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# **ACTU Supplementary Submission to the Productivity Commission on the Draft Report of the Review of Bilateral and Regional Trade Agreements**

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## Introduction

1. The ACTU welcomes the opportunity to comment on the Productivity Commission's draft research report in this supplementary submission to the Commission's Review of Bilateral and Regional Trade Agreements (BRTAs).

## Objectives of Trade Agreements

2. An underlying assumption of the draft report is that more trade is always a beneficial outcome. This is the case when the perceived objectives of trade agreements are to reduce trade and investment barriers in trading partners and in Australia and economic cooperation and integration.
3. The ACTU does not accept these as the objectives of trade agreements. The primary objective of trade agreements should be to raise living standards in accordance with the principles of sustainable development. Reducing barriers to trade and investment, and increasing economic cooperation and integration are possible *means* of achieving this.
4. Furthermore, it is incorrect to assume that an increase in trade in itself is always welfare enhancing. Experience demonstrates that the positive gains from trade are unlikely to be distributed evenly, with the adverse impacts resulting from an increase in trade experienced by segments of the population. For example, an increase in trade can result in job losses in certain sectors. Trade can also result in an increase in cheap imports to Australia which does not necessarily mean Australians are better off. The impact of trade on welfare should be the focus of any review of BRTAs.
5. This is of particular importance during trade liberalisation discussions between developed and developing countries. The greater access to land, resources and new markets for goods and services in developing countries as a result of trade liberalisation has a real social economic and political impact which is not always positive. This is exacerbated by negotiations occurring between unequal partners with developing countries holding far less negotiating power. The draft report's assertion that a developing country would only pursue a trade agreement 'if [it] considers that it would

be in its national interest' fails to recognise this power imbalance. Often a developing country's assessment of its national interest is affected by its dependence on developed countries. This dependence is often exploited. For example, the initiation of PACER Plus negotiations saw accusations from Pacific trade officials of 'bullying tactics'<sup>1</sup> by Australian and New Zealand trade officials. More recently, civil society has called for a moratorium on PACER Plus negotiations until a number of conditions are met including time for Pacific Island Countries to adequately prepare for negotiations.<sup>2</sup>

### **Proliferation of Bilateral and Regional Trade Agreements**

6. The draft report cites Department of Foreign Affairs and Trade (DFAT) analysis that rejects the overstated negative impact of the increasing number of BRTAs, and the so-called *spaghetti bowl* effect. The ACTU notes, though, that for many of the participating parties in the Trans-Pacific Partnership Agreement (TPPA), it will be the second or third trade agreement. Australia, for example has already signed bilateral agreements with Chile, New Zealand, Singapore, the US and an agreement with ASEAN which includes Brunei and Vietnam. At present it is unclear what socio-economic justification there is for negotiating a secondary agreement and what the relationship will be between the proposed TPPA and existing trade agreements.
7. The draft report's proposal for the negotiation of future agreements (which will not necessarily be comprehensive in scope) 'in order to obtain at least some reductions in barriers'<sup>3</sup> may add an additional layer of inconsistency to an already complex trade regime.
8. The ACTU recommends that the Commission further consider the *spaghetti bowl* effect of current and future approaches to trade liberalisation when preparing the final report.

### **Economic Benefits**

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<sup>1</sup> M. Pejueli, 'Trade: Australia, NZ Push Trade Agenda in Region: Purging the Forum Secretariat', *Island Business*, February 2009.

<sup>2</sup> See PANG et al, '2010 Civil Society Statement to Pacific Island Forum Leaders regarding PACER-Plus', <<http://www.bilaterals.org/spip.php?article17804>>, (accessed 8 September 2010), 5 August 2010.

