6

Trade and Investment

Introduction

6.1 This Chapter commences with a review of the current levels of trade and the potential for growth. (The education sector has been discussed previously in Chapter 4.)

6.2 There follows a discussion of the levels of investment of Australian companies in Africa—the ability to raise capital, insurance, and the effects of sovereign risk. The Chapter then reviews the activities of the Australian resources sector in Africa and concludes with a discussion of the possibility to promote the Australia-Africa relationship through the creation of an Australia Africa Council.

6.3 Consistent with the overall scope of the inquiry, this Chapter does not report on trade and investment with North Africa except for the specific issue of the phosphate trade with Morocco which was raised in a submission to the inquiry. The Committee notes that in 2006 its Trade Sub-Committee issued a report into Australia's trade and investment relations with North Africa.[1]

1 JSCFADT, *Expanding Australia's trade and investment relations with North Africa,* Canberra 2006.

Trade with Africa

Current levels

6.4 Australia's merchandise trade links with Africa are relatively small, comprising in 2008–09 of just 1.6% of total exports and 0.8% of total imports. Two-way trade, however, has been growing. Trend growth for exports have risen from 6.7% for the decade preceding 1998–09, to 11.0% for the 20 years preceding 2008-09. For imports to Australia, the trend figures for Sub Saharan Africa are higher than to Africa as a whole. As a comparison only trade to north and south Asia grew faster over the last decade.[2]

6.5 Obtaining an accurate break down of trade figures is complicated by the inclusion of a high proportion of 'confidential items' in the listings. DFAT noted that 'some of the larger exports recorded as confidential to Africa include wheat, alumina and chemicals.'[3]

6.6 A table provided by DFAT shows that in calendar year 2010, total Australian merchandise exports to Africa amounted to $3.1 billion. After confidential items (30.2%), the top six commodities comprised:

- coal—12.0%
- wheat—9.9%;
- medicaments—7.9%
- civil engineering equipment and parts—2.8%;
- specialised machinery and parts—2.6%; and
- meat (excluding beef)—2.1%.[4]

6.7 Merchandise imports from Africa in calendar year 2010 amounted to $3.3 billion, the top six categories being:

- crude petroleum—57.0%;
- passenger motor vehicles—12.2%;
- edible products and preparations—2.2%;
- pig-iron—2.0%;

2 DFAT, *Submission No. 47*, p. 482.

3 DFAT, *Submission No. 46*, p. 482.

4 DFAT, *Submission No. 116*, p. 1359.

- gold—1.3%; and
- vehicle parts and accessories—1.2%.[5]

6.8 DFAT provided services trade figures for 5 calendar years to 2010. Trade in services with Africa, excluding Egypt, was growing and in 2010 was $2.2 billion, an increase of 4.3% over the previous year. In 2010 service exports to Africa, excluding Egypt, amounted to $1.3 billion which was 2.6% of total services exports. Trade with South Africa made up 40% of services trade with Africa.[6]

6.9 DFAT also advised that the global financial crisis, whilst having an impact, had been less severe on Africa:

> African countries are less integrated into the global financial system and their financial institutions are much less exposed to the derivatives market, relying mainly on domestic market resource mobilisation rather than on foreign borrowings.[7]

6.10 South Africa is by far the highest ranking African trade partner. It was ranked as Australia's 22nd largest trade partner in 2008–09 and Australia's 18th largest export market. DFAT advised that:

> Latest figures put South Africa on a par with Germany as an export market for Australia, and ranking higher than several countries with much larger economies, such as France, Italy, Canada, Brazil, Russia and Mexico.[8]

6.11 Table 6.1 provides the top 10 ranked African countries in terms of Australia's merchandise exports. Also included are Ethiopia and Zimbabwe, two of the four countries visited by a delegation from the Committee (South Africa and Ghana were also visited).

