



# Trading away competitiveness

Green priorities influencing Australian trade policy

**Tim Wilson**  
Director, IP and Free Trade Unit

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## i. Executive summary

Despite three decades of stunning economic growth, Australia's fragile free trade consensus is dying. Only a no-tariff consensus remains as political parties of all stripes are supporting the introduction of protectionist non-tariff barriers (NTBs) and it is no coincidence. A picture is emerging of environmental non-government organisations (NGOs), such as Greenpeace, Friends of the Earth and the World Wildlife Fund, successfully lobbying for the introduction of NTBs. And Independents, the Greens, the Australian Labor Party and the Liberal/National Coalition are all supporting their efforts.

NGOs have long advocated for industries to adopt 'voluntary' supply chain certification standards that they effectively own and control. Superficially, these 'voluntary' certification standards are designed to allow consumers to identify products that are produced based on their concept of value. In practice, once adopted, these 'voluntary' certification standards provide NGOs significant control to influence markets and make businesses beholden to their values.

There has always been evidence that the intent is to turn these schemes from operating voluntarily to compulsory. NGOs are now successfully lobbying all political parties to require certification in order for imports to come into Australia. The most glaring examples are the *Illegal Logging Prohibition Bill* and the recently failed *Food Standards Amendment (Truth in Labelling – Palm Oil) Bill*. Considering these certification standards often directly undermine Australia, as well as exporters into Australia, pursuing its comparative advantage they act as forms of protection.

Free trade is built on the theory of comparative advantage – that countries should specialise in the industries where they are most competitive, and trade for the goods and services where they are not. Free trade contributes strongly to economic growth because it ensures consumers can buy cheaper imports that increase standards of living. They also increase domestic competition, ensure access to goods and services that cannot be produced locally, and provide cheaper inputs for Australian businesses to enable them to be competitive internationally.

The economic impacts of adopting ENGO standards and abandoning free trade are straightforward. The cost of living for Australians will unnecessarily increase and export industries and jobs will be harmed. Australia's reputation as a free trade nation will also be undermined.

The bigger impact will be on the industries in developing countries that are directly targeted by these measures. Because they are not as economically diversified as developed countries, any trade barrier will have a disproportionate impact on them. And because they are targeted at industries in rural and regional communities they are like to impact those most vulnerable.

Left unchecked, the influence of NGOs could also start creating headaches for business. To date NGOs have successfully targeted Australian businesses, such as supermarkets for supplying non-certified products until they change the products they stock to change behaviour throughout the supply chain. Newly appointed Australian Competition and Consumer Commission Chairman (ACCC), Mr Rod Sims, announced recently that he will investigate the influence of retailers using their market power to impose pressure up the supply chain that impacts on competition and consumers. Considering NGOs are lobbying for them to do so, Australian retailers may soon be caught between public attacks from NGOs and the ACCC.

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## iii. Abbreviations

<b>ACCC</b>	Australian Competition and Consumer Commission
<b>CAC</b>	Competition and Consumer Act 2010
<b>ENGOS</b>	Environmental non-government organisations
<b>FOE</b>	Friends of Earth
<b>FSC</b>	Forest Stewardship Council
<b>GATT</b>	General Agreement on Tariffs and Trade
<b>IGA</b>	Independent Grocers Association
<b>NGOs</b>	Non-government organisations
<b>MSC</b>	Marine Stewardship Council
<b>MSI</b>	Multi stakeholder initiative
<b>MTI</b>	Market Transformation Initiative
<b>NTBs</b>	Non-tariff barriers
<b>RSPO</b>	Roundtable on Sustainable Palm Oil
<b>TBT</b>	Agreement on Technical Barriers to Trade
<b>WTO</b>	World Trade Organisation
<b>WUW!</b>	Wake Up Woolworths!
<b>WWF</b>	World Wildlife Fund

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## 1.0 Trade policy as an instrument of influence

Trade policy may not excite most Australians but it is a key instrument in the economic direction of the nation. When governments impose trade restrictions under the banner of ‘protecting jobs’, ‘helping industries’ or ‘buying Australian’ they have decided that economic growth and cheaper goods should be traded off to protect established interests through higher prices. When the government removes restrictions and promotes freer trade it has decided to promote diffused, economic growth that advantages domestic industries and consumers.

History provides clear examples of the economic consequences of abandoning free trade. Ill-advised policy making to protect industries justified the erection of trade barriers that turned a great recession in the 1930s into the Great Depression. Sparked by the United States’ Smoot-Hawley tariffs various governments engaged in retaliatory tariff escalation that harmed economic growth and recovery in the name of protecting domestic industries in economically turbulent times.

The impact of the Smoot-Hawley tariffs was two-fold. It made markets less flexible slowing economic recovery in the short-term. And in the medium and long-term it prompted industries to be founded on unsustainable false foundations. As a result, scarce economic resources were misdirected toward industries that were not always competitive. This meant increased costs for consumers and less capital available for industries that were competitive.

Since the mid-1970s Australian governments have sought to liberalise the remnants of this legacy of protectionism. At first the Whitlam government, in a deeply unpopular move, slashed tariffs for heavily protected industries. Many found overnight adjustment to a radically changed economic landscape difficult and were unable to compete.

Learning from the Whitlam experience, in the 1980s the Hawke government introduced phased liberalisation allowing industries to structurally adjust over time. The Hawke government was supported with a fragile ‘free trade’ consensus from the Liberal and National Parties. These measures coincided with international efforts for ‘tariffication’, under the General Agreement on Tariffs and Trade (GATT), to convert opaque non-tariff barriers (NTBs) in the agriculture sector into transparent tariff barriers that could be reduced over time. The Australian efforts were continued under the Keating and Howard governments. Only a small number of select industries are still burdened by tariff barriers.

### Box 1 | Trade barriers

**Tariff barriers** Tariff barriers act as a border measure on imports that increase costs against domestic production. While trade distorting, the benefit of tariffs is that their impact is transparent and quantifiable and can be easily phased out over time.

**Non-tariff barriers** NTBs include a raft of legitimate (often abused) and illegitimate trade barriers that are opaque in design and their economic profile affecting trade. Examples of NTBs range from quarantine restrictions, quantitative import restrictions, local content requirements, certification and labelling requirements and subsidies. Some are less trade-distorting (subsidies) than others (quantitative import restrictions), but all have an economic profile that has a protectionist impact equivalent to tariffs.