<sup>3</sup> Productivity Commission, *Bilateral and Regional Trade Agreements – Draft Research Report*, Canberra: Productivity Commission, July 2010, 13.6

9. The ACTU welcomes the finding of the draft report that ‘the benefits of trade liberalisation are greatest if the liberalisation is undertaken on a multilateral basis.’<sup>4</sup> The benefits of multilateral trade extend beyond those listed in the draft report – multilateral trade avoids trade diversion and ensures access to lowest-cost imported supplies. Trade on a multilateral basis also provides:
- Greater transparency
  - Economic benefits that are available to both developing and developed countries
  - Access to major export markets which suits Australia’s diverse patterns of trade
  - The same rules of origin (RoO) for all parties, reducing the associated complexity and costs of diverse RoOs created as a result of BRTAs
  - Greater bargaining power for developing countries working in collaboration with larger economies
10. Significantly, the Commission’s research found that the ‘potential impact [of BRTAs] is limited’<sup>5</sup> and ‘that once account is taken of the offsetting effects of trade creation and trade diversion, the resulting changes in economic activity and income are likely to be small.’<sup>6</sup> This is reflected in the ‘little evidence from business to indicate that preferential BRTAs have provided substantial commercial benefits’<sup>7</sup> and the draft report’s modelling.
11. The modelling in the draft report indicates that the impact of preferential bilateral reduction in tariffs ranges between 0.045 to 0.097 % of Gross National Product (GNP) for an agreement with a small country and a large country, respectively. If the assumption is made that ‘perfect’ free trade is achieved and that tariff reductions are phased in over a ten year period, it results in negligible growth in GNP each year over a ten year transition period. Even if these unrealistic and outer-envelope effects were to be achieved, the modelling presented by the Commission indicates that the impact for

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<sup>4</sup> Ibid, xxi.

<sup>5</sup> Ibid, xiv.

<sup>6</sup> Ibid, 8.26.

<sup>7</sup> Ibid, xiv.

Australia of preferential trade liberalisation (with a small or large country) is statistically irrelevant to our living standards.

12. The same analysis can be applied to the biggest increase in GNP under the model – 0.782%, which was found for non-preferential reductions between APEC members. Once again, this is a very modest gain when phased in over a ten year transition period, and pales into insignificance compared to other potential sources of greater economic growth – like advances in financial stability, investment, technology, and innovation.
13. Despite the draft report’s economic analysis demonstrating the negligible impact of bilateral and regional trade agreements on GNP, the draft report recommends that the Australian Government ‘consider pursuing bilateral and regional trade agreements to reduce foreign barriers to trade and investment when...plurilateral and multilateral means’<sup>8</sup> are not practicable. This recommendation does not reflect the draft report’s economic modelling and analysis.

#### **Modelling of the Potential Impact of Reductions in Barriers to Merchandise Trade**

14. To illustrate the potential impact of reductions in barriers to trade, the draft report presents *ex ante* modelling undertaken by the Commission. The approach adopted by the Commission is a computable general equilibrium (CGE) model that estimates the purported impact of changes in trade policy settings on global trade, production and consumption.
15. The liberalisation modelled in the draft report projects that all simulated liberalisations are trade-creating. For example, the analysis of the economic modelling presented in the draft report states that the bilateral elimination of tariffs between Australia and a small country will result in a significant increase in trade flows. However, due to trade diversion, Australia’s overall export and import trade flows are moderated. The findings of the model are also positive when tariffs are eliminated between Australia and a large trading partner; with the impact proportionately larger due to higher levels of initial trade.

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<sup>8</sup> Ibid, xxvii.

