishment of the Trade Development Division within DFAT. This division will be responsible for Australia's regional trade strategy through APEC, the development of a closer economic partnership with ASEAN, trade finance and economic issues, and the development of new bilateral and regional trade initiatives such as the recently commenced scoping study on a free trade agreement with Thailand. As noted in response to Recommendation 3, Trade Development Division will include the new Trade Advocacy and Outreach Section, which will strengthen and sharpen the focus of the Government's promotion of the benefits of trade to the Australian community, including community education programs about trade liberalisation and the WTO.

Both the Office of Trade Negotiations and Trade Development Division will be closely involved in consultative mechanisms with the States and Territories and with industry groups. This includes the Trade Policy Advisory Committee, the National Trade Consultations and the WTO Advisory Group. In addition, the Government will be seeking to enhance consultative mechanisms with specific industry sectors that have an interest in the WTO or bilateral trade negotiations.

In addition to the trade policy work undertaken by the Office of Trade Negotiations and the Trade Development Division, the Department's four geographic divisions and global network of overseas posts will continue to place a high priority on trade policy issues including pursuing vigorously bilateral market access initiatives on behalf of Australian business.

Recommendation 9

SECTORAL ADVISORY COMMITTEES

The Committee recommends that the Minister for Trade establish a series of sectoral advisory committees on multilateral trade, to include representatives from all major Australian exporting industries.

The committees should also provide for consultations with representatives of environment, labour, human rights and community groups, when such issues are material to their deliberations.

The sectoral advisory committees should meet at least biannually and prepare reports to the Trade Minister on sectoral priorities for Australia's trade policy, WTO negotiations and issues of WTO compliance (paragraph 2.226).

The Government recognises that, now a new WTO Round has been agreed, enhanced consultation with industry, other community groups and State Governments is a key priority. Active consideration is being given to the most appropriate structure. As noted in response to Recommendation 8, the Government will be seeking to enhance consultative mechanisms with specific industry sectors that have an interest in the WTO or bilateral trade negotiations. Some of these mechanisms are already in place (e.g. with respect to agriculture), and the Government will be engaging with the relevant sectoral bodies to examine whether or how to strengthen existing consultative processes. There may be a need to establish new bodies for other sectors, now that the WTO round is under way. Such consultative bodies will perform the role of sectoral advisory committees of the kind outlined in the Committee's recommendation.

As noted above, the Government already has a range of formal and informal consultation channels on WTO-related issues, notably the Trade Policy Advisory Council, the Agricultural Trade Consultative Group and the WTO Advisory Group. The latter includes representatives from industry, community NGOs, academics and the union movement, and is the peak industry/NGO consultative body on WTO-related matters. Its role in providing the Government with expert advice on Australia's interests relevant to the WTO will take on new importance during the course of a round. DFAT also conducts separate regular consultations with NGO groups interested in trade issues. The National Trade Consultations also provide an opportunity for industry and States/Territories to put forward views on trade policy priorities.

The Senior Executive of DFAT also holds regular meetings with heads of industry associations to discuss trade policy issues. The Department's Market Access Facilitators provide another channel for close contact with exporting industries.

Austrade also consults broadly with representatives from key industry sectors through its Export Advisory Panels (EAP). The Panels have provided guidance and advice to key industry players on the strategic approaches Austrade has adopted to assist Australian companies pursue international business in their industry sectors. At present there are five panels covering the industry sectors of agribusiness, automotive, ICT, infrastructure and mining.

The officials-level Standing Committee on Treaties (SCOT) provides an additional mechanism for regular Commonwealth-State consultations on trade issues.

Recommendation 10 **EXPERT LEGAL PANELS**

The Committee recommends that the Minister for Trade establish a WTO advisory panel of legal advisers with trade expertise from the private profession and from academia. The legal advisory panel would:

- *provide advice about the WTO compliance of domestic policies and programs, associated risks and in relation to breaches and possible dispute actions by Member countries; and*
- *constitute a panel of legal experts in trade issues upon which the Government can draw to supplement and augment the resources of Commonwealth agencies, when required (paragraph 2.227).*

The Department believes the establishment of a separate advisory panel, with the range of functions proposed by the Committee, would have a number of limitations. First, and particularly in relation to compliance issues, there is a need to avoid potential conflicts of interest and confidentiality issues, including at Cabinet and commercial level. Advice on compliance typically requires a considerable amount of detail to be provided on, for example, the financial and other aspects of specific projects in order to assess fully the WTO implications, and this requires strict confidentiality provisions.