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The reasons for policy change were numerous, but it was principally that Australia was not pursuing its comparative advantage and was instead unsustainably propping up inefficient and uncompetitive industries which harmed the nation's economic welfare. It's a point highlighted in the Gillard government's latest policy statement on trade, *Trading our way to more jobs and prosperity*, which outlines that free trade remains the best policy to pursue the national interest:

*'By reducing barriers to trade at home, a government can enable productive inputs such as capital, labour and entrepreneurship to move into those industries in which the country is strong compared with other industries and other countries. Sometimes it is suggested that with little or no industry protection a country might not be good at producing anything compared with other countries. But a country does not need an absolute advantage over another to gain from trade between the two of them; mutual gains from trade result from comparative advantage, not absolute advantage. The other country might have an absolute advantage in production of everything over the home country, being capable of producing all tradeable goods and services by using fewer domestic labour resources. But by definition no country can produce all goods and services more cheaply relative to other goods and services. As a result, the other country will gain from specialising in the production of goods and services in which it has the greatest advantage while the home country specialises in producing goods and services in which, comparatively, it has the least disadvantage. By specialising according to their comparative advantage, the two countries will produce a greater total value of goods and services and both will gain from trade. Here in Australia lowering trade barriers and opening up the Australian economy have been well worthwhile in their own right and the benefits from doing so have not depended on other countries lowering their trade barriers'.<sup>1</sup>*

The consequence of removing trade barriers has been a vast improvement in the economic welfare of ordinary Australians through access to cheaper goods and the more efficient use of scarce capital to create jobs built on sustainable economic foundations.

But Australia's 'free trade' consensus is decaying. There is no longer a 'free trade consensus'. There is only a no-tariff consensus. Many of the recent calls to erect NTBs have been based around concepts of fairness in achieving a 'level playing field'<sup>2</sup> and other policy objectives. But the point of free trade is to maximise the benefits of an imbalanced playing field so countries can utilise their unique circumstances to promote economic growth. Again, the government's trade policy statement supports this argument:

*'During the great debates about protectionism versus free trade of the 1970s and 1980s, it was common for businesses to complain that competition from countries with 'cheap labour' was unfair and they should be protected from it so as to establish 'a level playing field'. It didn't seem to occur to them that cheap land gave them an advantage against Japanese imports and cheap capital against imports from most developing countries. Owing to different skill levels there will never be a single global wage rate. And as long there are*

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<sup>1</sup> Department of Foreign Affairs and Trade. 2011. "Gillard government trade policy statement: Trading our way to more jobs and prosperity", April, Commonwealth of Australia, Canberra, Australia, at <http://dfat.gov.au/publications/trade/trading-our-way-to-more-jobs-and-prosperity.pdf>

<sup>2</sup> Iggulden, T. 2011. "Abbott and Howes call for support for manufacturing", Lateline, August 29, Australian Broadcasting Corporation, at <http://www.abc.net.au/lateline/content/2011/s3305175.htm>

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*differences among countries in wage rates there will be gains from specialisation and trade according to comparative advantage'.<sup>3</sup>*

Equally, pursuing the long-fabled level playing field will simply result in escalation of measures, as the Smoot-Hawley Tariff Act delivered. As a consequence trade policy should remain free of external policy considerations because it can quickly become a policy instrument to achieve multiple, and often conflicting, policy objectives that only undermine economic growth. And in many situations the alternative policy objectives can be best achieved through economic growth that occurs from pursuing each nation's comparative advantage.

The other reason that infecting trade policy with alternative measures should be resisted is because of its capacity to export, in a neo-colonialist sense, our values onto other nations through economic policies.

Every country is at a different stage of economic development. Australia is at the very top of the economic food chain because we have a stable, established system of governance and have pursued a liberal market economy coupled with policies that have successfully directed our economic resources relatively efficiently. More importantly, it is because Australia has exercised its right to develop and exploit its natural endowments that it has become a prosperous nation. As we have exploited our natural resources we have been able to value-add and move from a base commodities economy, to a manufacturing economy to a service economy. But each step requires the economic value that its predecessor provided.

At an earlier stage of economic development Australia didn't have, nor could it afford, the environmental, social and economic policies that currently operate. As we have become wealthier we have developed economic, social and environmental expectations for ourselves and others. As a consequence we have both come to expect, as the environmental Kuznets curve argues, higher environmental standards extended from our affluence, as well as the capacity to afford them.<sup>4</sup> Each measure has an economic profile that adds cost and can reduce overall economic welfare. As a country we have decided to make many of those tradeoffs. Not every other country is in the same position.

The vast majority of countries of the world are still in a much earlier stage of economic development than Australia. By exporting our values and expectations we hold towards the environment and social systems we are increasing costs for developing countries and undermining their economic development and comparative advantage through the supply chain. And increasingly trade policy decisions made in Australia do not impose these costs in an unintended fashion. They are designed to do so.

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<sup>3</sup> Department of Foreign Affairs and Trade. 2011. "Gillard government trade policy statement: Trading our way to more jobs and prosperity", April, Commonwealth of Australia, Canberra, Australia, at <http://dfat.gov.au/publications/trade/trading-our-way-to-more-jobs-and-prosperity.pdf>

<sup>4</sup> Stern, D. I. 2003. "The Environmental Kuznets Curve", International Society for Ecological Economics, at <http://www.ecoeco.org/pdf/stern.pdf>

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## 2.0 Using trade policy to achieve backdoor policy aims

Economic, social and environmental sustainability are entirely desirable policy objectives. But how they are interpreted and designed can have radically different impacts.

A free market economy should seek to achieve all three while recognising they are intertwined. A freer market is one of the most desirable mechanisms to achieve environmental sustainability. This is because the price of goods and services is based on the balance of supply and demand ensuring that scarcer resources that are in demand are highly priced. Similarly, freer markets apportion a price to waste increasing the incentive for minimising waste and the development of business models to recycle and reuse waste from one activity to be used for another activity.

In international trade sustainability also encourages countries to utilise their comparative advantage based on their natural endowments. But standards developed by government no longer respect basic classical economic concepts like comparative advantage and self-determination of countries to pursue their own economic interests.