6.12 The submission from DAFF shows details of 2009–10 agricultural exports to Africa, 88.9% of which is with five African countries—in decreasing importance: Egypt, Sudan, South Africa, Mauritius, and Tanzania.[9]

6.13 The tourism sector is considered separately at paragraph 6.71.

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5 DFAT, *Submission No. 116*, pp. 1359–60.
6 DFAT, *Submission No. 116*, p. 1360.
7 DFAT, *Submission No. 47*, p. 472.
8 DFAT, *Submission No. 46*, p. 486.
9 DAFF, *Submission No. 116*, p. 1372.

Table 6.1 Rank order of Australia's merchandise exports to Africa for calendar year 2010

Country	$ million	Rank
South Africa	1 803	1
Egypt	498	2
Mozambique	378	3
Sudan	183	4
Ghana	146	5
Tanzania	102	6
Mauritius	97	7
Nigeria	56	8
Kenya	38	9
Morocco	35	10
Ethiopia	3	32
Zimbabwe	2	35

Source DFAT, Submission No.116, pp. 1363–4.

Potential for growth in trade

Why Africa?

6.14 Following the global financial crisis and the resulting downturn, DFAT advised there were moderate prospects for growth for Africa:

> As Sub-Saharan Africa is a major commodity exporting region, lower commodity prices, declining export volumes, lower tourism revenues and declining remittances have all undermined income and private consumption …
>
> Africa's growth recovery is expected to be moderate over the medium term. The rebound in economic activity will primarily result from a recovery in private demand, exports and investment, with the largest contribution expected to come from exports. The overall strength of the recovery will depend on growth performance in key export markets and investment partners, particularly the United States, the European Union and China.[10]

6.15 In addition, DFAT advised that the trading environment for Australia-Africa was very good—goods from the 33 lesser developed countries in Africa entered Australia duty free; from the other countries, with the exception of South Africa, goods received a reduction of up to five per cent on most favoured nation tariff rates. DFAT noted, however, that

10 DFAT, *Submission No. 46*, p. 473.

Australia had very low tariff rates anyway and all tariffs on textiles, clothing and footwear would be reduced to five per cent by 2015.[11]

6.16 Referring to the resources sector, Mr Joel Negin told Committee that to focus solely on that sector was 'a bit short-sighted and limited.' He added:

> Africa has achieved high economic growth over the last seven years, higher than any other part of the world except India and China. I think we forget that. It is certainly higher than parts of Europe or the Middle East or elsewhere. For example, Africa saw a 550 per cent increase in mobile phone subscribers, from 54 million 5 years ago to 350 million today, outperforming all other regions of the world. Kenya, for example, has developed a mobile phone-based banking system which allows people to deposit, withdraw and transfer money without a bank account. That is a leapfrog technology …[12]

6.17 It must be noted, however, that this growth has proceeded from a very low base in Africa, and that this makes direct comparisons with China and India very difficult.

6.18 The submission from Mr Peter Odhiambo drew attention to sectors in which Australian companies could enjoy significant advantages. These included, infrastructure development, agriculture, manufacturing and tourism:

> Australian companies can enhance their profitability by establishing manufacturing bases in Africa. Doing so would position Australian products in close proximity to key markets in Europe and the Middle East. This could result in significant cost savings, both financially and in terms of time taken to transport goods.
>
> In addition, by investing in manufacturing and agriculture in Africa, Australian companies can benefit from two conditions: First, they can take advantage of the numerous free trade agreements and common markets within Africa, thereby increasing exports. Second, they can exploit preferential trade arrangements for Africa put in place by the major markets in Europe and North America. Asian companies have taken

11 DFAT, *Submission No. 46*, p. 502.

12 Mr Joel Negin, *Transcript 28 April 2010*, p. 52.

> advantage of these preferences and substantially increased their exports to the European Union and the United States.[13]

6.19 Mr Odhiambo's comments about the tourism market are included later in paragraph 6.71.

6.20 The submission from Coffey International suggested there was a link between aid and the health of the private economy:

> … Australia's aid program has the potential to stimulate the private sector through programs such as: strengthening the environment for investment attraction; and addressing good governance (eg improved trade laws and economic governance); building capabilities of local enterprises …[14]

