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Trading on a special relationship:
The 2004 Trade Agreement and Alliance Relations

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Abstract

Despite the reservations expressed by some experienced in Australia-US business dealings, in addition to long standing trade negotiators and analysts, the Coalition government assured Australians that the special relationship it had constructed with the US would ensure a momentous Free Trade Agreement. Recall that the government promised that Australia would achieve a comprehensive deal with the US. So, why was the resultant proposal less than expected and why did the Howard government accept a lesser deal? These are the two questions for analysis in this paper. In doing so initially I review the motivations for the trade agreement (TA) and explore some facets of the deal as they reflect power asymmetries, then suggest why once the process was launched that the Australian signature to a deal was inevitable. I conclude with observations on the parallel hazards of uncontested association and creation of unrealistic expectations in alliance relations.

Special deal skeptics

If, as **Bruce Wolpe¹ had contended** previously, that Australia had little clout in Washington, what then were the prospects for leverage in negotiating an attractive trade agreement? For the government this lay in the unique nature of the relationship that Australia enjoyed with the US. In countering the scepticism, expressed by Australian business people working in New York at the ease with which the government might translate this access into influence, Trade Minister Mark Vaile responded with assurances that the 'special' relationship could deliver a comprehensive arrangement.² Not only did the Coalition believe it derived this particular special relationship by dint

¹ Bruce Wolpe, 'Australia and America: Renewal and Reinvention', *Australian Journal of International Affairs*, vol. 54, no. 1, March 2000, p. 11.

² Oliver Yates, 'Betrayed by our own sycophantic team', *Australian Financial Review*, 16 February 2004, p. 63. Yates is the Executive Director of Macquarie Bank in New York. Yates also served on the Board of The American-Australian Association. See also, Ann Capling, 'Clutching for Apron Strings? Assessing the Prospects for an Australian-United States Trade Deal', *Speech for the Sydney Institute*, 30 April 2001.

of its shared values and interests,³ but also via the diligent attention it had devoted to the alliance since 1996.⁴ As PM Howard stated:

The maintenance of strong bilateral relations remains a cornerstone of this government's foreign policy approach...The relationship we have with the US is the most important we have with any single country.

Further:

(t)his is not only because of the strategic, economic and diplomatic power of the US. But of equal, if not more significance, are the values and aspirations we share.⁵

However, in February 2004 at the announcement of the agreement there was palpable disappointment with the deal.⁶ Australia's agricultural producers had certainly not achieved anything like the immediate and open access mooted by the government.⁷ Reportedly, some in the Australian trade negotiating team were decidedly discontent with the failure of the US to respond to Australian requests in the final phase of the talks.⁸ Despite the public rhetoric celebrating the deal, by June end even Vaile was willing to own his disappointment.⁹ Not only did it appear as if the special relationship could not deliver material results but it also seemed as though Howard's personal pleas were unable to elicit a better deal for Australia.¹⁰ As it eventuated for the government this was not the deal anticipated, and for the public, not the deal promised.

³ As expressed in many of the AUSMIN meeting communiqués.

⁴ Beginning in 1996 with the Coalition's pre election documents espousing the intention to upgrade relations.

⁵ John Howard, 'Australia's International Relations-Ready for the Future', *Address to the Menzies Research Centre*, Canberra, 22 August 2001, < <http://www.pm.gov.au/news/speeches/2001/speech1183.htm> >. Accessed July 2003.

⁶ See the final text of the agreement at DFAT, 'Australia-United States Free Trade Agreement', < http://www.dfat.gov.au/trade/negotiations/us_fta/final-text/index.html >. Accessed 25 June 2004.

⁷ By way of example of some of the commentary see, National Farmers' Federation, 'US disappoints on agriculture in trade deal', *Media Release*, NR 12/04, 9 February 2004, < <http://www.nff.org.au/pages/nr04/12.html> >.

⁸ Christine Wallace, 'Lobbyists, negotiators stunned by Bush rebuff', *The Australian*, 25 February 2004, p. 2.

⁹ Mark Vaile, 'US FTA Implementation Bill 2004', *House of Representatives Hansard*, 23 June 2004, p. 30398.

¹⁰ Christine Wallace, 'Lobbyists, negotiators stunned by Bush rebuff', *The Australian*, 25 February 2004, p. 2.

Some specifics

It is worth noting at the outset that it is difficult to anticipate and document the financial worth of Free Trade Agreements to those involved. Not all Canadians, for example, anticipated the dramatic expansion of trade that NAFTA would ultimately extend.¹¹ Consider too, the wildly differing economic modeling results provided for the Australia-US Free Trade Agreement, by the Centre for International Economics (CIE), ACIL Consulting¹² and APSEG.¹³ CIE calculated that: 'the most probable effect of the Agreement on Australia's real gross domestic product (GDP) is an increase of \$6.1 billion per year, or nearly 0.7 per cent above what it might otherwise be',¹⁴ whilst Philippa Dee at the Asia Pacific School of Economics and Government (APSEG)¹⁵ calculated only small gains.¹⁶ How the changes to US foreign investment in Australia may affect the economy probably will not be known for some time but may it offer the

¹¹ Kim Richard Nossal argues however, that there are few similarities between Australia and Canada in this respect, in, 'Bilateral Free Trade with the US: Lessons from Canada', *Policy, Organisation and Society, Special edition, Australia-US Free Trade Treaty?* vol. 20, no. 1, 2001, pp. 47-67. Philippa Dee concurs with this assessment, in, 'The Australia-US Free Trade Agreement: An Assessment', APSEG, ANU, *Paper prepared for the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America*, June 2004.