For example, the Australian government's aid and development agency, AusAID, has recognised fair-trade, which involves rejecting a country's comparative advantage and increasing costs for producers, as a desirable policy objective,<sup>5</sup> and has even awarded funding to support research along these lines against the economic interests of those countries.<sup>6</sup>

But the biggest influence over government policy is coming from environmental non-government organisations (ENGOS). There is now a tendency for ENGOS to advocate for the use of certification standards as a measure to achieve sustainability objectives. Contemporary certification scheme models emerged in the 1980s and 90s as a mechanism to enable products to be identified by consumers based on non-price value propositions, such as the perceived environmental and social impact of its production.<sup>7</sup>

ENGOS such as Greenpeace and the World Wildlife Fund (WWF) are increasingly influencing trade policy by successfully advocating for legislatively required compliance with 'voluntary' certification standards before products can be imported.<sup>8</sup> What is rarely disclosed is the effective ownership and control these ENGOS have over these certification schemes. By using the power of government to force industry to adopt these standards, many industries' business practices then become dictated to by ENGOS.

The extent of the influence of ENGOS should not be underestimated. The major certification schemes that the WWF claims specific credit for include the Forest Stewardship Council (FSC), the

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<sup>5</sup> Downer, A. 2007. "Australia Challenges Business to Help Reduce Poverty in the Asia Pacific", News Release, October 8, AusAID, Commonwealth of Australia, at [http://www.ausaid.gov.au/media/release.cfm?BC=Media&ID=1462\\_8608\\_6169\\_999\\_3194](http://www.ausaid.gov.au/media/release.cfm?BC=Media&ID=1462_8608_6169_999_3194)

<sup>6</sup> AusAID. 2011. "Previous Australia Development Research Award Winners", at <http://www.ausaid.gov.au/research/Results.cfm>

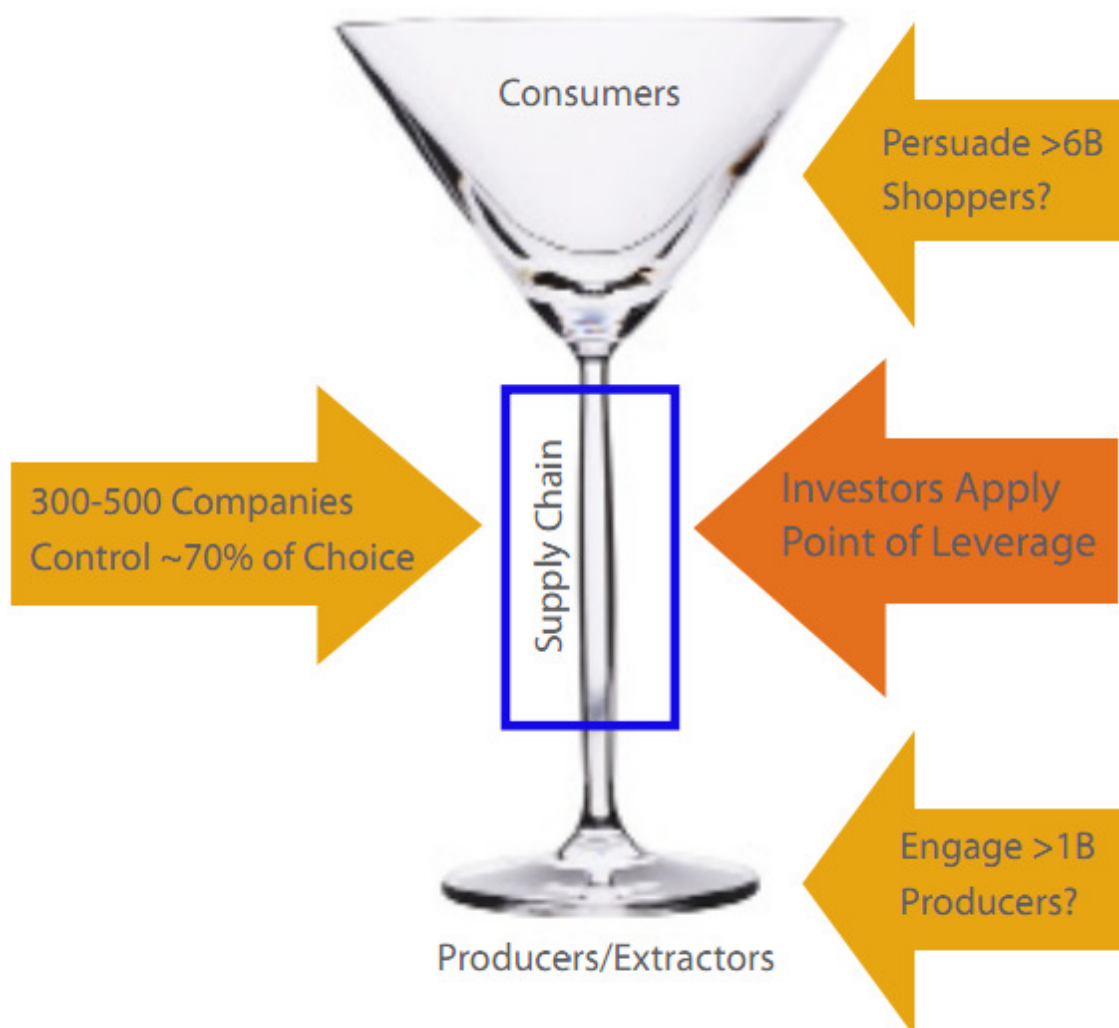
<sup>7</sup> For a full discussion on the evolution of many certification standards read Wilson, T. 2011. "Naked Extortion?: Environmental NGOs imposing [in]voluntary regulations on consumers and business", Institute of Public Affairs, at [http://www.ipa.org.au/library/publication/1315452023\\_document\\_110906\\_-\\_report\\_-\\_naked\\_extortion.pdf](http://www.ipa.org.au/library/publication/1315452023_document_110906_-_report_-_naked_extortion.pdf)

<sup>8</sup> For a full discussion of the influence of green groups read Wilson. 2011.

Marine Stewardship Council (MSC) and the Roundtable on Sustainable Palm Oil (RSPO).<sup>9</sup> Two out of these three schemes (FSC and RSPO) have recently been the focus of lobbying efforts. ENGOs have lobbied to have imports certified against the principles of these standards before they can be imported .

Should these ENGOs be successful, the impact of lobbying for certification standards can be considerable. Their focus is very deliberate. Recently ENGO WWF launched its Markets Transformation Initiative (MTI) to influence the behaviour of producers and extractors of commodities, but also those who participate in the supply chain, notably financial institutions, as well as governments who can establish import and export requirements. The intention of the MTI is outlined in Figure 1.