16. The predictions of the impact of trade agreements are unsurprising given the assumptions adopted by CGE modelling. The modelling adopts a stylised representation of the world economy. The combination of assumptions adopted, however, are often an unrealistic characterisation of the workings of a real-world economy. This is acknowledged in the draft report: the findings of the model are said to ‘depend on the assumptions of the model and the assumptions that underpin the scenarios examined.’<sup>9</sup> Despite this caveat, the draft report uses the simulation results as the basis for its recommendations.
17. The ACTU strongly encourages the Commission to re-assess the appropriateness of the model adopted given that the positive findings are predetermined by the assumptions adopted. Many of the central assumptions of CGE modelling, in particular, need to be questioned, including:
- The assumption of fixed employment;
  - The use of uniform factor pricing;
  - The assumption that purchasing power and macro-economics do not matter;
  - The assumption that society can be described by a single ‘representative’ household;
  - The omission of any role for investment decisions or investor confidence;
  - The omission of capital mobility;
  - The assumption of balanced trade; and
  - The use of the Armington Assumption of national product differentiation in explaining trade flows
18. The assumptions that employment is fixed and that society can be described by a single ‘representative’ household need to be questioned. The adoption of fixed employment requires ‘all labour be employed, both before and after trade liberalisation.’<sup>10</sup> As a result, there is no concern that workers ‘can lose their jobs as a result of shifting competitive pressures after free trade.’<sup>11</sup> The adoption of a single

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<sup>9</sup> Ibid, 8.9.

<sup>10</sup> J. Stanford & P. Conroy, *The Potential Employment Impacts of an Australia-China Free Trade Agreement*, Melbourne: AMWU, April 2007, 23.

<sup>11</sup> Ibid.

representative household leads to failure to consider the 'impact of trade liberalisation on income distribution between different groups of households.'<sup>12</sup>

19. The inclusion of balanced trade imposes an equilibrium between national income and expenditure that does not fully prevail in practice because there can be changes in the international flow of investment income resulting from shifts in the international location of capital. The result is a model which ignores the impact of capital flows resulting from a lopsided trade agreement.
20. Under the Armington Assumption, each country produces its own unique version of each product. This limits the risk that companies will relocate investment and capacity from one country to another; for example, a car manufacturing company would not close its Australian operations and relocate elsewhere, because Australia is the only place that it can produce the uniquely 'Australian' model of its vehicles. However, this does not reflect practice.
21. A further criticism of the CGE model is that it is a static model that compares a snapshot of the economy before and after the economy has adapted to the simulated policy changes. However, this adjustment can take up to ten years; as a result the model fails to consider the dynamic impact of a trade agreement in the shorter term. The supporting analysis needs to take into consideration this transition period. Indeed, we suggest that to ensure that it is a just transition, support and compensatory measures must be made available for those disadvantaged by trade liberalisation: for example, workers who are made redundant and who face costs of retraining and obtaining new employment.

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<sup>12</sup> Ibid.

## Labour Standards

22. The ACTU is frustrated by the Productivity Commission's recommendation that a cautious approach to including core labour standards in BRTAs should be adopted. This is despite a broad international consensus emerging on the definition of core labour standards and a precedent for including labour clauses/chapters in BRTAs. Furthermore the reasoning underpinning the draft report's recommendation needs to be critically assessed.
23. The ACTU questions the analysis that 'trade liberalisation and appropriate technical and financial assistance to developing countries, are more likely to alleviate poverty and lift living standards in such countries.'<sup>13</sup>
24. With regards to trade liberalisation, history has demonstrated that the benefits of international trade and investment are not evenly distributed.<sup>14</sup> This is because 'trade rules alone cannot guarantee that the benefits of increasing trade will translate into tangible benefits for all people.'<sup>15</sup> In his analysis, Marceau argues this is because the 'WTO does not deal directly with redistribution and other social issues necessary to ensure social justice.'<sup>16</sup> The same applies to BRTAs.
25. Thus for trade liberalisation to assist with the elimination of poverty it must achieve sustainable and equitable development. This requires not only 'free' but 'fair' trade. Labour rights have an important role to play in this regard and should not be seen as incompatible with trade liberalisation.
26. Furthermore, a comprehensive approach to alleviating poverty and lifting living standards must also include the realisation of human rights, which includes labour rights. The significance of labour rights is reflected in the Millennium Development Goal focused on eradicating extreme poverty and hunger. It calls for the achievement

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<sup>13</sup> Productivity Commission, *Bilateral and Regional Trade Agreements – Draft Research Report*, 13.22.

