

TRADE POLICY

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Trade policies reflect prevailing theories about the benefits of trade, the economic interests involved, global strategic tensions and the ambitions of the government of the day. This article considers these factors in relation to the approach to trade policy that the current Labor government is taking. Its first part considers the long-standing neoliberal framework that has shaped beliefs and policies relating to international trade. It then notes the disruptive effects of three key global trends that materially challenge aspects of this framework. It goes on to consider the national public debates on Labor trade policy leading up to and since the 2022 election. Finally, it discusses the implementation of the policy in its first year and the ongoing parliamentary inquiry into trade policy.

The neoliberal approach

Neoliberal trade theory has provided the framework for Australian trade policy over the last 30 years. It posits that economic welfare is maximised through each country specialising in its most competitive products for export, importing everything else at the lowest globally competitive prices through globalised supply chains, with zero tariffs, minimal other government regulation and no local industry development policies. This framework is the basis of global multilateral trade agreements in the World Trade Organisation (WTO), formed in 1995 after the collapse of the Soviet economic block, and expanded as China, Russia and others joined the WTO in subsequent decades. Similar principles have underpinned bilateral and regional trade agreements mostly initiated by global North countries not satisfied with the pace of tariff reductions and other forms of regulation

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through the WTO, although multilateral purists question whether these preferential agreements maximise national and global efficiency (Armstrong 2015). All of these agreements are enforced through state-to-state dispute processes backed by trade sanctions.

Critics of neoliberal trade theory have exposed its internal inconsistencies (Dunkley 2004: 18-62; Stanford 2015: 304-11) and its inequitable impacts as former colonial countries were denied the tools for local industry development that had been available to the colonisers (Chang 2002; Stiglitz and Charlton 2005). The application of this theory enabled globalised investment and maximised low-cost global production chains for international corporations; but ignored the environmental impacts of ever-expanding global production and the impact of global competition for the lowest possible production costs on human rights and labour rights standards, often resulting in a race to the bottom on these standards (Ranald 2017). At the same time, powerful industries located in global Northern countries have successfully lobbied to include in some agreements elements that are inconsistent with neoliberal principles, like longer monopolies on medicines and special rights for foreign investors to claim compensation for changes in government policy. These and other attempts to restrict government health, environment and other public interest regulation as barriers to trade and investment have also attracted critics, as has the refusal to release the text of trade agreements until after they are signed (Stiglitz 2015; Ranald 2021).

Global pressures on neoliberal trade frameworks

During the last three decades, successive Australian governments have been among the most consistent practitioners of neoliberal principles. However, this bipartisan practice in Australia and elsewhere has been challenged by three recent major global developments.

Firstly, the growing climate crisis has required both global cooperation and national government regulation to reduce carbon emissions and develop low carbon industries. Following scientific evidence, public pressure and support from those sections of capital that perceive global warming as a threat to their interests, the EU and UK are now including in trade agreements commitments to lower carbon emissions policies which require national regulation to develop clean energy and other low emissions industries. Examples are the recent Australia-UK Free Trade

Agreement and the New Zealand-EU Free Trade Agreement (DFAT 2022a: Articles 22.5 and 22.7; New Zealand Ministry of Foreign Affairs and Trade 2022: 396). While their effectiveness has yet to be tested, the inclusion of such commitments departs from strict neoliberal principles.

Some supporters of current trade rules concede that interventionist industry policies like the US Inflation Reduction Act and the European Green Deal Industrial Plan, and the European Carbon Border Adjustment Mechanism are needed to retain domestic political support for achieving ambitious carbon reduction goals, but they require a mix of subsidies, tariffs, and regulations that current trade rules ‘would heavily discourage if not outright disallow.’ They conclude that the WTO ‘must create room for carbon tariffs, limited green sourcing provisions, and similar policy agendas [...] The WTO could recognise that spending programs in support of emerging, innovative technologies are a legitimate part of the policy toolkit’ (Kaufman *et al.* 2023: 25).

Secondly, the COVID-19 pandemic exposed the flaws in over-dependence on global supply chains as these were disrupted and governments had to intervene to ensure local production of essential health and other products. Many governments are now seeking to develop ‘sovereign capability’ in key strategic industries through active industry development policies. These pressures are reinforced by extreme right Trump-like nationalists promoting a simple return to protectionism, and by the Keynesian left for which industry policies are part of a broader program for open but more diverse and equitable national economies (Stanford 2020).