A second, and related, point is that the provision of WTO legal advice is an ongoing process and one that is often carried out within very tight timeframes. It could be both expensive and time-consuming to have such matters referred to an external panel for consideration. In the compliance area, for example, advice is often provided in parallel with the development of a specific program or project over a lengthy period of time. The Department encourages this approach to ensure that WTO issues are addressed as part of the program/project design. The involvement of a panel of legal experts in such cases could inhibit this process and divert Departmental resources away from core functions.

A third issue concerns the importance of ensuring that trade law services are provided within a broader policy context. A feature of the current arrangements is the integration of legal advice with policy advice and recommendations. This reflects the reality of the trade law field, including Australia's broader policy objectives in the WTO. But the main aim in this approach is to ensure that advice to Ministers reflects fully Australia's national interests. It would appear unlikely that an advisory panel of the kind proposed would be able to present a similar national interest perspective.

Finally, the expert panel proposal appears to have arisen in part from a perception that the Commonwealth's trade law resources need to be augmented. This fails to recognise fully the expansion in the resources dedicated to WTO legal work in DFAT. As outlined in Recommendation 8, DFAT established the WTO Trade Law Branch at the beginning of 2001 to strengthen the Department's legal capacity with regard to WTO dispute settlement and compliance. The WTO Trade Law Branch draws on the assistance of a wide range of agencies depending on the subject matter. That includes policy and technical expertise from agencies such as Agriculture, Fisheries and Forestry Australia and the Australian Customs Service. In addition, advice is also sought from the Attorney-General's Department on international legal issues.

In general, the Department is supportive of other agencies, companies or industry groups engaging external WTO legal expertise and will maintain its existing practice of working with such advisers to achieve outcomes that are in Australia's overall national interest. The Department also keeps open the possibility of seeking external legal advice on a case-by-case basis.

Recommendation 11

LEGAL PROFESSIONAL PARTICIPATION

The Committee recommends that Minister for Trade examine the feasibility of a secondment program between private practice lawyers and the Department of Foreign Affairs and Trade.

The secondment program should allow at least two lawyers from private practice to spend a period of rotation in DFAT, and conversely for two DFAT officials to spend a period of rotation in private legal practice; in order to broaden their understanding of the operations of the dispute settlement system and the demand for private sector advice on WTO compliance and risk management (paragraph 2.228).

These recommendations are consistent with current practice. DFAT supports the objective of broadening and deepening understanding of the WTO dispute settlement system in the private sector. A lawyer from a private legal firm was seconded to the WTO Trade Law Branch for a short term assignment in 2001 and a DFAT officer will take up a secondment with a legal firm in 2002. The Department is looking at the possibility of further secondments.

Recommendation 12

AGRICULTURE

The Committee recommends that the Commonwealth Government take a leadership role, acting with like-minded countries, to advance agricultural trade reform through the Cairns Group and with developing countries, to push for a new negotiating round in the WTO and to seek improved market access opportunities for Australia's agriculture and food industries (paragraph 2.273).

These recommendations are consistent with current policy practice. Australia's leadership of the Cairns Group contributed in no small measure to the ambitious mandate on agriculture in the Ministerial Declaration agreed at the WTO Ministerial Conference in Doha. This was an excellent result for Australia. The Government fully intends that Australia continues its leadership role and expand and enhance its outreach activities with like-minded and developing countries.

The Doha Declaration committed WTO Members to ambitious negotiations in the three key areas of agricultural reform: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. Throughout the meeting in Doha, the Cairns Group, chaired by Trade Minister Vaile, performed strongly and cohesively in pushing for the inclusion of these negotiating objectives. We have worked closely with key developing countries, including Egypt, India, Pakistan and Kenya, to highlight the benefits of agricultural trade reform by conducting and participating in regional seminars, inviting influential Ministers to Cairns Group meetings and supporting our overseas missions in outreach activities. The Cairns Group also worked closely with the United States in the lead-up to Doha and US Trade Representative Zoellick and Secretary of Agriculture Veneman attended the Cairns Group Ministerial meeting in Uruguay in October 2001.

In addition to negotiating stronger rules for agricultural trade through the agriculture negotiations, the recent WTO accession negotiations for China and Taiwan will provide new market access opportunities for Australia's agriculture and food industries. The Government will continue to pursue market access opportunities bilaterally and through the negotiations of free trade agreements and trade and investment facilitation agreements currently under consideration.