**Figure 1 | WWF’s theory of change**



Source: World Wildlife Fund. 2010, “Quarterly Update for Financial Institutions, WWF Market Transformation”, April, p1, at <http://www.worldwildlife.org/what/globalmarkets/intfinance/WWFBinaryitem16026.pdf>

<sup>9</sup> World Wildlife Fund. 2010. “Multi-Stakeholders Engagement”, at [http://wwf.panda.org/what\\_we\\_do/how\\_we\\_work/businesses/transforming\\_markets/solutions/methodology/multi\\_stakeholders/](http://wwf.panda.org/what_we_do/how_we_work/businesses/transforming_markets/solutions/methodology/multi_stakeholders/)

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The intended impact is also outlined in descriptions for positions advertised in WWF's MTI jobs. In particular, they identify that 'the key levers for change are major companies, their supply chains and the key corresponding industries that connect producers with consumers'.<sup>10</sup>

The objective of the MTI is to ensure 'acceptable standards are met by more than 75% of global purchases of WWF priority commodities sourced from WWF priority places ... and acceptable standards are met by more than 25% of global purchases of WWF Priority Places'.<sup>11</sup> The definition of 'acceptable' and 'priority places' is not specifically defined, however, it is reasonable to assume that it is based around the MTIs' objectives to develop 'sustainable market standards and certification schemes through multi-stakeholders initiatives (Dialogues, Roundtables) ... and increase in supply and purchase of certified products'.<sup>12</sup>

As WWF's own assessment identifies, 'between 300 and 500 companies control 70 per cent more of the trade in each of 15 commodities that [they've] identified as having the biggest environmental impact'. And out of those companies, '100 companies control 25 per cent of the trade of all commodities ... affecting around 50 per cent of all production'.<sup>13</sup>

By seeking to include certification requirements into legislation WWF's MTI objectives are being met with the assistance of government and handing significant control for business practices to the certification standards they effectively own.

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<sup>10</sup> e-KORN/FERRY. 2011. "Opportunities: Director, Market Transformation Initiative", at <https://www.ekornferry.com/library/Process.asp?P=Opportunity&S=TI212>

<sup>11</sup> World Wildlife Fund. 2009. "Leader Market Transformation Initiative", at [http://wwf.panda.org/who\\_we\\_are/jobs/?uNewsID=162781](http://wwf.panda.org/who_we_are/jobs/?uNewsID=162781)

<sup>12</sup> World Wildlife Fund. 2011. "The WWF way to transform markets for the better", at [http://wwf.panda.org/what\\_we\\_do/how\\_we\\_work/businesses/transforming\\_markets/solutions/methodology/](http://wwf.panda.org/what_we_do/how_we_work/businesses/transforming_markets/solutions/methodology/)

<sup>13</sup> Clay, J. 2010. "Transforming Markets", World Wildlife Fund, in United Nations Environment Program. 2010. "Tunza", October, p11, at [http://www.unep.org/pdf/Tunza\\_8.3\\_Eng.pdf](http://www.unep.org/pdf/Tunza_8.3_Eng.pdf)

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## 3.0 Recent evidence pointing to strategy success

### 3.1 Establishing precedents

While WWF's certification schemes were designed as 'voluntary' market instruments these Bills show it is not their intent. According to a September 2010 review, through the implementation of 'voluntary' certification standards, stakeholders have found that the effectiveness is limited by their essentially 'voluntary' nature. The first conclusion of the report outlined what the complimentary measures would include:

*'To increase ... uptake, governments and international organisations in consumer and producer countries should establish complementary mechanisms to create an enabling environment. Such mechanisms could include national legislation, public procurement policies, tax incentives and tax relief, and start-up grants. Financial institutions also have an important role to play to support and enable MSIs ... [and] There is a need to explore non-market based mechanisms that can drive better management practices for domestic production (eg. regulatory waivers in exchange for certification)'.<sup>14</sup>*

WWF's MTI strategy also outlines that while existing certification standards are useful, they are only one phase in an overall strategy, and that the next step is to transfer the objectives of certification into measurable standards. The intent of the strategy to influence and control supply chains was outlined in a strategy document from October 2010.<sup>15</sup> According to the same strategy, WWF gloats that in response to the question whether 'government regulation [is] the next step' it argues 'Yes, it's already happening [and they've] ...already set up standards that governments are using in their regulations'.<sup>16</sup>

Further, WWF also poses the question about whether there will be a time when consumers will not have a choice between products that do and do not meet their standards arguing, 'Absolutely ... [and] at some point in the not-so-distant future, this needs to be regulated by governments, not ENGOs'.

While past efforts to allege that the intent of ENGO's influences over certification schemes to move them from voluntary to compulsory schemes has predominantly been based on 'connecting dots', it is now clear that it is part of systemic design by ENGOs.<sup>17</sup> As outlined in an earlier IPA paper, it fits into a broader strategy to control the business practices of traded commodities.<sup>18</sup> A summary of that strategy is outlined in Figure 2.

And as Section 3.2 and 3.3 show, these strategies are now being put into practice, turning voluntary market schemes into involuntary ones.

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<sup>14</sup> World Wildlife Fund. 2010. "Certification and roundtables: Do they work? WWF review of multi-stakeholder sustainability initiatives", p13, at [http://assets.panda.org/downloads/wwf\\_msireview\\_sept\\_2010\\_lowres.pdf](http://assets.panda.org/downloads/wwf_msireview_sept_2010_lowres.pdf)

<sup>15</sup> Clay, J. 2010.

<sup>16</sup> Clay, J. 2010.

<sup>17</sup> World Growth. 2010. "Green Risk and Red Ink: WWF's Threat to Free Enterprise", Green Issues Paper, Issue VII, p9, at [http://www.worldgrowth.org/assets/files/WG\\_GreenPaper-WWF.PDF](http://www.worldgrowth.org/assets/files/WG_GreenPaper-WWF.PDF)

<sup>18</sup> Wilson. 2011.