¹² ACIL Consulting argued that the results may be only finely balanced. See ACIL Consulting, 'A Bridge Too Far? An Australian Agricultural Perspective on the Australia/United States Free Trade Area Idea', Commissioned by the Rural Industries Research and Development Corporation, February 2003. ACIL also claims that one of the central premises of the CIE study, that the FTA will 'induce' service sector productivity increases resulting from US managerial methodology, is highly questionable. Refer, < <http://www.rirdc.gov.au/reports/GLC/ACIL-ABridgeTooFar.pdf> >.

¹³ Andrew Stoler, in his assessment of the modeling and motivations of the respective organizations, has argued that the CIE study is 'the more generally accepted basis on which to judge the probable effects of a bilateral FTA.' Moreover, he states that the ACIL report suffers from a bias which views bilateral agreements pejoratively. See Andrew L. Stoler, 'Australia-US Free Trade: Benefits and Costs of an Agreement', in Jeffrey J. Schott, (ed.), *Free Trade Agreements: US Strategies and Priorities*, Institute of International Economics, Washington D.C., April 2004, p. 106 and p. 105. Yet it may also be opportune here to record that Peter Lloyd stresses that despite the world's best practice in economic modeling completed in Australia there exists, 'severe limitations to all models' because of their simplified assumptions of about the economy. See Peter Lloyd, submission to the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America, 2004, p. 2.

¹⁴ CIE, 'Economic evaluation of the AUSFTA: Impact of the bilateral Free Trade Agreement with the US', < http://www.dfat.gov.au/trade/negotiations/us_fta/economic_analysis_report/ >. Accessed May 2004.

¹⁵ Whilst CIE was given the specific parameters under which to conduct their work and complete their modelling by the government, Dee was chosen by the Senate Select Committee, with its combined Opposition majority, to submit a study for their scrutiny. No doubt the Opposition senators on this committee were keen to review the government's claims of a special relationship with the US for their own domestic political purpose. Moreover the Opposition needed to assert its interests in this committee as it formed a minority in the Joint Standing Committee on Treaties.

¹⁶ Philippa Dee concurs with this assessment, in, 'The Australia-US Free Trade Agreement: An Assessment', APSEG, ANU, *Paper prepared for the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America*, June 2004. The National Institute of Economic and Industry Research, for the Australian Manufacturing Workers Union claimed it could cost the Australian economy up to \$50 billion. AAP, 'FTA will cost Aus \$50 bin/thousands of jobs: Study', 7 June 2004.

possibilities for the most significant economic benefit of the Agreement.¹⁷ And whilst much has been made of the economic calculus, there are also important dynamics to consider such as how this may be equated against any possible democratic deficit that may result from the agreement.¹⁸

Although it may transpire that the agreement does provide economic benefit in the longer term, and in ways that may not be predictable now, the purposes of this paper are to explain why the Australian government did not achieve its stated objectives.

So, how did the deal fail to meet with expectations? The first point of assessment should be the government's own rationale for entering into negotiations with the US – that it would deliver significant benefits to Australian agricultural producers. The government cited the dismantling of agricultural barriers as the incentive to negotiate. At once too, because of the deal's failure on inclusivity, particularly on agriculture, the prospective financial benefits as originally published by CIE would not be realised.¹⁹ (To be sure, the rise in the Australian dollar vis-a-vis the greenback had already negated the extent of the gains regardless of the package.)

In the final Agreement, dismantling of US sugar barriers is excluded.²⁰ Dairy, beef and horticulture are only weakly liberalised. Dairy products are never entirely able to be traded freely, whilst US beef producers always remain protected by safeguards should Australian exports contest US ranchers' profits. Both dairy products and beef

¹⁷ Indeed it was this factor that was integral in the dramatic figures from CIE. See also Alan Kohler, 'When the free-trade salesmen go to work, only the truth is modest', *The Age*, 10 February 2004, p. 1.

¹⁸ John Quiggan, 'Economic Evaluation of the Proposed Free Trade Agreement between Australia and the United States', Submission to the Parliament of Australia, Senate Select Committee on the proposed Free Trade Agreement between Australia and the United States of America, 2004.

¹⁹ See CIE's original assessments. Centre for International Economics, 'Economic impacts of an Australia-United States Free Trade Area', Canberra & Sydney, June 2001. This probably necessitated CIE's second economic modelling of the package.

²⁰ Andrew Stoler has argued that the Australian sugar industry would only reap longer term benefits if it were able to ensure that its productivity increased significantly. See 'Australia-US Free Trade: Benefits and Costs of an Agreement', in Jeffrey J. Schott, (ed.), *Free Trade Agreements: US Strategies and Priorities*, Institute of International Economics, Washington D.C., April 2004, p. 101.

exports remain subject to quotas and the small liberalisation of beef has a phase-in period of 18 years. Whilst US horticultural producers also were able to enforce safeguard measures to respond to any reduced pricing of Australian exports into the market, Australian growers were disallowed the same protection.²¹ All were subject to extended transition periods for any reduction in barriers. As a related issue, the American Farm Bureau's interpretation of the agreement indicates that 'follow-up talks on sanitary and phytosanitary measures' will facilitate relaxation of Australia's quarantine standards which will enable significant expansion of US exports into Australia.²²

Relevant too is a consideration of the concessions that Chile recently negotiated in the Chile-USFTA. Chile's sugar exports were immediately increased by 5 per cent with all restrictions removed in year 12.²³ Dairy products also had restrictions removed in the same year with increased quantities allowed each year until then. By year 4 beef exports were offered unlimited access at in-quota rates.²⁴ Chile had thus negotiated significantly better access for similar agricultural products than Australia.

Adding to the agricultural disappointments was a failure to include an open trade on fast ferries. This is a sector of Australian commercial strength and has been on the Australian government's agenda for some time and now continues to remain there. Australian manufacturers of textile products were also hoping to gain greater access to US clothing market. However, significant limitations on the rules of origin restrict the trade. This is also applicable to a range of other textile products. Business too was anticipating greater freedom in the allocation of work visas, however, no negotiations were finalised here.