Recommendation 13

DISPUTE SETTLEMENT UNDERSTANDING

The Committee recommends that the Commonwealth Government take a proactive role in review of the Dispute Settlement Understanding, in particular:

- *to advocate a more responsive timeframe for compliance and enforcement; and*
- *to identify opportunities for more effective use of the mediation and conciliation provided in Article 5 of the Dispute Settlement Understanding to assist with appropriate and timely compliance with rulings (paragraph 2.293).*

These recommendations are consistent with current practice. Australia is taking an active role in the review of the Dispute Settlement Understanding (DSU). The main issues relate to the authorisation, exercise and surveillance of retaliation rights and compliance. What constitutes a reasonable timeframe for compliance and enforcement will vary according to circumstances. Problems with timeframes frequently relate less to the implementation period than to the duration of the litigation period.

Australia has an interest in ensuring that timeframes for the conduct of dispute proceedings and for implementation are fair and equitable. It should be noted that in some instances, reductions in procedural timeframes for litigation could disadvantage Australian companies with an interest in a particular dispute, for example if such proposals were to deny rights of appeal or limit Australia's capacity to pursue its interests in a case effectively. At the same time, shorter timeframes for resolution are possible if the parties to a dispute agree on a basis for settlement.

Australia supports bilateral resolution as the most expeditious means of dispute resolution. Wherever feasible, the Government will continue to seek a mutually acceptable resolution to complaints as an alternative to legally adjudicated processes in the WTO. The Government is also ready to consider the arbitration alternatives of the DSU, such as those of Article 5 and 25. Recourse to such alternatives, however, requires agreement between the parties to a dispute, which may not always be forthcoming.

Recommendation 14 **QUARANTINE**

The Committee recommends that the Commonwealth Government, in consultation with State and Territory governments and the community:

- *develop written policy guidelines and operational procedures that describe Australia's 'Appropriate Level of Protection' for quarantine; and*
- *that the guidelines involve benchmarks for determination of environmental factors and the application of the Precautionary Principle (paragraph 2.326).*

The current Biosecurity Australia Guidelines for Import Risk Analysis provide a practical approach for AFFA officers, risk analysts and stakeholders to the application of risk management against Australia's Appropriate Level of Protection (ALOP). This is done using a risk estimation matrix which has been adapted from the Australia-New Zealand Standard on risk management.

Although Australia's existing ALOP statement has been confirmed by a WTO dispute settlement panel as being sufficiently detailed to meet our obligations under the SPS Agreement, the Commonwealth is examining with the State and Territory Governments the possibility of developing a more detailed statement on ALOP.

The Government believes, however, that there is no need to refer to the precautionary principle when describing Australia's ALOP which already incorporates a cautious and highly conservative approach. The recommendation, and the discussion in the Report, does not take into account the difference between exercising precaution (as reflected in Australia's ALOP) and invoking the precautionary principle.

Separately, the Commonwealth's Environment Protection and Biodiversity Conservation Act and its associated regulations and administration already include guidelines on the application of the precautionary principle. Biosecurity Australia and Environment Australia work together to ensure that protection of the environment is appropriately addressed in animal and plant import risk analyses, including through shared assessments of weediness and pest potential. These issues were also the subject of considerable discussion in relation to the risk assessments undertaken by the Gene Technology Regulator (who issues licences for all uses of GMOs).

Recommendation 15 **WTO COMPLIANCE**

The Committee recommends that the Minister for Trade (in consultation with other relevant Ministers) devise a WTO compliance checklist to be used by all Ministers and their officials when developing new industry support programs (paragraph 2.356).

This recommendation is consistent with current practice. DFAT has provided, and makes readily available, an outline of current WTO rules relating to subsidies and investment incentives. This outline provides details on measures that would be inconsistent with WTO obligations. It also provides guidance on WTO jurisprudence and the types of factors that are typically examined by WTO dispute settlement panels in determining whether industry support measures constitute prohibited subsidies. DFAT also conducts seminars tailored to deal with issues relating to subsidies, investment incentives and other compliance issues.