Thirdly, growing economic and geopolitical strategic rivalry between the US and China, and Russia’s invasion of Ukraine, have further fractured global production chains and prompted governments to depart even more in practice from the neoliberal global model. The concept of off-shoring production to the lowest cost locations has been challenged by local subsidies for ‘on-shoring’ of strategic industries, and ‘friend-shoring’, *i.e.*, establishing supply chains with strategic allies through arrangements like the Indo-Pacific Economic Framework (Ranald 2022).

Labor’s policy and its implementation

The influence of these three global stresses can be seen in the economic and trade policies that Labor took to the 2022 election and has implemented during its first year in government.

First, climate concerns have had a significant impact on thinking about trade policies. Although there is debate from climate scientists and environmentalists about the need for much stronger action to reduce emissions (Climate Council 2022), the climate change policies that Labor took to the election went further than the Coalition's target of global net zero emissions targets by 2050 by legislating an additional 2030 carbon emissions reduction target of 43%; and strengthening the regulation of carbon emissions. In office, Labor has established the \$15 billion National Reconstruction Fund to develop and fund low carbon industries, including \$3 billion for renewable energy and other low carbon technology industries (National Reconstruction Fund 2022). Labor has also committed funds to rebuilding the manufacturing sector through more general local industry development policies with the aim of 'making high-value products for Australia and the world, creating good jobs in the outer suburbs and regions' (Ayres 2023; National Reconstruction Fund 2022).

Labor is reflecting these climate change policies in trade negotiations. The Australia-EU agreement until recently under negotiation¹ was modelled on the New Zealand-EU FTA cited above, which has commitments to global net zero targets and the development of renewable energy industries (New Zealand Ministry of Foreign Affairs and Trade 2022: 396). Labor has also signed a broader non-trade Green Economy Agreement with Singapore which aims to support the development of renewable energy industries in the region, for which negotiations began under the previous government (Department of Foreign Affairs and Trade 2022).

Second, Labor has also acted to reduce supply chain dependence on China, while attempting to stabilise the relationship with China as Australia's largest trading partner and negotiating to remove China's trade restrictions on timber, coal, barley and wine, (Speers 2023). The government has

¹ These negotiations collapsed on 29 October, 2023, when the EU refused to provide additional market access for Australian agricultural exports and insisted on restricting Australia's use of naming rights (Geographical indications) for products produced in Australia using European names like feta cheese and prosecco wine (Farrell 2023). The government responded to Australian agricultural producers who argued that the deal would not deliver sufficient commercial benefits to agriculture. The industry also opposed some of the EU's standards for sustainable farming practices, arguing that that the EU was attempting to 'import and impose trading partners' domestic policies on Australian farmers, dictating on-farm practices and undermining Australia's right to determine our own, legitimate pathway to sustainability (National Farmers Federation 2023: 6). The government response demonstrates the ongoing close involvement and influence of the agricultural industry in trade negotiations (Clun 2023).

appointed a Southeast Asia envoy and developed the Southeast Asia 2040 Strategy to improve trade and investment with the ten ASEAN countries (Moore 2023). The government is also participating in the Indo-Pacific Economic Framework of 14 Indo Pacific countries, which is a US initiative to divert supply chains away from China, including the US, Australia, New Zealand, India, Japan, South Korea, Brunei, Fiji, India, Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam (Ranald 2022; DFAT 2023).

Other aspects of Labor's trade policy are influenced by public debates about the economic and social impacts of the Liberal National Coalition's policies of negotiating four regional and six bilateral agreements in the last decade (DFAT 2023) without any independent assessment of their economic, social and environmental impacts in Australia.

The Coalition's overriding trade objectives, shaped by the agricultural, mining and services industries were increased market access for mineral, agricultural and services exports, often negotiated through reduction of tariffs and all other forms of support for manufacturing industry, and the deregulation of service industries. This approach was summarised by Coalition Treasurer Joe Hockey's 2014 explanation of the decision to remove remaining tariffs and other domestic support to the automotive industry, resulting in the closure of the industry in 2017, and the loss of thousands of jobs in South Australia and Victoria:

Ending the age of entitlement for industry was a hard decision but it needed to be made because as a result of that decision we were able to get free-trade agreements with Korea, Japan and China (Hockey, quoted in Maher 2014).

Labor's 2021 policy goals stated in contrast that 'trade agreements must be consistent with Australia's social and economic values, be based on widespread consultation, provide for appropriate minimum and enforceable labour and environmental standards, take account of social and economic impacts and allow sovereign governments to make decisions and implement policies in the interests of their citizens.' These and the more detailed commitments in the policy discussed below were reaffirmed at Labor's August 2023 national conference (ALP 2023: 7).