²¹ Jan Davis, CEO Queensland Fruit and Vegetable Growers, commenting in 'Industry misled on FTA deal', *The Countryman*, 29 April 2004, p. 6. See also Jan Davis interviewed on ABC Radio, AM, 12 February 2004.

²² See American Farm Bureau Federation, 'Implications of an Australian Free Trade Agreement on US Agriculture', March 2004.

²³ An additional letter was attached to the agreement that allows for some clawbacks in the trade in sugar.

²⁴ USTR, Office of the USTR, United States-Chile Free Trade Agreement, 'US Tariff Schedule', and 'US General Notes', < <http://www.ustr.gov/new/fta/Chile/final/index.htm> >. Accessed 27 June 2004.

That the US touted the gains for its manufacturers too, would suggest that any efforts to ameliorate Australia's trade deficit with the US remain problematic.²⁵ Whilst there would no doubt be gains for Australian manufacturers, the expected drive by US manufacturing exports into the Australian market will probably extend the problems of the Australian deficit in the bilateral trade relationship.

Where the US manufacturers did not achieve their exact aims it would seem that the option to pursue them has been facilitated by the dispute mechanism detailed in the deal. Both countries supply a panelist and the third will be mutually approved. Decisions made by the panel must be adhered to or a cash fine is imposed. As US aggressive bilateralism, much a feature of the Barshefsky USTR period, was notable for achieving favourable results for the US in bilateral trade scenarios it could reasonably be expected that Australia may find it difficult to resist US persuasion in this situation.²⁶

That the agreement is not inclusive, also flags the surrender of important broader political objectives – namely Australia's legitimacy in negotiating comprehensive trade agreements with others, either multilaterally or regionally. How can any future agreement with Japan, for example, ensure that agriculture is included? More specifically, has Australia now agreed to some specific price mechanisms in this deal that have been previously denied to Japan? Some of the precedents that have been set here will create long term difficulties for any Australian government to manage.

Intellectual Property (IP) provisions, too, are an important feature of the deal and as they are integral in the US interest in completing the agreement I consider them in the subsequent section.

²⁵ Ross Garnaut, 'FTA worsens our woeful trade outlook', *The Australian*, 10 February 2004, p. 15. Also Ross Garnaut, 'An Australian-United States Free trade Agreement', *Australian Journal of International Affairs*, vol. 56, no. 1, April 2002, pp. 123-141. It should be remembered that a) Ross Garnaut had previously worked on regional initiatives with the Hawke-Keating governments and b) some manufacturers within Australia were intent on maintaining protectionist tariffs. For the opposing view on the trade diversion argument, and the promotion of the Trade Agreement more generally, see Alan Oxley's Australia APEC Study Centre, 'An Australia-USA Free Trade Agreement: Issues and Implications', Monash University, Melbourne, 2001. The study centre has issued regular updates and newsletters available through its website since that date, < <http://www.apec.org.au/docs/usfta.pdf> >.

²⁶ Charlene Barshefsky was USTR during the Clinton period.

US motivation for the deal

Mid-way through 2003 it did indeed seem that Australia had secured a more significant profile in Washington than it had prior to the military conflict in Afghanistan and the War in Iraq. Whilst this was also aided by Australian Ambassador Michael Thawley's assiduous work in cultivating relationships in Washington and the additional Congressional liaison officers based in the embassy, Australia's support for US military intervention coupled with the leaders' personal friendship had secured greater access for Australia. This was evidenced in the Bush–Howard meeting in Crawford, Texas, where Bush affirmed his relationship with Howard and confirmed that the FTA talks would be completed by the year end 2003. Haste, however, was of necessity. Given the political complications of completing a trade deal in a US election year,²⁷ the sooner a deal could be struck and signed, the better. The better too for the Howard government; with the deterioration of the situation in Iraq in the latter half of 2003 and Australia's refusal to commit more combat troops, the Coalition's cachet in the US was waning. Despite the presence of some 800-900 Australians in Iraq, some on civil and educative assignments, toward the end of 2003 the US was increasingly frustrated with the Howard government's failure to allocate further military support.

If Australia's political and military support for the US had assisted in the motivations for negotiating the trade agreement, with that power's dissipation what would conclude it? Whilst there were powerful US parties resisting liberalisation there were also vested interests in concluding it. Certainly, the deal would suit US Trade Representative (USTR) Zoellick's competitive liberalisation strategy²⁸ and provide a model for other negotiations. It would also denote the centrality of the US in a new

²⁷ US elections were scheduled for November 2004.

²⁸ Philippa Dee observes, however, that this US strategy is flawed as it has failed to multilateralise the bilateral concessions in its current deal making frenzy. This failure to extend reciprocity to third parties smacks of 'bilateral opportunism'. See Philippa Dee, 'The Australia-US Free Trade Agreement: An Assessment', *Paper prepared for the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America*, June 2004, pp. 35-36.

phase of global trade bargaining. Yet for Congress to be persuaded, commercial appeal was vital.

With particular groups within the US agricultural lobby, some, in electorally decisive states opposed to providing concessions to Australia as competitor, it was crucial that the US administration construct countervailing coalitions. Here there were the significant US commercial interests in completing the Trade Agreement with Australia. Relaxed screening processes in foreign investment and reorientation of manufacturing supplies to the US were certainly attractive to US commercial interests. Indeed, bolstering manufacturing exports was crucial for any agreement, as Congressional members were highly sensitive to the sustained job losses and worker dislocation currently experienced in traditional industries in the US. Defence industries were not much discussed but also continued to exert a powerful presence in the relationship.²⁹

Thus wins for US manufacturers were much celebrated across the Pacific.³⁰ Ralph Ives, lead negotiator for the US team, noted the US manufacturers' claims that the reduced tariffs could result in an increase for manufactured exports of \$2 billion per year. Tariffs for 99 per cent of these exports would be duty free at the outset of the agreement.³¹

Both lead negotiators, Steve Deady and Ralph Ives, for Australia and the US respectively, had also stated that intellectual property concerns constituted critical interests to the US.³² Although Ralph Ives pointed specifically to US interest in digital technology, US pharmaceutical companies would be particularly concerned to ensure

²⁹ I considered these interests in greater depth in my 2003 APSA paper, 'The AUSFTA and the current alignment of trade and security strategy', *paper prepared for the APSA conference, University of Tasmania*, 29 September – 1 October 2003.