**Figure 2 | Ten Step Good Cop/Bad Cop Strategy to control business**

Step	ENGO1	ENGO2
<b>One</b>	<b>Activity:</b> Design strategy to attack producer or extractor of commodities business on their environmental, social and/or economic record. <b>Impact:</b> Create a problem.	<b>Activity:</b> Found, own & control a 'voluntary' certification scheme embodying environmental, social and/or economic standards addressing ENGO1's attacks. <b>Impact:</b> Create a solution.
<b>Two</b>	<b>Activity:</b> Attack producer based on strategy developed in Step One. <b>Impact:</b> Create a brand headache for producer.	<b>Skip to step Four</b>
<b>Three</b>	<b>Activity:</b> Advise producer stopping attacks requires meeting ENGO2's 'voluntary' standards. <b>Impact:</b> Create a solution for attacked business.	
<b>Four</b>	<b>Skip to step Five</b>	<b>Activity:</b> Approach producer advising that adoption and purchasing of 'voluntary' standards will address ENGO1's attacks. <b>Impact:</b> Deliver solution for attacked producer. Collect revenue from licensing logo on products.
<b>Five</b>	<b>Activity:</b> Attack retailers if they don't stock products that meet ENGO2's 'voluntary' standards. <b>Impact:</b> Place retailer pressure on business to adopt ENGO2's 'voluntary' standards.	<b>Activity:</b> Attack retailers if they don't stock products that meet ENGO2's 'voluntary' standards. <b>Impact:</b> Place additional market pressure on business to adopt ENGO2's 'voluntary' standards.
<b>Six</b>	<b>Activity:</b> Target consumers to only buy products that meet ENGO2's 'voluntary' standards. <b>Impact:</b> Create consumer pressure on retailers and producers to adopt ENGO2's 'voluntary' standards.	
<b>Seven</b>	<b>Skip to step Eight</b>	<b>Activity:</b> Tighten adopted 'voluntary' certification standards for business. <b>Impact:</b> Increase standards with additional costs that are passed onto retailers and consumers.
<b>Eight</b>	<b>Activity:</b> Attack business if it fails to meet, or leave, tightened ENGO 'voluntary' standards. <b>Impact:</b> Create incentive for businesses to fall into line.	
<b>Nine</b>	<b>Activity:</b> Lobby government to introduce procurement policies based on ENGO2's 'voluntary' standards arguing business has already 'voluntarily' adopted them. <b>Impact:</b> Exclusive government market access placing pressure on businesses to adopt 'voluntary' standards.	
<b>Ten</b>	<b>Activity:</b> Lobby government to require ENGO2's 'voluntary' standards in import laws & regulations arguing business has already 'voluntarily' adopted them. <b>Impact:</b> Compel businesses to comply with ENGO2's standards.	

**Source:** Wilson, T. 2011. "Naked Extortion?: Environmental NGOs imposing [in]voluntary regulations on consumers and business", Institute of Public Affairs, at [http://www.ipa.org.au/library/publication/1315452023\\_document\\_110906\\_report\\_naked\\_extortion.pdf](http://www.ipa.org.au/library/publication/1315452023_document_110906_report_naked_extortion.pdf)

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### 3.2 The *Illegal Logging Prohibition Bill*

Internationally ENGOs have engaged in a campaign on the international wood trade, principally targeting imports from the developing world, if products risk being sourced from illegally felled sources. The extent of the actual problem remains unclear, and whom is responsible is equally murky.

However, looking to appease ENGOs in the lead up to the 2007 Federal election then Federal Labor Party Leader, Kevin Rudd MP, and later elected Prime Minister announced he would commit his government to, ‘the greater policing and enforcement of an effective national ban on the sale of illegally logged timber imports’.<sup>19</sup>

After the election the push to implement the import restrictions fell to the back of the government’s priorities. But ENGOs did not stop their push. In 2008 a group called Wake Up Woolworths! (WUW!) targeted the supermarket retailer to stop using imported toilet paper product sourced from Indonesia in its private label, *Select*, on environmental grounds. In substantiating their arguments the WUW! campaign drew heavily on material from WWF and Friends of the Earth (FOE),<sup>20</sup> and also attracted support from Greenpeace, with a spokesperson stating, ‘what we’re doing is protesting about Woolworths and their unsustainable tissue product, the Select brand paper products’.<sup>21</sup> The campaign also attracted strong support from the forestry union.

Faced with claims that the Rudd government did not deliver on earlier pledges, then Labor Prime Minister, Julia Gillard, took a similar policy to the 2010 Federal election and Agriculture, Fisheries and Forestry Minister, Bill Ludwig, has since introduced the *Illegal Logging Prohibition Bill*. The Bill is modelled on the provisions required under the amended decade-old Lacey Act that requires certification declarations of the origin of wood imports into the United States that adds costs and obligations onto competitive imports. The intention of the government’s Bill is to:

- restrict the importation of illegally–logged timber products into Australia
- require suppliers to undertake a due diligence procedure to verify the legality of the timber they source
- implement a trade description for legally verified timber products and specify the circumstances under which it can be used.<sup>22</sup>

With the supposed benefit that it will:

- promote global trade in legally–logged timber products
- stop unfair competition in Australia between legally–harvested and illegal–harvested timber, and create a level playing field for domestic timber producers
- encourage investment in the Australian timber industry, enhance business profitability and increase employment in the sector
- provide greater certainty for businesses and consumers that timber products sold in Australia are from legal sources

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<sup>19</sup> Australian Broadcasting Corporation. 2010. “Background Briefing: Timber Politics”, Radio National, May 30, at <http://www.abc.net.au/rn/backgroundbriefing/stories/2010/2908767.htm>

<sup>20</sup> Wake Up Woolworths. 2009. “Woolworths Select Brand Paper Products”, at <http://www.wakeupwoolworths.com/docs/woolworths-asia-pulp-paper.pdf>

<sup>21</sup> Australian Broadcasting Corporation. 2010.

<sup>22</sup> Department of Agriculture, Fisheries and Forestry. 2011. “Illegal Logging Questions and Answers”, Commonwealth of Australia, at <http://www.daff.gov.au/forestry/international/illegal-logging/q-and-a>

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- contribute to an increase in legal timber production by a larger proportion of overseas timber producers
  - help reduce deforestation, forest degradation and the harmful environmental, social and economic impacts of illegal logging
  - contribute to a global approach to combating illegal logging by taking action that is complementary to that being adopted by the European Union and the United States.<sup>23</sup>

But the Bill remains a sop to ENGOs with no justification. As the government's own commissioned advisers, the Centre for International Economics, concluded in its report to the Department of Agriculture, Forestry and Fisheries the legislation was more trouble than it is worth. The study released in February 2010 concluded that the actual volume of illegal logging internationally appears to be grossly over-estimated and may only be between five and ten per cent. The study also found that only fifteen per cent of the world's timber is traded and Australia only imports 2.5 per cent, of which only ten per cent may be illegally logged.