6.21 Mr Negin also highlighted the link between the provision of aid and the development of markets. In Malawi, Malawi Government provision of fertiliser and seed to small holder farmers led to an increase in food production and the development of a fertiliser market and a market for improved seed varieties:

> Malawi went from being a country that had to import in order to feed its people to one that exports to Zimbabwe and elsewhere. This was a program that was not supported by the World Bank and DFID and others are initially, and the Malawi government went forward and did it all the same. [Malawi] has now had a surplus for the last three or four years …[15]

6.22 The development of sound economies within Africa clearly impacts on the necessity for, and level of aid required. DFAT noted:

> The only way that poverty and aid dependency will be permanently reduced in Africa is by African countries achieving sustained economic growth and becoming better integrated into the international trading system.[16]

The role of Austrade

6.23 The role of Austrade is to 'advance Australia's international trade and investment interests by providing information, advice and services.' The specific activities include:

13 Mr Peter Odhiambo, *Submission No. 98*, p. 1231.
14 Coffey International, *Submission No. 12*, p. 100.
15 Mr Joel Negin, *Transcript 28 April 2010*, p. 61.
16 DFAT, *Submission No. 46*, p. 501.

- assist Australian enterprises to capture increased export and overseas investment opportunities. …
- Assist international buyers in locating and identifying the right Australian suppliers.
- Administer the Export Market Development Grants scheme, which provides financial assistance to potential, and existing Australian exporters. …[17]

6.24 Austrade currently has four offices in Africa. For a number of years Austrade had offices in Johannesburg, South Africa and in Tripoli, Libya (managed by the Dubai office). In December 2008, new offices were opened in Accra, Ghana and Nairobi, Kenya:

- Accra—two Business Development Managers with a strong focus on the resources sector, one of whom is focused on Francophone Africa; and
- Nairobi—one Business Development Manager.

6.25 The two officers report to 'Austrade's principal sub-Saharan Africa office, located in Johannesburg, South Africa.[18]

6.26 Austrade told the Committee:

> We primarily assist our commercial interests in an initial market evaluation and selection of representation or partners and support free trade events and other market entry activities. Because of the vast geography and the difficulty in tracking we have to segment those markets for serviceability and prospectivity and we indeed prioritise our resources to a number of key markets.[19]

6.27 Commenting on the service provided by Austrade, Associate Professor Helen Vella Bonavita, Edith Cowan University, told the Committee that in providing linkages Austrade had been 'extremely helpful and useful quite definitely.'[20] On the other hand, Coffey International commented 'Austrade have good information on certain countries but not much on others.'[21]

17 <http://www.austrade.gov.au/About-Austrade/default.aspx> Accessed May 2011.
18 DFAT, *Submission No. 46*, p. 498.
19 Mr Gregory Hull, *Transcript 20 April 2010*, p. 3.
20 Assoc. Prof. Helen Vella Bonavita, *Transcript 10 March 2011*, p. 23.
21 Mr Roderick Reeve, *Transcript 28 April 2010*, p. 32.

Committee comment

6.28 The 53 countries of Africa have a total population in excess of one billion.[22] The continent is as large as the combined land mass of Europe, United States, India and China. In Sub Saharan Africa the population is in excess of 870 million[23] and represents a potential huge market. Australia is increasing its trade and investment links with the continent, yet has only a handful of Austrade personnel in Africa. The Committee Delegation noted the heavy workload and large area that is serviced from a small number of Austrade offices. The Committee believes that the increased importance of trade and investment in Africa combined with a large geographical area and increasing workload warrants an increase in the number of Austrade offices and/or staff.