³⁰ Robert B. Zoellick, 'Don't Get Bitter About Sugar', *The Wall Street Journal*, 25 February 2004.

³¹ Ralph Ives, 'USTR's Ives says US-Australia FTA offers unique opportunity – March 12 remarks at US Chamber of Commerce Conference', *State Department Press Release*, 15 March 2004.

³² Steve Deady, Speech at International Business Week, sponsored by the Adelaide Office of DFAT, Stamford Plaza, Adelaide, 27 August 2003, and Ralph Ives, 'Competitive Liberalisation – The Australia-USA Free Trade Agreement', *International Visitor Lecture, Institute for International Business, Economics and Law, at Flinders University*, 21 October 2003. Author's notes on both occasions.

that Australia did not alter its patent rules on generic drugs for export. If alterations to some current patents were allowed in Australia this could enable Australian generic drug manufacturers to compete in the 'first to market' race in third countries. With the rise in the middle class in Asia, capturing regional markets in pharmaceuticals such as basic antibiotics could be a multibillion dollar windfall. Commercially this could constitute a highly persuasive motivation for the Trade Agreement to include intellectual property provisions to limit Australian generic drug manufacturers' capacity for early export. This would also indicate that similar provisions exist in the US-Singapore FTA as a model for others. Confirmation of the interest in pharmaceuticals may be found in the comments made by the US Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters in February 2003. Their report also notes that the committee includes representatives from the Pharmaceuticals Research Manufacturers of America (PhRMA), Pfizer, Merck and Co., and Eli Lilly & Co.³³ This, of itself, could be persuasive enough to seal the deal. And yet not only has there been little public debate over the issue of intellectual property particularly in pharmaceuticals, the Department of Industry has removed some of those papers from its website that had pointed to the need for alterations to the rules applicable to generic manufacturers. Bhagwati and Panagariya have also claimed that for Mexico the NAFTA price was 'acceptance of intellectual property provisions'.³⁴ They also suggest that more broadly:

(t)he US is using one-on-one agreements with small countries as models for other multilateral trade agreements, hawking them around the world as the ideal way to further trade agreements.³⁵

³³ See the comments made in USTR, 'The US-Singapore Free Trade Agreement (FTA): The Intellectual Property Provisions: The Report of the Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters (IFAC-3)', 28 February 2003, p. 13, <<http://www.ustr.gov/new/fta/Singapore/ac-ifac3.pdf>>. Note the US-Singapore FTA text may be found at <<http://www.ustr.gov/new/fta/Singapore/final/text%20final.PDF>>. Accessed December 2003.

³⁴ Jagdish Bhagwati and Arvind Panagariya, 'Bilateral trade treaties are a sham', *Financial Times*, 14 July 2003, p. 17.

³⁵ Jagdish Bhagwati and Arvind Panagariya, 'Bilateral trade treaties are a sham', *Financial Times*, 14 July 2003, p. 17.

Agreement of standstill arrangements in some IP sectors, such as production of generic pharmaceuticals as explained previously, but also in the media sector and digital technology, can also preclude dramatic opportunities for growth of local companies.

A further issue of interest to US pharmaceutical companies, is the re-export of pharmaceuticals into the US at cheaper prices. Currently this is an issue across the Canada-US border. Not only is it of interest to the US producers to curb this activity but also to prevent it being replicated by other countries.³⁶

Despite protestations on both sides of the Pacific during the deal process that Australia's Pharmaceutical Benefits Scheme (PBS) was not up for negotiation, Deady later confirmed that the Australians were subject to sustained pressure from the US to significantly alter the PBS.³⁷ US pharmaceutical giants were also dissatisfied with the profits they were able to extract from the Australian market because of the limitations imposed by the PBS. The USTR cited the lack of transparency in this process and the lack of an appeals process as 'problematic'.³⁸ The US corporations believe they receive returns that are insufficient to compensate for the research and development costs inherent in the production of pharmaceuticals.³⁹ In particular PhRMA cites the PBS

³⁶ See the discussion of the US Senate Finance Committee, international trade subcommittee and health care subcommittee hold a joint hearing on international trade and pharmaceuticals', political transcripts by Federal Document Clearing House, 27 April 2004.

³⁷ Department of Health and Ageing, 'FTA Briefing' 8 March 2004, cited in Richard Denniss and Clive Hamilton, The Australia Institute, submission to the Senate Select Committee on the Free Trade Agreement between Australia and the United States, pp. 1-2.

³⁸ See the section on pharmaceuticals in the USTR National Trade Estimates, Foreign Trade Barriers: Australia, 2003, p. 12.