<sup>14</sup> The World Commission on the Social Dimension of Globalisation

<sup>15</sup> G. Marceau, 'Trade and Labour', in D. Bethlehem et al. (eds.), *The Oxford Handbook of International Trade Law*, pp.539-570.

<sup>16</sup> *Ibid.*



of full and productive employment and decent work for all. Protection and promotion of fundamental principles and rights at work is a central tenet of decent work.

27. Experience demonstrates that trade agreements can act as a catalyst for labour rights promotion. A review conducted by the US Government Accountability Office of four US trade agreements (Jordan, Chile, Singapore and Morocco) found that trade agreement negotiations stimulated labour law reforms and strengthened enforcement of the laws in all four countries.<sup>17</sup>
28. The impact can be strengthened further by incorporating mechanisms into trade agreements for ongoing dialogue between partner countries on labour standards and the resourcing of medium- to longer-term capacity building and technical assistance focused on the promotion of labour rights.
29. The argument included in the draft report that the inclusion of labour standards is *protectionism in another guise* does not stand up to scrutiny. This is because the mechanisms for enforcing commitments to labour rights that are outlined in trade agreements can be the same as those that apply to the enforcement of commercial rights. Therefore, the risk of protection-seeking behaviour is no greater than those for commercial obligations.
30. The ACTU also rejects the argument that *labour linkage* retards economic development and delays the realisation of the very conditions that labour standards seek to protect. We reiterate the position outlined in our initial submission that a commitment to, and the implementation of, core labour standards is integral to raising productivity. It does so by raising skill levels, creating an environment which encourages innovation, and by contributing to improved stability (which is critical to achieving higher levels of foreign direct investment), and so forth.

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<sup>17</sup> United States Government Accountability Office, *International Trade – Report to the Chairmen, Committee on Finance, US Senate, Washington: GAO, July 2009.*

31. Finally, we question the argument that using trade agreements to enforce labour standards has 'limited prospects' of success, 'not least because of the vast bulk of workers operating in the informal and domestic sectors of developing economies'.<sup>18</sup> First, it is recognised that practices in the tradable goods sector sets the standard for other sectors, so that labour law enforcement in the formal sector may have flow-on effects. Second, even if there is no flow-on effect, it is still important as a matter of principle to promote enforcement of labour law, regardless of the number of workers the legislation protects.

32. In current trade negotiations Australia is partnering predominantly with other ILO member countries.<sup>19</sup> Thus, while the Commission is right to state that 'enforcement of labour standards within each country is a matter for that country's government', ILO member countries are required (due to their membership) to implement the fundamental principles and rights at work outlined in the 1998 ILO Declaration:

- Freedom of association and the effective recognition of the right to collective bargaining
- The elimination of all forms of forced or compulsory labour
- The effective abolition of child labour
- The elimination of discrimination in respect of employment and occupation

33. The ACTU strongly urges the Commission to reconsider its recommendation and propose that all trade agreements to which Australia is a party include:

- a comprehensive commitment to core labour standards
- a non-derogation clause;
- a commitment to continue to strive to improve labour standards; and
- monitoring and enforcement of these commitments, including dispute settlement procedures.

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<sup>18</sup> Productivity Commission, *Bilateral and Regional Trade Agreements – Draft Research Report*, 13.22.

<sup>19</sup> China, Japan, Republic of Korea, Malaysia, Brunei, Chile, New Zealand, Singapore, Peru, the United States, Vietnam, Papua New Guinea, the Marshall Islands, Samoa, Solomon Islands, Tuvalu and Vanuatu.

This reflects Australia's longstanding commitment to human rights and the consensus on immutable minimum standards. It also builds on the practice of including commitments to labour rights in BRTAs.