Recommendation 11

6.29 **The Government should increase the number of Austrade offices and personnel that are based in Sub-Saharan Africa.**

The role of Australia Africa business councils

6.30 The submission from the Australia Africa Business Council ACT Chapter advised it had established 'a program of interaction between targeted companies and the various [diplomatic] missions.' Initially personnel from a major mining house had been flown to Canberra to 'interact with embassy trade staff and share ideas on business opportunities.' The aim was to expand the program 'to increase awareness of business opportunities in Africa and deepen understanding of the business environment on that continent.'[24]

6.31 The Australian African Business Council Victoria Chapter (AABC VC) told the Committee that it ran business seminars, a trade desk, offered professional services and a brokerage. It was also seeking to build 'business mentoring relationships with relatively recently arrived expatriate Africans within the community.'[25]

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22 Estimated to be 1,013 billion in 2010, <http://www.internetworldstats.com/stats1.htm> Accessed May 2011.

23 Routlege Taylor and Francis Group, Press Release, 11 March 2011, <http://www.tandf.co.uk/journals/pdf/rpst-pr1.pdf> Accessed May 2011.

24 AABC ACT Chapter, *Submission No. 43*, p. 440.

25 AABC VC, *Transcript 6 May April 2010*, p. 2.

6.32 The AABC VC advised prospective Australian African traders that:

> You need to work out which country you're dealing with, what the regime is, whether it has a legal framework largely based around our system or based on the French-type system, how you are going to invest and who you are going to be dealing with. Our encouragement is to do the homework first and get it right, make sure you are in the right area, dealing with the right people with the right agendas and frameworks in place, having done all the things you would normally do about your intellectual property and managing your business risk before going in and so minimise the prospect of things going bad.[26]

6.33 The Australia Nigeria Business Council also advised that extreme care needed to be exercised in investing in Nigeria—especially in terms of problems associated with 'governance [and] political stability'. So while currently stable 'things can happen any time'.[27]

Specific opportunities

6.34 During the inquiry, the Nigerian and South African High Commissioners commented, inter-alia, on trade and investment opportunities in their countries. Other information was provided on Ghana.

West Africa

6.35 The submission from the Nigerian High Commission called for trade between Australia and Nigeria to be strengthened, citing that Nigeria with a population of 140 million was the largest market in Africa.[28] This view was supported by the Australia Nigeria Business Council (ANBC) which added that 'in West Africa, everything that happens in Nigeria has enormous bearing on the rest of Africa'. The ANBC provided an example of a South African-based communications company which benefited from entering the Nigerian market.[29]

6.36 A snapshot of trade between Ghana and Australia and the potential for growth was provided by Dr Asumadu. He explained to the Committee that he imported lightweight plywood from Ghana for use in caravan construction, but he was also seeking to export products to Ghana. He had

26 AABC VC, *Transcript 6 May April 2010*, p. 10.
27 Mr Ade Kukoyi, *Transcript 8 December April 2010*, p. 69.
28 Nigerian High Commission, *Submission No. 18*, p. 143-4.
29 Mr Ade Kukoyi, *Transcript 8 December April 2010*, p. 69.

identified a market for the export of ready-to-eat foods for sale in Ghanaian supermarkets.[30]

South Africa

6.37 The submission from the South African High Commission drew attention to the geographic similarities of South Africa and Australia—similar soils, the same hemisphere—which meant production of similar vegetables and fruit in the same season. While this tended to create a competitive environment, 'companies had much experience to share in agriculture and animal husbandry, and are therefore well poised to make joint investments in agricultural projects in the sub-region'.[31] Not only would the joint-venture partners benefit, but also the local economies of the countries in sub-region.[32]

6.38 The submission also called for increased investment 'given the immense new opportunities that are opening up with the elimination of conflict in many countries.'[33]

6.39 In South Africa, the Committee Delegation met with a number of government ministers, business representatives, and the Johannesburg Stock Exchange (JSE). Opportunities for investment and joint ventures were highlighted especially in telecommunications, retail, transport infrastructure, and agriculture.

6.40 The Delegation was told there was little trade between African countries. One of the main reasons was the lack of land transport infrastructure. Consequently, there was an opportunity to become involved in the creation of a north-south transport corridor. As well, huge opportunities presented themselves in agriculture because some 60 per cent of arable land in Africa was unused.