In light of the CIE's argument that, 'Australia's imports account for about 0.034 per cent of global timber production, and 0.34 per cent of products incorporating illegally logged timber', the report recommended not to implement the proposed policy. The CIE particularly highlighted that the compliance costs for introducing the policy is likely to outweigh the economic benefit of doing so.<sup>24</sup>

But the subtext behind the introduction of the government's Bill is protectionism for the local industry. In his news release announcing the Bill he said, 'Illegal logging is a source of unfair competition to the Australian industry'. Unsurprisingly the Bill also enjoys a high degree of support from sections of the local Australian industry that compete against imports as well as the forestry union.<sup>25</sup>

But the broader concern is not the impacts on Australia, but the impacts of industries and those they employ in developing countries. Every regulation and trade restriction has an economic profile whose costs need to be added to a product's final sale. The nature of the Bill is to protect the interests of Australian producers where the risks of illegal logging are virtually non-existent by adding costs onto competitive imports. Adding this cost will have a direct impact on wood prices from major exporting regions and nations, particularly in poorer communities in South-East Asia.

### **3.3 The Food Standards Amendment (Truth in Labelling – Palm Oil) Bill**

Similarly bad legislation was narrowly defeated targeting the imports of palm oil. A major export of Indonesia and Malaysia, palm oil is used in processed foods and cosmetic products and has been a leading contributor to economic development and poverty alleviation in these countries. Importantly palm oil also has a high yield reducing the environmental footprint required for its production in comparison to equivalent oil seeds.

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<sup>23</sup> Department of Agriculture, Fisheries and Forestry. 2011.

<sup>24</sup> The Centre for International Economics. 2010. "A Final report to inform a regulation impact statement for the proposed new policy on illegally logged timber", Prepared for the Department of Agriculture, Fisheries and Forestry, Canberra, Australia, January at [http://www.thecie.com.au/content/news/Illegal\\_logging.pdf](http://www.thecie.com.au/content/news/Illegal_logging.pdf)

<sup>25</sup> For a full discussion on the extent of union-advocated protectionism read Wilson, T. 2010. "Green Excuses: Collusion to promote protectionism", Institute of Public Affairs, at <http://sustainabledev.org/wp-content/uploads/2010/08/100805-REPORT-Green-excuses-Collusion-to-promote-protectionism.pdf>

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Greenpeace<sup>26</sup> and FOE<sup>27</sup> have been campaigning against the growth, importation and commercial use of palm oil for years. Their campaigning activities have ranged from opposing the loading of palm oil shipments to developed country markets,<sup>28</sup> to lobbying European officials to ban the importation of palm oil as a biofuel,<sup>29</sup> to working to get palm oil industry advertisements taken off television.<sup>30</sup>

Palm oil has become a source of controversy over criticisms from ENGOs, and publicly-funded zoos who have adopted their agenda. Criticisms follow similar claims against illegal logging that developing countries are converting forest land to grow palm oil plantations which have an environmental impact, particularly on the habitats of orang-utan populations. However, much of this evidence is specious. For example, Melbourne Zoo claims that, 'Palm oil typically costs the lives of up to 50 Orang-utans each week',<sup>31</sup> and yet Perth Zoo claims that up to 6,000 orang-utans are dying each year, or around 116 a week, and allude that the palm oil industry is responsible.<sup>32</sup>

In response a coalition of Independent South Australian Senator, Nick Xenophon, the Greens and National Party MPs supported the introduction of the *Food Standards Amendment (Truth in Labelling – Palm Oil) Bill* which required the compulsory labelling of palm oil separate to other classified vegetable oils. The objective was to name and shame companies that used the oil and to foster consumer boycotts. And the measure used to achieve disclosure was to require products to list palm oil as either 'palm oil', or 'CS palm oil' which included RSPO certified product. In effect the Bill sought to outsource components of labelling requirements to external agencies over which it had no control.

Despite being rejected by the Senate Committee investigating the Bill, it was passed (with amendments) by the Senate with the support of Xenophon, the Greens and oddly the Liberal/National Coalition. The Gillard Labor government opposed the Bill's passage.

As the Bill progressed to the House of Representatives an established inquiry also recommended rejecting the Bill before it lost the support of the Liberal/National Coalition on the grounds that it became convinced it was not compliant with World Trade Organisation (WTO) rules, particularly the Technical Barriers to Trade Agreement (TBT).

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<sup>26</sup> Greenpeace. 2007. "How the palm oil industry is cooking the climate", November 8, at <http://www.greenpeace.org/raw/content/international/press/reports/cooking-the-climate-full.pdf>

<sup>27</sup> Friends of the Earth International. 2008. "Malaysian palm oil – green gold or green wash: A commentary on the sustainability claims of Malaysia's palm oil lobby, with a special focus on the state of Sarawak", October, p114, at <http://www.foeeurope.org/publications/2008/malaysian-palm-oil-report.pdf>

<sup>28</sup> Greenpeace. 2009. "Greenpeace challenges RSPO to stop green-washing member companies", November 14, at <http://www.greenpeace.org/seasia/en/press/releases/greenpeace-challenges-rspo-to>

<sup>29</sup> Greenpeace. 2007. "How the palm oil industry is cooking the climate", November 8, at <http://www.greenpeace.org/raw/content/international/press/reports/cooking-the-climate-full.pdf>

<sup>30</sup> Friends of the Earth International and Friends of the Earth Europe. 2007,. "Complaint to the Advertising Standards Authority", July 25, at [http://www.foeeurope.org/corporates/pdf/MPOC%20Complaint\\_incl.annex.pdf](http://www.foeeurope.org/corporates/pdf/MPOC%20Complaint_incl.annex.pdf)

<sup>31</sup> Zoos Victoria. 2010. "Don't Palm Us Off Facts", at <http://www.zoo.org.au/PalmOil/facts>

<sup>32</sup> Scarparolo, D. 2009. "Orangutan breeding success", Media Release, November 20, Perth Zoo, at <http://www.perthzoo.wa.gov.au/orangutan-breeding-success-2980/>

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## 4.0 Broader risks

The influence of ENGOs on trade policy also brings with it broader risks than trade policy.

### 4.1 Increasing the cost of living for Australians

A key benefit of free trade is that imports that compete against Australian products increase domestic competition and drive innovation. It also ensures Australians have access to products that may not otherwise be produced locally. In particular competition drives prices down as consumers have a choice of products to choose from based on the value proposition, including price, quality and other perceived benefits. Imposing additional costs on imports or locking competitive imports out of the Australian market costs consumers by causing prices to rise.