### **Approach to Services**

34. In the draft report, the Commission requested further information from stakeholders on the effect of policy 'lock-in' that can arise under BRTAs. This is relevant in the report's discussion on the approach to services adopted in BRTAs – a positive list approach and a negative list approach.
35. The adoption of a negative list approach locks in liberalisation because selections from the negative list cannot be reversed. In regards to services that do not exist or are not contemplated at the time the agreement is negotiated, a negative list approach results in the automatic application of liberalisation obligations to these new services.
36. For governments, this limits regulatory options and restricts the rights of future governments to regulate in the public interest. Thus, a positive list approach is the most appropriate method for avoiding unintended, unforeseen and excessive lock-in as a result of liberalisation.

### **Labour Mobility**

37. The ACTU does not believe that it is appropriate or desirable for BRTAs – directed at the regulation of goods and services – to regulate the movement of temporary workers. Workers are not commodities and should not be treated as such. Migration issues should be considered as part of migration policy, not trade policy.
38. There also is a real risk of policy 'lock-in' if arrangements on the movement of people are included in trade agreements. Such measures undermine the capacity of governments to reform their temporary migration policies as they see fit.

39. The absence of a discussion on the relationship between BRTAs and migration in the draft report is consistent with the lack of an informed public debate on the issue. We encourage the Commission to participate in this debate, and strongly urge the Commission to recommend that BRTAs do not regulate the movement of temporary workers.

### **Investor-State Disputes**

40. The ACTU supports the Commission's draft assessment that 'dispute settlement processes should not afford foreign investors in Australia with access to litigation options not normally afforded to local investors.'<sup>20</sup>
41. Accordingly, BRTAs of which Australia is a party should not include investor-state dispute mechanisms. Unlike state-state dispute mechanisms, investor-state dispute mechanisms significantly increase the rights of investors to seek redress because aggrieved foreign corporations do not depend on the willingness of their government to endorse the grievance.
42. Varying interpretations of the 'fair and equitable treatment' wording used in investor-state dispute mechanisms can lead to definitions that also inappropriately allow foreign corporations greater rights than those granted to domestic investors. For example, efforts by corporations to expand the legal meaning of the term may require governments to meet higher standards of consultation for foreign corporations than those available to local investors and other parties.
43. The final report's recommendation should be clarified to reflect this assessment.
44. A further reason for not including investor-state dispute mechanisms in trade agreements, not mentioned by the Commission, is that it undermines the democratic process. Corporations are able to frustrate or block decision-making by governments by threatening litigation and lodging claims for actual or potential harm resulting from local, state or federal government policy and regulation.

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<sup>20</sup> Productivity Commission, *Bilateral and Regional Trade Agreements – Draft Research Report*, xxv.

45. In developing countries in particular, the threat and/or lodgement of claims by corporations can result in a 'chilling effect' – due to a fear of future litigation – on domestic policy making in areas such as environmental protection, public health, culture and the economy. This undermines the sustainable development aspirations of developing countries and constitutes a gross imbalance between private rights and the public interest. Thus, the ACTU disagrees with the Commission's initial assessment that investor-state dispute provisions should be considered in agreements with developing countries.
46. In Australia, a developed country, there is an advanced legal system and established rule of law. The domestic legal system provides foreign corporations with an appropriate avenue to address investment disputes.

### **The Environment**

47. The ACTU notes the absence of a discussion in the draft report on the environment. This is a noticeable absence given the environmental challenges that will be experienced in the near future due to climate change.
48. The ACTU encourages the Commission to consider the relationship between the environment and BRTAs. In particular, it should consider the need for an environment chapter in trade agreements that outlines: respect and a commitment to international and multilateral environmental standards; a commitment to not reduce standards to encourage investment and trade; and a mechanism for dealing with non-compliance.