³⁹ PhRMA had requested that Australia was included on the Special 301 watch list for violations of intellectual property rights. See this discussion at the PhRMA website, accessed October 2002, < <http://www.phrma.org/international/special301/australia/cfm> >. This was reiterated in 2003 with PhRMA's request that Australia remain on the Special 301 Watch List. This was particularly in relation to IP protection and the practices of springboarding and stockpiling. PhRMA also recorded their concerns regarding market access in Australia, with PBS practices of specific concern. 'Excerpt from PhRMA's 2003 Submission to the US Trade Representative on Australia', < <http://www.cptech.org/ip/health/c/australia/phrma-au-2003.html> >. Accessed 15 June 2004. See also the concerns expressed by Professor Tony McMichael, National Centre for Epidemiology and Population, at ANU, in 'Free trade not healthy', Letters to the editor, *The Weekend Australian*, 29-30 November 2003, p. 16.

market access barriers as having 'significant commercial impact'.⁴⁰ Recovering these costs, would add to the profits from an assured entry into Asian markets. Ultimately then, PhRMA, as an extraordinarily potent and effective lobbyist in the US, might be unusually concerned to seal the trade deal.

On the important issue of intellectual property and services, it would seem that there is still something to be negotiated, and much to be revealed. And even if the PBS pricing remains intact the costs of the scheme itself may escalate and the selection of pharmaceuticals may be subject to further pressure from the US drug companies. It will be interesting to see now how Robert Zoellick's comments in Washington at the conclusion of the talks are realised in the future. He divulged that:

one of the major US knowledge based industries is research-based pharmaceuticals, and we had to work this issue very carefully given the importance and sensitivities of the PBS –the Pharmaceutical Benefits Scheme –in Australia. We are pleased that we were able to agree on some core principles, some processes, and ongoing efforts that reflect our mutual commitment to the value of innovation, the importance of research and development, and the therapeutic benefit of innovation.⁴¹

Moreover at the US Senate Financing Committee Hearings on healthcare and pharmaceuticals, some senators were rejoicing in the efforts Zoellick had made to extend the costs for pharmaceuticals in his Trade Agreement work with Australia.⁴²

⁴⁰ PhRMA, 'Excerpt from PhRMA's 2003 Submission to the US Trade Representative on Australia', < <http://www.cptech.org/ip/health/c/australia/phrma-au-2003.html> >. Accessed 15 June 2004.

⁴¹ Robert Zoellick and Mark Vaile, 'Transcript of press conference with US Trade Representative, Ambassador Bob Zoellick, and Australian Minister for Trade, Mark Vaile, on conclusion of FTA negotiations in Washington, D.C.', 8 February 2004, < http://www.dfat.gov.au/media/transcripts/2004/040208_zoellick_ausfta.html >. Accessed 11 February 2004.

⁴² See US Senate Finance Committee, international trade subcommittee and health care subcommittee hold a joint hearing on international trade and pharmaceuticals', political transcripts by Federal Document Clearing House, 27 April 2004. Also, read the exchange between Republican Senator Jon Kyl and Bob Zoellick in Alison Caldwell, 'US says Australian drugs prices will change drugs claims', Australian Broadcasting Corporation Transcripts, 11 March 2004. By late September 2004, twenty medical, public health and legal experts and seven peak health and consumer organisations wrote to both John Howard and Mark Latham requesting a 'bipartisan commitment to the establishment of such safeguards that clarify Australia's understanding that the PBS system is protected in the AUSFTA'. This group's concerns related to the differences in understanding of the agreement on both sides of the Pacific and requested action prior to the signing of notes in October 2004. See the Letter to the Honourable John Howard MP, Prime Minister of Australia and The Honourable Mark Latham MP, Leader of the Opposition, 'Safeguards to ensure Protection of the Pharmaceutical Benefits Scheme form Provisions in the Australia-US Free

Politically in the US, gains for the pharmaceuticals' manufacturers could be used effectively to counteract agricultural opposition. Although conceivably this may have been necessary should the US have intended to deal the agricultural producers in and construct a comprehensive agreement, it was ultimately not required as the US failed to open up sensitive agricultural sectors to significant negotiation.

A higher profile but not a better deal: why not?

On 8 February 2004, Mark Vaile and Robert Zoellick signed the Trade Agreement with a view to its acceptance by Congress by July 2004 and subject to the Australian parliament passing legislation allowing for its implementation.⁴³ This signalled the completion of the Howard government's three year campaign to formalise trading relations with the US. It would appear that the security overlay, in addition to Zoellick's liberalisation agenda was successful in providing the momentum for progressing the deal. As Jeffrey Schott has argued: 'Bush decided to move forward on an accelerated timetable for the talks as a reward for Australian support of US policy initiatives.'⁴⁴

However, Howard had announced that the exclusion of sugar, beef, and dairy would be a deal-breaker. Yet it was not. Why? Certainly ambit claims are part of the negotiating process, however, there appeared other dynamics at work here. That ALP leader Mark Latham had expressed criticism of the US alliance, and was thus perceived to be vulnerable to political attack on this front also underscored the necessity of

Trade Agreement', 27 September 2004. Also Public Health Association of Australia Inc, 'Leading Health and Legal Experts Call for Free Trade Safeguards to the PBS', Media Release, 27 September 2004.

⁴³ Alan Oxley, 'FTA is done', *FTA Analyst*, issue 26, 9 February 2004. Useful starting points for the analysis of the deal in addition to the specific text, are the factsheets issued by the respective countries. See DFAT, 'Australia – United States Free Trade Agreement', Fact Sheets, 2004, < http://www.dfat.gov.au/trade/negotiations/us_fta/outcomes/01_overview.html >. Accessed 11 February 2004. Also the USTR with 'Trade Facts: Free Trade Down Under, Summary of the US-Australia Free Trade Agreement', 8 February 2004, < <http://www.ustr.gov/releases/2004/02/2004-02-08-factsheet-australia.pdf> >. Accessed 11 February 2004.

⁴⁴ Jeffrey J. Schott, 'Assessing US FTA Policy', in Jeffrey J. Schott, (ed.), *Free Trade Agreements: US Strategies and Priorities*, Institute of International Economics, Washington D.C., April 2004, p.373.

ensuring that the Coalition could demonstrate the strength of its ties with the US.⁴⁵

What also necessitated an agreement of some form was the political capital devoted to the agreement by the Howard government.