### 4.2 Harming export industries and job creation

The costs are not just to consumers through end-use products. Competitive imports for businesses are particularly important to remain competitive. Without competitive imports businesses are forced to rely on higher-cost domestic products misdirecting their economic resources and increasing costs. While buying local may appear to create jobs domestically, it actually results in more economic resources being consumed to produce less. This results in less free capital to be used for productive purposes as more is consumed for less productive purposes. In effect it creates a two-speed economy for domestic products versus imports.

Domestic products carry higher costs and are less competitive in the domestic market and in export markets. Meanwhile foreign products (end-use or components) are more competitive against Australian products in export markets. For a trading nation like Australia making exports less competitive has a direct impact on job creation and economic opportunities.

### 4.3 Damaging Australia's reputation and advantage

As a result of nearly four decades of bi-partisan commitment to freer trade and unilateral liberalisation Australia has a reputation internationally as an honest broker on trade policy in global and bilateral fora. As Trade Minister, Craig Emerson, outlined in a speech in December 2010:

‘Unilateralism in tariff reductions incidentally gave Australia credibility in international trade negotiations way beyond the relative size of our economy. To this day, Australia's views are sought and valued in global and regional trade negotiations’.<sup>33</sup>

But emerging protectionist sentiments are putting that reputation at risk. It will become increasingly difficult for Australia to successfully negotiate the removal of trade barriers in foreign markets if it is seen to adopt protectionist policies through NTBs at home.

This situation is already arising. The Malaysian government has responded harshly to the near passage of the Palm Oil Bill designed to undermine consumption of one of their major national exports. At a presentation to the House of Representatives Committee into the Bill, Malaysian representatives argued they considered the Bill, ‘to be based on misleading claims, erroneous statistics, and is directly aimed at harming the Malaysian economy and Malaysia's largest agricultural

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<sup>33</sup> Emerson, C. 2010. “The future of trade policy in an uncertain world”, Address to the Lowy Institute, December 10, at [http://trademinister.gov.au/speeches/2010/ce\\_sp\\_101210.html](http://trademinister.gov.au/speeches/2010/ce_sp_101210.html)

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export, palm oil ... [and] in particular ... note[s] that this bill will have no benefit for the environment, for us or the orang-utan populations of Malaysia'.<sup>34</sup>

The Bill that would have bucked international conventions and created separate labelling standards for palm oil was also likely to breach the WTO's TBT Agreement ensuring Australia would end up in an official dispute with Malaysia and Indonesia.

There are also broader concerns about the neo-colonialist sentiment behind these sorts of measures. They are designed to ensure Australian businesses and consumers send signals up the supply chain to change behaviour by producers in foreign markets. And because high-level expectations of environmental standards are embodied in these measures against primary industries, the targets are often developing countries in the South-East Asian region.

Currently the Federal government is completing a review into the Asian Century to identify how Australia can economically, socially and culturally leverage its geographic proximity to the Asian economic engine over the next one hundred years.<sup>35</sup> Using and abusing trade policy that will harm bilateral and regional relationships is unlikely to foster positive outcomes.

#### **4.4 Undermining the poor's economic opportunities**

Perhaps the most devastating impact from protectionism is that it harms those who have the least capacity to voice it. With ENGOs targeting principally primary products, such as those resulting from the exploitation of natural resources that are the backbone of developing countries, these policies directly harm the poor. When trade barriers are erected export markets are lost.

When poor countries are relying on exploiting their natural endowments they also lack economic diversification in comparison to rich countries. As a result trade barriers that target specific industries, can be devastating for individual countries.

Considering forestry and palm oil are both decentralised industries that operate in rural and regional areas the impact from these Bills will be experienced by those who are most vulnerable, and have the least opportunity to utilise the benefits of the global economy to lift themselves out of poverty.

#### **4.5 ENGOs exposing industries to regulatory action**

ENGOs aren't just seeking to achieve their objectives through legislation. Increasingly they appear to be exercising their influence by putting pressure on the private sector as well.

As outlined in Section 3.2 of this paper, ENGOs targeted supermarket retailer, Woolworths, as part of its campaign requiring certification standards on wood products. The campaign was ultimately successful. Off the back of this campaign similar criticisms have been levied at the Independent

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<sup>34</sup> Barison, Y. 2011. at Community Affairs Legislation Committee. "Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2011", April 18, Department of the Senate, Commonwealth of Australia, at <http://www.aph.gov.au/hansard/senate/commtee/S13673.pdf>

<sup>35</sup> Gillard, J. 2011. "Australia in the Asian Century", Media Release, September 28, Department of Prime Minister and Cabinet, Commonwealth of Australia, at <http://www.pm.gov.au/press-office/australia-asian-century>

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Grocers of Australia (IGA) and their parent group, Metcash.<sup>36</sup> This campaign has also been successful.<sup>37</sup>

Supermarkets are not the only targets. In July 2011 Greenpeace activists engaged in a stunt to target construction companies based on the timber used on their site.<sup>38</sup> In its criticism Greenpeace could not even substantiate that there was illegal timber used on the site highlighting the:

‘development company ... [provided paperwork] to support the legality of the timber. But the certificate sighted does not provide proof of legality and it again highlights the need for comprehensive Australian laws. The paperwork comes from a Malaysian Government agency and is not independent, third party certification of legality or sustainability, as was claimed. The paperwork is also dated March 2009, before the evidence of illegal logging was documented by Greenpeace and its partner organisation in Malaysia, Earthsight. This unreliable certification is an example of what the Australian Government is considering accepting as proof of legality under proposed laws. The Australian Government needs to ensure that the new laws only allow independent, third party certified timber, such as FSC, into this country - especially timber from high risk countries with high value rainforests like Malaysia’.<sup>39</sup>

In the future businesses may be caught in a precarious position as government regulators start to focus on the role retailers can play to impact on supply chains.