### **Process for Establishing BRTAs**

49. The ACTU notes the Commission's observation that there appears to be no clear articulation of principles used by 'government for selecting prospective BRTA partners and for prioritising the negotiation of different BRTAs.'<sup>21</sup> The ACTU acknowledges that a number of considerations beyond the economic impact of an agreement are taken into account when considering an agreement. This is reflected in the decision to enter into trade negotiations with Singapore, despite a 2001 study commissioned by DFAT

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<sup>21</sup> Productivity Commission, *Bilateral and Regional Trade Agreements – Draft Research Report*, 14.3.

indicating that the agreement would not confer any quantifiable net gain for Australia. Thus, the ACTU would welcome a clear and public articulation of the considerations and principles that inform Government decision-making in this area.

50. The ACTU has concerns about the current role and use of feasibility studies. In particular, we are concerned that unbalanced feasibility studies can undermine the democratic process, by creating strong political pressure upon governments to enact trade reform, despite the absence of a strong objective rationale for change.
51. Feasibility studies should be used to inform the government on whether proceeding with negotiations will likely result in benefits (economic, social, environmental, and so forth) as well as to examine the potential economic and social costs that may result from an agreement.
52. However, the current approach adopted in feasibility studies does not provide the information required by the government to make an informed decision on whether to enter into trade negotiations. This is, in part, due to the unrealistic economic modelling that is presented in feasibility studies.
53. This issue has been raised by in draft report: that 'modelling has entailed *outer envelope* estimates of possible gains' due to the assumptions of 'full coverage of sectors, a full pass-on of tariff reductions and a full utilisation of concessions'.<sup>22</sup> Two examples of this are the Australia-Japan feasibility study and the Australia-Republic of Korea feasibility study.
54. The DFAT website states that a comprehensive and WTO-consistent FTA between Australia and Japan 'would bring significant benefits to both countries.'<sup>23</sup> This assertion is drawn directly from the main text of the feasibility study undertaken prior to negotiations beginning. The study found that the economic gains for Australia would range between 0.66 and 1.79 percent of GDP by 2020. Significantly, however, the feasibility study states in a footnote that the econometric studies presented are based

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<sup>22</sup> Ibid, xxii.

<sup>23</sup> Department of Foreign Affairs and Trade, 'Australia-Japan Free Trade Agreement Negotiations, <<http://www.dfat.gov.au/geo/japan/fta/index.html>>, (accessed 8 September 2010).

on 'the assumption of full and immediate liberalisation across all sectors'; and acknowledges that such modelling adopts 'a simplification of reality' and relies on 'numerous assumptions.'<sup>24</sup> As the negotiations began it was clear that the removal of all tariffs across all sectors was an unrealistic assumption. This is reflected in the Japanese position on the exclusion of beef, sugar, wheat, rice and dairy from the final agreement.

55. Similarly, the Australia-Republic of Korea Free Trade Agreement Feasibility Study found that a trade agreement that is comprehensive in scope and coverage would increase trade and investment flows and deliver welfare gains for both countries. The study predicts that the agreement would boost Australia's real GDP by US\$22.7 billion and the Republic of Korea's real GDP by US\$29.6 billion.<sup>25</sup> These projected gains from the model are based on the unrealistic assumption that all barriers to trade (in merchandise goods, investment and services) are reduced to zero.
56. Based on these examples, which is common experience across most trade negotiations that Australia undertakes, the ACTU is in agreement with the draft report's position that 'it is questionable whether feasibility studies, as they are currently conducted, are a good tool for deciding whether to proceed with negotiations.'<sup>26</sup>
57. Furthermore, the draft report is right to question whether the economic modelling undertaken prior to any negotiations 'is helpful for assessing the arrangements finally proposed by negotiators.'<sup>27</sup> This is due to an inability to incorporate the outcomes of negotiations into assumptions of modelling.
58. Despite the limited value of previous feasibility studies commissioned by DFAT, the ACTU strongly believes that Australia should not enter into any bilateral or regional trade agreement without first concluding a comprehensive analysis of the impact of the proposed agreement.

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<sup>24</sup> Joint Consultative Committee, *Joint Study for Engaging Economic Relations between Japan and Australia, Including the Feasibility or Pros and Cons of a Free Trade Agreement*, December 2006, 8.