Indeed there are increasing concerns that the *association* with the US has once again appeared as the priority in the final phase of the negotiations over and above the quality of the deal itself.⁴⁶ Much was then waged on the US alliance. Why? At this juncture it is worth backtracking to explain why the Coalition sought to upgrade the relationship. Since 1996, the Coalition had been intent on upgrading the US relationship. If, as William Tow notes, in 1996 even US policy officials were 'puzzled' by the Coalition's zeal for upgrading the relationship,⁴⁷ what can sufficiently explain the need to prioritise an asymmetrical bilateral alliance? It would appear that the Howard government's policy solution is based on managing threats, both international and domestic. Through the pursuit of closer relations with the US, not only did the Howard government seek to deliver strategic and economic outcomes but also endeavoured to enhance its domestic standing. A reinvigorated bilateral engagement, particularly with the US, would serve to allay domestic pressure, as an alliance with a global hegemon with familiar cultural predispositions seemingly offered the prospects of stability and certainty. So, in the reorientation to the US, the Australian government acted upon its understanding that the US with its unrivalled military capability would be integral in the provision of security. But because of the United States' place in Australia's historical and cultural legacy, it would also be an ideal relationship with which to manage foreign, trade and defence policy. It would also assist in the placation of electoral fears initially in an era of post cold war uncertainty and then as a response to fears of terrorist attacks. Perhaps too trade bargaining would not need to be process-bound. Instead, reliance on

⁴⁵ Kim Richard Nossal, 'Upper Hand Down Under: American Politics and the Australia-US Free Trade Agreement', *Paper prepared for the annual meeting of the Australian and New Zealand Studies Association of North America*, Toronto, 20-21 February 2004, p. 9.

⁴⁶ Christine Wallace, 'Lobbyists, negotiators stunned by Bush rebuff', *The Australian*, 25 February 2004, p. 2.

⁴⁷ William T. Tow, 'Introduction', in William T. Tow, (ed.), *Australian-American Relations: Looking Toward the Next Century*, Macmillan in association with the Australian Institute of International Affairs, South Yarra, 1998, p. 2.

the personal familiarity of the cultural connection could be the means by which results could be achieved.

So, whilst bipartisanship has been a feature of past Australian governments' commitment to the US alliance, and the former Labor governments were no different in their assiduous affirmation of the relationship, that it was not their dominant *public* priority created opportunity for the Coalition to act. Fashioning an environment where the crisis dynamic of strategic and economic uncertainty was hewn, enabled the government to pursue intensified relations with the US with some vigour. Playing to the security 'crises' trident of Timor, Terror and Tampa, effectively created the breach whereby the government could justify its policy of greater intimacy with the US. This was coupled with the sense that the Hawke/Keating governments had not only demanded a redefinition of the employment environment but also threatened how the mainstream had traditionally understood identity.⁴⁸ Any linking of identity to a region from which threats were traditionally perceived to have originated would be difficult to sustain and require persistent and creative leadership. In breaking the supposed Hawke/Keating nexus, the Coalition proclaimed that 'it is vital that Australia re-affirms and upgrades the importance of the security alliance with the United States as its contribution to assisting in US involvement in the entire region.'⁴⁹ Astutely, Howard had sensed that Pauline Hanson had voiced 'the fears and concerns and the sense of insecurity that many Australians feel at a time of change and instability'.⁵⁰ Whilst one manifestation of this was the dogmatic defence of Australian sovereign borders (as the

⁴⁸ Carol Johnson, *Governing Change: Keating to Howard*, University of Queensland Press, St Lucia, 2000, Chapter Three. Also Carol Johnson, 'John Howard and the Revenge of the Mainstream: Some Implications for Concepts of Identity', in George Crowder, Haydon Manning, David Scott Mathieson, Andrew Parkin & Leonard Seabrooke, (eds.), *Proceedings of the 1997 Australasian Political Studies Association Conference*, vol. 2, Flinders University, Adelaide, September-October, 1997, p. 413.

⁴⁹ Coalition Foreign Affairs Policy Group, 'A Confident Australia', Melbourne, February 1996, p. 10.

⁵⁰ John Howard, 'Fair Australia', Address to the Australian Council of Social Service, Sydney, 13 October 1995. Carol Johnson critiques the usurpation of the Hanson agenda by Howard, in 'John Howard and the Revenge of the Mainstream: Some Implications for Concepts of Identity', in George Crowder, Haydon Manning, David Mathieson, Andrew Parkin and Leonard Seabrooke, (eds.), *Proceedings of the 1997 Australasian Political Studies Association Conference*, vol. 2, Flinders University, Adelaide, September-October, 1997, pp. 409-431.

refusal of assistance to the Tampa's asylum seekers in 2001 evidenced), it was also about seeking solace with habitual friends.

A renewed emphasis on the traditional US relationship, Australia's contemporary cultural partner, could be driven to allay the supposed anxieties of middle Australia and provide an alternate source of succour if engaging with Asia became problematic.⁵¹ The ANZUS Alliance would be upgraded and more broadly, bilateralism installed as the foundation stone of Australia's international relationships.⁵² And as Hugh White observed: '(f)or Howard, the chance to remodel the US relationship probably had both national and political attractions.'⁵³ Intuitively then, the Howard government acted to remove the tension from the security/identity nexus. Thus, the Coalition's choice of bilateralism with the asymmetrically powerful US, despite the logic and recent trade diplomatic practice of multilateralism as the most appropriate choice for Australia, became explicable, if not entirely defensible.