Recommendation 16 **COMMONWEALTH / STATE CONSULTATIONS**

The Committee recommends that the Minister for Trade ensure that the Department of Foreign Affairs and Trade places a high priority on consulting with State and Territory Governments on trade related matters. The relationship between the Commonwealth and State governments should involve:

- *regular, at least annual, ministerial level meetings;*
- *inclusion of State and Territory representatives on WTO consultation taskforces, where special understanding or expertise can be brought to bear; and*
- *inclusion of State and Territory representatives on official WTO delegations, where special understanding or expertise can be brought to bear and where there is a willingness on the part of the State or Territory governments to recognise over-riding international obligations (paragraph 2.370).*

The high priority the Government places on consulting with State/Territory Governments is reflected by existing regular consultation on trade matters, principally through the National Trade Consultation process, where Ministers meet annually and senior officials meet twice yearly intersessionally, as well as through ongoing bilateral discussions on specific issues. State/Territory Government representatives had the opportunity to put forward views on the WTO during consultations held in capital cities in June/July 2001. Some State/Territory agencies have established inter-departmental committees to coordinate exchanges with the Commonwealth on WTO-related issues. As part of its

Parliamentary obligations, the Government consults with State/Territory Governments in preparing responses to all Parliamentary Committees, including the Joint Standing Committee on Treaties.

DFAT proposes to continue its practice of including State/Territory government representatives on WTO dispute task forces, if requested. In WTO disputes involving a complaint against a State/Territory measure, the Department would also continue to invite State/Territory government representative/s to join the official delegation to WTO dispute hearings.

The Government will examine the merits of including State and Territory representatives on official WTO delegations, in cases where special understanding or expertise can be brought to bear, and where meeting arrangements make this practical.

Recommendation 17

TRADE, ENVIRONMENT AND MULTILATERAL ENVIRONMENT AGREEMENTS

The Committee recommends that the Commonwealth Government use its position on the WTO Committee on Trade and Environment (CTE) to urge the CTE to bring forward clear proposals for resolution of the issue of potential conflicts in obligations under different multilateral agreements (paragraph 3.110).

WTO Ministers agreed at Doha to negotiations on the relationship between WTO rules and specific trade obligations in multilateral environment agreements (MEAs). Ministers also agreed to negotiate on procedures for regular information exchange between MEA Secretariats and relevant WTO committees. Australia will be participating in these negotiations with a view to supporting practical measures for advancing trade and environmental policy priorities, while guarding against outcomes that could lead to trade protectionist measures.

The question of the coherence between the provisions of MEAs and WTO obligations is a complex one. The exceptions language in the GATT/WTO (Article XX of GATT 1994), which applies to environmental measures, has been interpreted by a number of dispute settlement panels and the Appellate Body. Overall, the WTO dispute settlement system has shown itself capable of taking into account appropriate environmental concerns.

Recommendation 18

REGIONAL TRADE AGREEMENTS

The Committee recommends that the Commonwealth Government ensure that Australia continues to actively participate on the WTO Committee on Regional Trade Agreements, and pursue Regional Trade Agreements that will result in enhanced market access and broader economic gains for Australia if those benefits cannot be advanced expeditiously through other mechanisms (paragraph 3.134).

These recommendations are consistent with current policy. The Government will continue to participate actively in the WTO's Committee on Regional Trade Agreements (CRTA). The CRTA has a key role to play in ensuring the transparency of regional trade agreements (RTAs) and promoting their strict adherence to WTO rules. This function is likely to grow in importance with the proliferation of RTAs around the world and it is in Australia's interest that the potential for trade diversion arising from these agreements be kept to a minimum. The Government welcomes the decision taken by WTO Ministers in Doha to undertake negotiations aimed at clarifying and

improving disciplines and procedures under the WTO rules on RTAs. The Government will take an active part in these negotiations.

The Government also agrees with the Committee's recommendation that Australia pursue RTAs that result in better market access for Australia. The Government pursues an integrated multilateral, regional and bilateral approach to trade policy and it is the Government's policy to consider RTAs if they would deliver substantial gains to Australia that could not be achieved in a similar timeframe by other means. Furthermore, the Government believes that RTAs that are comprehensive in scope and coverage can complement our wider multilateral objectives. Consistent with this policy, the Government is currently pursuing a number of regional trade initiatives including negotiations with Singapore for an FTA, a joint scoping study on a possible FTA with Thailand, a possible FTA with the US, continuing work on a Closer Economic Partnership between AFTA and CER, and separate initiatives with Korea and Japan to strengthen economic relations.