6.41 The JSE advised the Delegation of its strong regulatory role and governance arrangements, and the structure of the South African economy. It also drew attention to uncertainty arising from South African Government moves to increase the percentage of company ownership and representation at all levels of business by 'historically disadvantaged' South Africans. As well, there was a government desire for companies to

30 Dr Kwame Asumadu, *Transcript 6 May April 2010*, p. 31.

31 South African High Commission, *Submission No. 23*, p. 176.

32 High Commissioner Shope, *Transcript 20 April 2010*, p. 45.

33 South African High Commission, *Submission No. 23*, p. 176.

purchase a significant proportion of goods and services from 'black economic empowerment' entities.[34]

Impediments to growth in trade

6.42 The submission from the Government of Western Australia provided a summary of the impediments to trade identified by Western Australian exporters of mining equipment, namely:

- political instability in some regions;
- shipping capacity and schedules from WA are not competitive as the commercial logistics of exporting containerised or modular items on commercial shipping lines to Africa requires trans-shipment to Singapore or similar trans-shipment ports;
- financial capacity, compounded by the negative effect on investment levels following the Global Financial Crisis;
- infrastructure quality and availability;
- equipment for projects may not always be available or reliable, delaying projects;
- congestion particularly at destination ports, transhipment ports and at border crossing within Africa;
- customs procedures and transparency; and
- extreme weather conditions in some areas.[35]

6.43 The Committee Delegation noted an article in the Ethiopian Herald Sunday Edition which identified bureaucracy as historically being 'a constant thorn in the side of investors' on the continent:

> Contract enforcement, customs procedures and efficient payment of taxes, followed by the keys of registering a business and land are very high on the list of priorities for investors.[36]

Some of these impediments are discussed below.

Market access

6.44 The submission from the Nigerian High Commission suggested that exports from Nigeria to Australia should enjoy the same concessions as those granted by the EU and US.[37] The Committee notes, however, the low tariff levels for imports to Australia already identified by DFAT.

34 JSE PowerPoint presentation.

35 Government of Western Australia, *Submission No. 49*, p. 602.

36 *Africa's business climate set for change,* Ethiopian Herald Sunday Edition, 17 April 2011, p. 5.

37 Nigerian High Commission, *Submission No. 18*, p. 144.

6.45 The submission from the Kenyan High Commission cautioned that the Australian Government must ensure that the activities of the Australian Quarantine and Inspection Service (AQIS) 'though critical in protecting the boundaries of Australia, do not constitute barriers to trade.' There was a potential for AQIS to collaborate with approved inspection services in Kenya to reduce delays at Australian ports due to quarantine issues.[38]

6.46 DAFF responded to this issue in a supplementary submission stating that AQIS 'ensures that import procedures do not constitute an unnecessary barrier to trade by developing import conditions based on science and in line with Australia's appropriate level of protection.' This approach was consistent with WTO agreements. Further, there were '38 Kenyan organisations approved by AQIS to undertake pre-shipment treatment and inspection for exports of Kenyan cut flowers to Australia.' As well, AQIS was working with the Kenyan quarantine service to progress the accreditation of additional Kenyan companies.[39]

6.47 With respect to Australian agricultural exports to Africa, DAFF stated that there were:

> … numerous tariff and non-tariff barriers in place. For example, in the case of key markets for Australia in the region, in Egypt the average bound tariff for agricultural imports is 27 per cent, in Mauritius it is 8.5 per cent and in South Africa it is 10.1 per cent. These average tariffs also disguise tariff peaks faced by Australian exporters, for example, in South Africa for wine and sheep meat (25 per cent and up to 40 per cent respectively).[40]

6.48 Whilst the Australian Government is working towards removal of trade barriers through the WTO Doha Round, DAFF cautioned:

> While in the eventual Doha Round outcome developing countries will be given certain advantages in terms of special and differential treatment as compared to developed countries, it is important that these countries continue to be subject to international disciplines and rules under the WTO to encourage improved global agricultural markets.[41]