As an adjunct to this, foreign policy came under greater control of the Prime Minister's office. During John Howard's term in office, the structure of the foreign policy making process was informally rerouted through the Prime Minister's office to ensure quality control.⁵⁴ If the Prime Minister was initially more predisposed to the domestic policy arena, he was soon to realise the benefits of managing international policy and its bearing on domestic outcomes. And as Alan Gyngell and Michael Wesley argue, structurally the role of the Prime Minister's international advisor has become increasingly significant since its establishment in the 1980s.⁵⁵ With the change in US

⁵¹ Carol Johnson provides an excellent analysis of the dilemmas surrounding the perceptions of the threatened position of the 'Anglo-Celtic' identity in contemporary Australia in, 2002, 'The dilemmas of ethnic privilege: A comparison of constructions of 'British', 'English' and 'Anglo-Celtic' identity in contemporary British and Australian political discourse', *Ethnicities*, vol. 2, no.2, pp. 164-188.

⁵² Department of Foreign Affairs and Trade, 'In the National Interest: Australia's Foreign and Trade Policy White Paper', Canberra, 1997, pp. 53-59.

⁵³ Hugh J. White, 'Mr Howard goes to Washington: The US and Australia in the Age of Terror', *Comparative Connections, Pacific Forum CSIS*, 2nd Quarter 2003: Occasional Analysis: Australia-US Relations, p. 3, < <http://www.csis.org/pacfor/cc/0302Ooa.html> >. Accessed November 2003.

⁵⁴ See Allan Gyngell's remarks on this in 'Death of Dualism?', *Griffith Review*, Spring 2003, pp. 83-84.

⁵⁵ Allan Gyngell and Michael Wesley, 'Intervweaving of foreign and domestic policy: international policy, in Glyn Davis and Michael Keating, *The Future of Governance: Policy Choices*, Allen and Unwin, St. Leonards, 2000, p. 225. The

Administration in 2000, Howard sensed an opportunity to further develop relations with the US and he clearly developed a much closer rapport with George W. Bush than Bill Clinton. Given the publicity, particularly in Australia, the special relations seemed even further ingrained, and would seem to promise much.

Strangely enough, however, whilst the government was conscious of both the material and cultural inputs into the alliance relationship, it endeavoured to implement a trade policy that was based upon cultural bargaining. If its policy was simply informed by power politics it would not explain its choice to pursue its bilateral economic policy with the US. Problematic however was the inherent uncertainty in the delivery of outcomes for the smaller power in situations of asymmetrical bargaining. For the Howard government these situations included the negotiations surrounding the Free Trade Agreement, the Howe leather and lamb trade disputes, and in the security arena, the East Timor crisis.

Trade bargaining

Although literature on international bargaining has provided scant analysis of asymmetrical trade relations,⁵⁶ what is known, however, is that small states possess the ability to prevail in prescribing the parameters of the bargaining process and thus increase their leverage. Factors such as the choice of terrain, skills and resources of the negotiators and government department are influential in determining the outcome.⁵⁷ Issue specifics are important, although it remains that should the issue be of significant interest to both parties, then the larger power has at hand the command of greater resources and leverage to mobilise. Undoubtedly on set issues there exists a plethora of

necessity of overseeing foreign policy was made particularly apparent also after Alexander Downer's early difficulties in the portfolio.

⁵⁶ William Habeeb has argued that one of the failures of international theorists' work has been to provide a framework for the understanding of asymmetrical power relationships. William Mark Habeeb, *Power and Tactics in International Negotiation: How Weak Nations Bargain with Strong Nations*, Johns Hopkins University Press, Baltimore, 1988, pp. 134-5.

⁵⁷ William Mark Habeeb, *Power and Tactics in International Negotiation: How Weak Nations Bargain with Strong Nations*, Johns Hopkins University Press, Baltimore, 1988, pp. 134-5. William Zartman, *The Politics of Trade Negotiations between Africa and the European Economic Community: The Weak Confront the Strong*, Princeton University Press, Princeton, 1971, pp. 224-229. John Zysman, *Government, Market and Growth*, Blackwell, 1983, p. 297.

factors that can shrink the relational power factor. Obviously where the importance of the issue was lesser for the greater power, gains could be made in the bargaining process. The contextual environment could also be persuasive in determining the outcomes. Nonetheless, power politics remained as the overarching determinant of results. If the issue was of significance to the greater power then the resources and leverage it could bring to bear on the outcome was decisive.

However, the Howard government relied on cultural dynamics to alter this. Not only did its reliance upon a cultural relationship with the US in trade bargaining skew the recent Australian orthodoxy of multilateralism it also created the air of expectation and reciprocity. The government then needed to demonstrate publicly how the relationship was of benefit. Hence there existed a perceived need to legalise trade arrangements and the attendant attempt to employ the use of material factors to enhance leverage in this bargaining process. It did so by overlaying the political and military commitment to the Iraq war on the trade agenda.

Consistent with this argument it seemed that Robert Keohane's study that revealed that small allies could exert considerable influence over their great power allies may have application here. He contended that these small allies were most effective where: they possessed the ability to manoeuvre broadly within their domestic politics, the US pursued an activist foreign policy, its relationships ensured a mutual dependence with US government agencies, and it was able to construct intimate ties with organised groups within the US.⁵⁸ However, Australia did not qualify in this set for two reasons: first, as he and Joseph Nye later observed, Australian governments lacked the ability to manoeuvre because of their perception that US security protection was paramount.⁵⁹ Clearly then, a hierarchical structure was imposed on Australia's quest for security, wealth and knowledge. Thus the Howard government could not

⁵⁸ Keohane analysed the actions of Pakistan, Israel, Spain, the Philippines, nationalist China and Iran in the 1950s and 1960s, in Robert O. Keohane, 'The Big Influence of Small Allies', *Foreign Policy*, no.2, Spring 1971, p. 167.

⁵⁹ Robert O. Keohane and Joseph S. Nye, *Power and Interdependence*, second edition, Scott, Foresman and Company, Glenview, Illinois, 1989, pp. 175- 212.

exercise influence because it perceived that its association with the US was too important to risk a deterioration in relations.