Labor's policy also differs from the Coalition in other areas. The Coalition had agreed to various clauses in trade agreements restricting governments' ability to regulate on health and other issues. For example, the US proposed and the Coalition government agreed in the original US-led 12-

member Trans-Pacific Partnership (TPP) to expand data protection monopolies on expensive biologic medicines from 5 to 8 years, in addition to the existing twenty-year patents on those medicines. Studies by health experts showed that the delay in availability of cheaper versions of these medicines would cost the Pharmaceutical Benefits Scheme hundreds of millions of dollars per year. This provision was suspended by the remaining 11 governments in 2017 after the US Trump administration withdrew from the agreement and it was rebranded as the Progressive Comprehensive Agreement for Trans-Pacific Partnership (CPTPP) (Gleeson *et al.* 2017).

The Coalition had also agreed to include Investor-State Dispute Settlement (ISDS) provisions in regional and bilateral agreements. ISDS provisions are only included in some agreements and give special rights for foreign (but not local) investors to be able to claim billions in compensation if they can argue that a change in law or policy would reduce their future profits, even if the policy is in the public interest. Labor policy has opposed ISDS since 2011 when the Philip Morris tobacco company sued the government over Labor's plain packaging law and a Productivity Commission Report concluded that there was no economic justification for giving additional legal rights to foreign investors (Ranald 2014: 89-90; Productivity Commission 2010: 269-74). Public criticism of ISDS has since been reinforced by fossil fuel companies claiming compensation for regulation of carbon emissions (Tienhaara *et al.* 2022) and by Clive Palmer registering a mining company in Singapore and using ISDS to sue the Australian government in two separate cases for over \$340 billion (Ranald 2023).

The policy that Labor took to the election pledged to legislate to exclude from trade agreements ISDS, expansion of medicine monopolies and the expansion of numbers of vulnerable temporary workers (ALP 2021: 88), and to include in those agreements enforceable internationally recognised labour standards and environmental standards (ALP 2021: 88, 93-4). Labor policy also pledged to legislate to make the trade agreement process more transparent by requiring wider consultation with unions and community organisations as well as with business during negotiations, access for representatives of all these groups to negotiating texts, and publication of independent assessments of economic and regional impacts of the final text of trade agreements (ALP 2021: 90-1). The rationale for legislation was to have a public framework for which governments could be held accountable for both the process and content of trade agreements.

Labor's parliamentary inquiry

In November 2022, the Minister for Trade confirmed implementation of these policies (Farrell 2022), and has referred the question of legislating them to an Inquiry by the Joint Standing Committee on Trade and Investment Growth. Although Labor and Greens have a majority on the committee, there is pressure from business and from Department of Foreign Affairs and Trade against legislating such policies. Submissions closed in September 2023 and public hearings occurred in October and November. Submissions came from a wide range of business, unions, environmental, public health, church, aid and development and other community organisations (Joint Standing Committee on Trade and Investment Growth 2023).

The Department of Foreign Affairs and Trade has already given evidence to the committee which indicates scepticism about the need for changes to the trade negotiation process and about legislating to exclude or include particular content for trade agreements, claiming that legislation would hamper the flexibility of negotiations (Commonwealth of Australia Hansard 2023 and DFAT 2023b). Some business organisations like the Business Council of Australia have also opposed legislating a framework for these reasons. (Business Council of Australia 2023).

Conclusion

Aspects of the neoliberal vision of maximising global trade and investment and economic welfare through zero tariffs, minimal government regulation and no local industry policy have been challenged by the need for government action to address the climate crisis, the fracturing of global supply chains by the pandemic and by geopolitical tensions. Labor policy has responded to these trends. In its first year in office, the Labor government has acted to implement more interventionist policies to address the climate crisis and these policies are reflected in trade negotiations. It has also acted to stabilise trade relations with China, while developing alternative supply chains through its Southeast Asia strategy and through the US-initiated Indo-Pacific Economic Framework. Labor policy has also been influenced by experiences of the national impacts of previous trade agreements, pledging a more open process and to exclude from trade agreements measures like foreign investor rights to sue

governments and stronger medicine monopolies which maximise corporate interests but restrict the right of governments to regulate in the public interest. However the collapse of the EU negotiations demonstrates significant ongoing influence of agricultural industries as major exporters, despite changes of government. The Parliamentary Inquiry on legislating Labor policies is hearing evidence from unions and civil society groups which support such legislation and business groups which oppose it, and is facing scepticism from the Department of Foreign Affairs and Trade. It remains to be seen what the committee will recommend and how the government will respond to those recommendations.

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