Shortly after assuming his new appointment as the head of the Australian Competition and Consumer Commission (ACCC), Rod Sims, stated in his speech to the Melbourne Press Club that:

‘many smaller suppliers to the supermarkets feel they lack a real ability to negotiate supply arrangements’, continuing ‘the ACCC can and will watch closely to ensure any such dealings do not involve unconscionable conduct by the supermarkets’.<sup>40</sup>

In particular Sims identified that the ACCC would focus on the nature of supply chains and their vertical integration related to private brands as a means to distort the market. He argued:

‘vertical integration in the supply chain needs close scrutiny to ensure the supermarkets do not misuse their market power under Sector 46 [of the Competition and Consumer Act 2010 (CAC)]’.<sup>41</sup>

The relevant components of Section 46 of the CAC outlines abuse of market power stating that, ‘a corporation that has a substantial degree of power in a market shall not take advantage of that

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<sup>36</sup> Greenpeace. 2011. “Sumatran Tigers wiped out for toilet paper”, at <http://www.greenpeace.org/australia/en/news/forests/save-the-tigers/>

<sup>37</sup> Greenpeace. 2011. “Success! IGA stops using rainforest destruction”, at <http://www.greenpeace.org/australia/en/news/forests/Success-IGA-stops-using-rainforest-destruction/>

<sup>38</sup> Greenpeace. 2011. “Illegal timber scandal in Sydney”, at <http://www.greenpeace.org/australia/en/news/forests/Illegal-timber-scandal-in-Sydney/>

<sup>39</sup> Greenpeace. 2011. “Update on the illegal timber scandal”, at <http://www.greenpeace.org/australia/en/news/forests/Update-on-the-illegal-timber-scandal/>

<sup>40</sup> Sims, R. 2011. “Some perspectives on competition and regulation”, Speech, October 10, Australian Competition and Consumer Commission, at <http://www.accc.gov.au/content/item.phtml?itemId=1011797&nodeId=7993707c8f0e5f69d6dccb4c359c6209&fn=ACCC%20speech%20-%20Sims%20-%20Melbourne%20Press%20Club%20-%2010%20October%202011%20PUBLISHED%20VERSION.pdf>

<sup>41</sup> Sims. 2011.

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power in that or any other market for the purpose of ... damaging a competitor...preventing the entry of a person into that or any other market ... [and] deterring or preventing a person from engaging in competitive conduct in that or any other market ... [including] persons to whom or from the body corporate supplies or acquires goods or services in that market'.<sup>42</sup>

The influence major retailers can inject up the supply chain is considerable, especially when there are minimal buyers at the wholesale end of the retail market. But these regulations run contrary to the demands of ENGOs. Retailers are sending messages through the supply chain to producers to increase prices and limit competition in response to campaigns run by ENGOs. As a consequence retailers may soon face serious regulatory action if they appease ENGO demands.

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<sup>42</sup> Parliament of Australia. 2010. "Competition and Consumer Act 2010", Commonwealth of Australia, at [http://www.austlii.edu.au/au/legis/cth/consol\\_act/caca2010265/s46.html](http://www.austlii.edu.au/au/legis/cth/consol_act/caca2010265/s46.html)

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## 5.0 Conclusion

Australia has benefited enormously from its fragile free trade consensus. But that consensus is now under threat from the rise of support for NTBs from across the political aisle. ENGOs are a key advocate, as part of their broader agenda to control supply chains, for NTBs on environmental grounds.

ENGOs have strongly pushed for business to adopt 'voluntary' certification standards that would allow their business supply chains to be heavily influenced externally. And they are seeking for that control to be imposed through trade barriers that require imports to be certified before they come into the country.

All sides of the political aisle, when it is convenient, appear to accept these arguments and have been supportive of NTBs at one point, or another.

Such a push has a direct impact on Australia's trade policy and will increase costs for consumers and Australia's export-orientated businesses. There will also be an economic impact on the developing world's poor who rely on exports within their comparative advantage for economic growth and poverty alleviation. Trade barriers that force higher costs undermine this effort.

Neither is desirable. But the impact of appeasing ENGOs appears to be broadening for some industries. Increasingly businesses that fold to the pressure of ENGOs adopting requirements for certification standards may also face risks.

Recent announcements that the ACCC would consider whether retailers who use their market power to change behaviour up the supply chain may be harming competition and consumers. Doing so would place many retailers in a difficult position between the public attacks of ENGOs and regulatory authorities.

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## 7.0 About the Institute of Public Affairs

The Institute of Public Affairs, founded in 1943, is the world's oldest free market think tank. The IPA is a not-for-profit research institute based in Melbourne, Australia with staff and associates based around Australia. Think tanks act as public policy incubators and develop public policy solutions.

The objective of the IPA is to promote evidence-based public policy solutions rooted in a liberal tradition of free markets and a free society. The IPA achieves these objectives by undertaking and disseminating research; participating in national and international policy debate through the media; and engaging with opinion leaders, stakeholders and public policy makers.

All work completed by the IPA is published in the public domain for the consumption of governments, politicians, domestic and international policy makers and the public-at-large.

The IPA has a demonstrated track record of contributing to, and changing the terms of the public policy debate in Australia and internationally. In particular, in recent years the IPA has been at the centre of public discussion in Australia and in appropriate international fora on:

- Regulation
- Trade
- Intellectual property
- Water
- Energy
- Housing
- Industrial relations
- Taxation
- Investment

## 8.0 About the Sustainable Development project

Sustainable Development is a blog to promote environmentally, socially and economically sustainable evidence-based public policy for the developing world. SD supports a market-based approach to achieve sustainable development that improves the living standards of the world's poor, environmental standards and social cohesion. SD is a program of the Institute of Public Affairs and is led by Tim Wilson.

## 9.0 About the author | Tim Wilson

Tim's currently Director of the Intellectual Property and Free Trade Unit at the Institute of Public Affairs - the world's oldest free market think tank. Tim is also Principal Consultant for the public policy Dynamic Sunrise Consulting Group and a Senior Associate at communication strategy consultancy SDA Strategic. Tim also serves on the Department of Foreign Affairs and Trade's IP industry consultative group, as a Senior Fellow at New York's Center for Medicine in the Public Interest and as a Director of the Alfred Health Board covering the Alfred, Caulfield and Sandringham hospitals in South-East Melbourne. He regularly appears on Australian and international television, radio and in print media and previously co-hosted ABC News 24 TV's Snapshot segment. He's worked in international development across South East Asia, consulting and politics, including delivering Australia's aid program for the Vietnamese government to host APEC and advising State and Federal politicians. In 2009 The Australian newspaper recognised him as one of the ten emerging leaders of Australian society and is a recipient of an Australian Leadership Award from the Australian Davos Connection. At University Tim was twice elected President of the Student Union as well as to the University's Board of Directors. Tim's currently completing a Graduate Diploma of Energy and the Environment (Climate Science and Global Warming) at Perth's Murdoch University. He has a Masters of Diplomacy and Trade and a Bachelor of Arts from Monash University, a Diploma of Business and has completed Asialink's Leaders Program at the University of Melbourne. He has also completed specialist executive education on IP at the WIPO Worldwide Academy and international trade and global health diplomacy at the Institut de Hautes Études Internationales et du Développement, Geneva.