Second, as long time alliance analyst, William Tow, observed, special relations are 'generally not applicable in the contemporary and increasingly open international trading system.'⁶⁰ Similarly, after investigation of Australia-US trade policy in the 1980s, Russell Solomon concluded that, the quality of the political relationship was disconnected to the trading relationship.'⁶¹ By inverting the Keohane and Nye argument I also suggest that whilst Australians sought protection originally from the UK and then US, because of their geographic and cultural isolation, Australia's non-strategic location has also affected the likelihood of great power commitment in the relationship.⁶² While small states in the Middle East or in Northeast Asia may have been crucial to UK or US grand strategic plans or vital to their economic hegemony, Australia's remote location and small population has denied it leverage on either geostrategic or economic grounds. Thus, when confronted by domestic US lobbying, what leverage could be exerted? And even if Australia were to link trade with security, would this attempted construction of advantage be enough?

Consistent with the literature, whilst the security leverage achieved through the support of US military quests may have assisted in prompting the negotiations, this was inadequate too in delivering more substantive benefits for Australia. This was so because power politics was the overarching determinant of results. Congressional and domestic politics also exercised greater influence upon the US Administration and trade negotiators than any special relationship with a small ally in a strategically remote location. And this appears as a recurring pattern throughout the Howard government's period in office. In each of the Howe and Lamb trade disputes and East Timor crisis, the outcome was dependent upon US interests. What is more, in seeking to implement its

⁶⁰ William T. Tow, 'Australia and the United States', in James Cotton and John Ravenhill, (eds.), *The National Interest in a Global Era: Australia in World Affairs 1996-2000*, Oxford University Press, South Melbourne, p. 184.

⁶¹ Russell Solomon, 'Political Economy of Australia's Trade Policy - Making Towards the United States', *unpublished Ph.D thesis, University of Sydney*, Sydney 1993.

⁶² The fall of Singapore in 1942 exemplifies this thinking.

new proactive trade bilateralism in its relationship with the US, it was not apparent what would be the catalysts for success. The Howard government's culturally bound bargaining proposition just failed to resonate with the US. Its attempt to utilise its special relationship with its alliance partner was not significant enough to overwhelm the potency of US domestic interests. Not surprisingly, in this asymmetric bilateral relationship with the US, Australia had little with which to exact leverage.

However, if the government used the alliance to address issues of its own electoral survival, then it should come as no surprise that Howard was willing to sign on to a deal that was less than anticipated. Eventually, the association with the US became of paramount import. This was exacerbated domestically when the ALP switched leaders from Kim Beazley to Simon Crean, then Mark Latham. Beazley had been an ardent supporter of the alliance, yet Latham's vocal history was populated with dissent on recent US military activity. Latham too had intimated that Bush was an unacceptably poor President. Contrast this with the Coalition's form on alliance relations as unquestioning ally. With one khaki electoral scalp in its belt, here was a further opportunity for the Coalition to exploit the differences and widen the gap.

For the Coalition not to sign the agreement, and thereby acknowledge that it was less than expected, would flag the failure of its reliance on the special relationship. It would admit to the inadequacy of the culturally enclosed bargaining policy that it had pursued relentlessly during its tenure. More broadly, failure to sign the agreement would concede that its policy since 1996, to upgrade alliance relations, had been ineffectual. So, instead the government chose to laud the less quantifiable but prospective investment and 'business connections' aspects of the agreement and ignore its original motivations for negotiating.

However, whilst the Coalition may have judged that it was important to maintain the connection it is also worth considering the ease with which the loyal ally could refuse the deal. Having been so comprehensively sympathetic to the broad US policy positions and so accommodating to US unilateralism, it is possible that to renege

would have been more difficult. Had the Coalition's consistent support of the US eventually created expectations it would continue to accept US decision-making, whatever the price? By doing so, however, it limited its bargaining power. Greater powers may, by their very capacity and insulation from consequences have greater space in which to manoeuvre. The smaller power is not imbued with this same authority. The Coalition's actions may have skewed this difference further.

Problems with inflated expectations

For Howard the pursuit of a trade agreement with the US was logical given the explanation of his motivations in upgrading the relationship. That he should pursue a formal trade arrangement even though it lacked economic weight confirmed that this government's understanding of alliance relations was historically, culturally and domestically tuned. Yet it appears at this juncture that even though the Howard government could cite its loyal ally support for US military activity as a means to sway US decision-making, it was unable to exact sufficient leverage in effecting an attractive deal. At the final juncture Howard's personal pleas coupled with its unwavering support for the US had been ineffective. What this has revealed are the flaws in the government's approach. And it appears that the US implicitly understood the weaknesses in Australia's bargaining position.

So, despite the expectations, the results have not always been those desired. Reciprocity for Australia depends upon the coincidence of these expectations with US material preferences. Because of the constraints of power and the asymmetry in the Australia-US relationship, any attempt to model policy upon US aggressive unilateralism was inherently restricted in its ability to deliver outcomes. Australia's location and population does not render it vital to US strategic interests. The US too, has been wont to transfer the imperatives for structural adjustment to its trading partners. Moreover, in any international bargaining with the US, the Administration's preferences are but one factor in the construction of policy. Congress and thus the

electoral cycle, producer interests and lobby groups are integral in the fall of the decisions, and the current US debt issues loom as a significant threat to future policy preferences. Whilst the Howard government has waged its policy upon the Anglo influences in its heritage, the results have varied upon a range of domestic and international interests, both governmental and non-governmental, that are specific to the time, and less dependent upon the cultural preferences of the greater power. Ultimately and ironically in failing to secure a good deal, even with Prime Ministerial intervention and supposed military leverage, what the Trade Agreement reveals is not the strength of Howard's alliance relations and its management - but its frailty.

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