Recommendation 19 **DEVELOPING COUNTRIES**

The Committee recommends that the Commonwealth Government through its membership of the Cairns Group identify barriers to participation of developing countries in the WTO, and develop strategies as appropriate to assist developing countries to make full use of the WTO and the DSU to further their trading interests (paragraph 3.178).

This recommendation is consistent with current policy. Australia, as chair of the Cairns Group, has been leading the Group's outreach activities to developing countries. The Cairns Group, 14 members of which are developing countries, has assisted other developing countries enhance their participation in the WTO agriculture negotiations, and further their trading interests through the agricultural reform agenda. This has been done through technical assistance, seminars and information-sharing.

Australia is also active in discussions within the WTO to ensure that the needs of developing countries are adequately addressed and is involved in a range of initiatives providing technical assistance and capacity building to developing countries to support their participation in the WTO and to gain benefits from trade. In 2000-01, Australia provided approximately SA\$25 million in trade-related technical assistance for developing countries.

In addition, Australia has taken a leading role in APEC on WTO capacity building, most notably through the development of programs designed to increase the ability of APEC developing economy members to participate in WTO negotiations.

Recommendation 20 **ASIA-PACIFIC WTO CENTRE**

The Committee recommends that at the Doha WTO Ministerial Meeting, and at future WTO meetings, the Commonwealth Government advocate the establishment of an Asia-Pacific Regional Centre of the WTO.

The Asia-Pacific Regional Centre would serve as a venue for WTO negotiations and dispute hearings, and as a training centre for developing countries within the region to build their capacity for WTO advocacy (paragraph 3.182).

The Government does not perceive a need for a separate Asia-Pacific regional centre for the WTO. WTO Member countries in the Asia/Pacific region have been active participants in the WTO dispute settlement system since its establishment in 1995. These countries have not shown any unwillingness to participate in disputes because of the need to travel to Geneva. Creation of a separate WTO regional centre could also duplicate a substantial range of training and capacity building programs to assist developing countries provided through APEC and bilateral and multilateral aid programs, including through Asia-Pacific Economic Cooperation (APEC), the Association of South East Asian Nations (ASEAN) and the Commonwealth Trade and Investment Access Facility (TIAF).

In response to the needs of developing countries, and particularly non-resident members, the WTO has enhanced the design and delivery of its technical assistance and capacity building programs. At the 4th Ministerial Conference, members also agreed to develop work programs to examine issues relating to the trade of small economies. Economic and technical cooperation activities in APEC also assist members address structural, policy and administrative bottlenecks and establish the conditions for growth and development. For example, through the APEC Support Program, Australia has supported small, high-impact activities by Australian Government departments and statutory authorities aimed at enhancing developing member economy participation in APEC. An example of country specific activities is the training Australia has provided for Chinese officials, focusing on APEC issues and international policy on trade and investment liberalisation and facilitation, and economic cooperation.

Through the ASEAN-Australia Development Cooperation Program, Australia is assisting the ASEAN Secretariat provide regional economic policy advice to ASEAN members and supported a workshop on competition policy for ASEAN countries to enhance operational capacity in competition policy development and implementation, and explore the viability of a regional resource centre on competition policy.

Through the Commonwealth Trade and Investment Access Facility, Commonwealth countries are being assisted to identify and manage the potential economic and social impacts of trade and investment liberalisation and participate in the WTO and other key international trade and investment agreements.

A separate WTO regional centre would seem to provide little additional benefit. The Government would prefer to see additional funds used for expanded technical capacity building managed through the WTO in Geneva.

Recommendation 21

HUMAN RIGHTS AND LABOUR ISSUES

The Committee recommends that the Commonwealth Government continue to seek support to establish a forum outside the World Trade Organisation to discuss means to promote core labour standards, comprising key international organisations including the WTO, the International Labour Organisation, the World Bank and the United Nations (paragraph 3.202).

Australia has consistently supported the International Labour Organisation (ILO) as the pre-eminent international body to promote labour standards. In that regard, it has indicated broad support for an ILO proposal for the formation of a World Commission of Eminent Persons, under the aegis of the

UN Secretary-General, which would prepare a major report on the social dimensions of globalisation with a view to setting out appropriate policies.

The recent Doha Ministerial Declaration reaffirmed the declaration made at the WTO Singapore Ministerial Conference regarding internationally recognised core labour standards, and took note of work underway in the International Labour Organisation on the social dimension of globalisation.

