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Dr Craig Emerson
Minister for Trade
Parliament House
Canberra ACT 2600

25 October 2011

Dear Dr Emerson,

We are concerned about how current and any future expanded financial liberalisation under the current WTO rules may affect financial reregulation efforts here at home and in other countries. We believe it would be appropriate and timely for the Ministers meeting at the WTO's December 2011 Ministerial Conference to instruct the appropriate negotiating bodies to conduct a thorough review of WTO rules implicating financial services in light of the crisis.

In the aftermath of the global financial crisis, governments around the world as well as an unprecedented array of scholars have called for improved domestic and international-level financial regulation as a means to avoid future crises and restore global financial stability. For these measures to succeed, it is critical that the policies of the various international economic bodies' are coherent.

As the G-20 and IMF have issued proposals for international regulatory improvements, the review we proposed would be helpful to study how the current WTO rules relate to these reforms. As you know, numerous government officials, leading economists, financial experts and trade lawyers are concerned that some WTO rules could undermine signatory countries' financial regulations and limit their policy space for improvements.

These experts note, for instance, that the provisions of the WTO's General Agreement on Trade in Services (GATS) prohibit commonly recommended financial policies, including capital controls and other capital management mechanisms, bans on risky financial services, and size limits on banks, "firewalls" between banking and investment services.

The United Nations Commission of Experts on International Financial and Monetary Reforms, chaired by Nobel-prize winning economist Joseph Stiglitz and comprised of a host of distinguished academics, including former finance ministers and central bank heads from around the world, issued this warning in the aftermath of the global financial crisis:

“Agreements that restrict a country’s ability to revise its regulatory regime – including not only domestic prudential but, crucially, capital account regulations – obviously have to be altered, in light of what has been learned about deficiencies in this crisis. In particular, there is concern that existing agreements under the WTO’s Financial Services Agreement might, were they enforced, impede countries from revising their regulatory structures in ways that would promote growth, equity, and stability.”

The 2011 UNCTAD Trade and Development Report, released on 6th September 2011, includes similar concerns.

Whilst Australia appears to be well placed, the United States and much of the world are still reeling from the 2008 global financial crisis and threats of a renewed financial crisis. In various fora – from national legislatures to the G-20 to the UN – governments have promoted reregulation of the financial sector. We understand that a group of WTO member countries are advancing a proposal in the Committee on Trade in Financial Services for inclusion of a rather modest paragraph in the Declaration for the pending 8th Ministerial Conference. This paragraph calls on the Committee on Trade in Financial Services to review WTO rules on financial services in light of the crisis to promote and ensure sufficient policy space for macroprudential regulation. It is precisely because there are differing opinions as to whether current WTO rules provide sufficient policy space that members should engage in this timely conversation. **We strongly urge your government to support and not oppose this proposal, both within the Committee and in the General Council.**

We look forward to hearing from you and to learning about how your government can work at the WTO to promote its goal of enhanced financial stability through improved regulation. Supporting the proposal at the 8th Ministerial Conference for a forward workplan at WTO that includes review of the WTO rules for trade in financial services to ensure their compatibility with the global consensus for improved regulation would be an important first step.

Yours sincerely



Harvey Purse
Trade Justice Campaigner
Australian Fair Trade and Investment Network

Cc: Treasurer, the Hon. Wayne Swan.

Minister for Finance and Deregulation – Senator The Hon Penny Wong.

Reserve Bank Governor – Governor Glenn Stevens.

Australian Ambassador to WTO – Mr Tim Yeend.