<sup>25</sup> See ITS Global and the Korean Institute for International Economy Policy, *Australia-Republic of Korea Free Trade Agreement Feasibility Study*, April 2008.

<sup>26</sup> Productivity Commission, *Bilateral and Regional Trade Agreements – Draft Research Report*, xxvi.

<sup>27</sup> *Ibid.*

59. To develop a revised model that better predicts the impact of future trade agreements, it would be beneficial to compare the predictions that have been made in completed feasibility studies in advance of the implementation of current trade agreements with the actual outcomes. If CGE modelling (which is usually adopted) is shown to be flawed, an alternative model should be considered.
60. It is important that the modelling adopted analyses the economic, social, environmental and cultural impact of a proposed agreement on a national, sectoral and regional basis. Such analysis should also consider how sector trade flows and aggregate trade balances will shift in the wake of the agreement. This would provide a more detailed analysis than the 'economy-wide' view that has been implemented to date.
61. This will demonstrate, for example, that Australian manufacturing sectors have declined markedly under a liberalised trade regime, contrary to CGE predictions. This is because CGE modelling assumes that Australia produces uniquely 'Australian' versions of manufactured products, which does not reflect practice.
62. The modelling should also specifically identify and explore the likely effects of the agreement on employment and wages in affected sectors. By omitting an analysis of effects on employment, feasibility studies further risk overstating the benefits of trade. They also overlook the central reason for entering into trade agreements – improving living standards through sustainable development.
63. Given that the purpose of trade agreements is to improve the welfare of the population, the analysis should also take into consideration the impact of proposed trade agreements on human rights and labour standards, the environment, and the ability of governments that are party to the agreement to regulate in the public interest.
64. An informed decision can only be made if a feasibility study (a) captures the likely scope of negotiation outcomes rather than assuming outer-envelope outcomes; (b) considers the economic and social contexts of the negotiating parties; and (c) examines outcomes on a disaggregated basis, including identifying the losers as well as the winners from trade.



## Stakeholder Consultation

65. The draft report states that 'DFAT currently provides substantial public information, and seeks community input, on trade agreements.'<sup>28</sup> However, the report also notes that many stakeholders see room for improvement by DFAT.
66. The ACTU calls for improvements in DFAT consultation processes, especially during negotiations. In previous preferential trade agreement negotiations, civil society organisations have been excluded from meaningful participation.
67. During negotiations, information must be more regular, abundant and accessible. A website (for each trade agreement negotiation) should be created, where information about the trade negotiations is posted and updated regularly. The website should include information about upcoming negotiation rounds, contact information for key negotiating personnel, all white papers, draft texts, offers and counter-offers, trade and other data, press statements and declarations. Such a tool is important for ensuring transparency and informed civil society engagement.
68. Regular and substantive consultation throughout the negotiation process is also important. Consultations should provide as much detailed information as possible to allow all stakeholders to ask pointed questions and form meaningful recommendations.
69. During negotiating rounds, more detailed information and consultation is necessary. DFAT can learn from the Office of the United States Trade Representative which established a stakeholder side room at the second round of TPPA negotiations which took place in San Francisco in June 2010. The side room provided an important space for civil society actors and negotiators to discuss key aspects of the negotiations. This should be a minimum standard going forward.

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<sup>28</sup> *Ibid*, 14.8.

## **Conclusion**

70. Our comments reflect a strong belief that international trade, based on the principles of fair trade, is first and foremost a tool for raising living standards and promoting sustainable development. Trade is not simply an economic issue; it has significant social and political dimensions which can have both positive and negative implications. Any analysis of trade must recognise this as a central consideration.
  
71. We thank you for this opportunity to engage in the Productivity Commission's Review of Bilateral and Regional Trade Agreements. If you would like to discuss further any of the matters raised, please do not hesitate to contact the ACTU.