6.49 The submission from DAFF also noted that Africa will need to compete for Australian agricultural products with alternative markets. Prospects for

38 Kenyan High Commission, *Submission No. 25*, p. 185.
39 DAFF, *Submission No. 84*, p. 943.
40 DAFF, *Submission No. 26*, p. 193.
41 DAFF, *Submission No. 26*, pp. 193-4.

long-term growth in Australia-Africa agricultural trade depended on factors within Africa and globally:

> … the price obtainable and the complexity of trading arrangements with African nations will dictate the profitability of the trade and hence the growth in exports to the region. African nations will also need to effectively 'compete' for Australian exports with Asian markets where consumers are expected to continue to experience significant growth in incomes, have a high demand for food and be able to pay higher prices for food in the future.[42]

Decreasing African bureaucracy

6.50 The article in the Ethiopian Herald Sunday Edition noted above presented an encouraging view of moves to improve the investment climate in a number of African countries. The Investment Climate Facility for Africa (ICF)—a government-business partnership—started working in 2007 with two countries. By 2011 it was:

> … working directly with 14 countries and indirectly with 29. [It is] working closely with the East African Community to enhance the region as an attractive investment destination [by] making it easier for business in one state to operate in another, harmonising commercial laws and tackling counterfeiting and piracy of goods at a regional level as opposed to country by country.

6.51 The ICF has supported projects in a number of countries, including:

- in Dakar, Senegal, a project to streamline the clearance of goods at the port;
- in Burkina Faso, an investor can now obtain a construction permit in three weeks at a cost of $450 (previously it took several months and cost $2400);
- in Rwanda, a business can now be registered in 24 hours at a cost of $43 (previously it took over 30 days and cost $400);
- also in Rwanda, there are now 'four working commercial courts', the backlog of cases has been cleared, and 'new cases are resolved in a matter of weeks';
- in Zambia, commercial court proceedings have been automated, case management improved, and courtroom staff have been trained.

42 DAFF, *Submission No. 26*, pp. 198-9.

6.52 The ICF was also 'trying to improve the way taxes are submitted by introducing on-line systems in Senegal, Zambia, Tanzania, Ethiopia and Rwanda.'[43]

Ability to raise finance

6.53 Mr Gordon Noble, Director, Responsible Investment Consulting raised the concern of economic progress being impeded by the under-development of the finance sector in much of Africa and the consequent inability to raise finance. He told the Committee there were only two large stock exchanges—in Johannesburg and Egypt. The challenge the others were facing was that the capital they held was 'literally next to nothing'.[44]

6.54 As well, the other stock exchanges were, in finance terms, illiquid—there was a lack of willing investors to purchase stock:

> The liquidity of some of the stock exchanges in Africa, who are members of the African Stock Exchanges Association, is less than one per cent; some of them are down 20 per cent. This actually is a challenge. It means that they are effectively not invested and, from an institutional perspective, that means that institutional dollars are not going in and investing in those markets.[45]

6.55 There was therefore a need to support finance market institutions in Africa so they 'can actually provide significant benefits to build economic development.'[46] Mr Noble's view was confirmed by the briefing provided by the JSE.

6.56 Mr Noble was also sceptical of the ability of the microfinance sector to progress to the economy beyond a certain point:

> The microfinance community globally is starting to move up the chain and there is now starting to be a debate about private equity. There is only so much that you can do on a $50 loan. If you want to build a more substantial business, you need more substantial capital and you need skills to come with that. Also, for some of our significant global challenges, such as climate change, you need technology. So I think what you will see over the next 10 years is the microfinance community evolving so it creates partnerships with cleantech renewable energy companies.

43 *Africa's business climate set for change,* Ethiopian Herald Sunday Edition, 17 April 2011, p. 5.
44 Mr Gordon Noble, *Transcript 28 April 2010*, p. 68.
45 Mr Gordon Noble, *Transcript 28 April 2010*, pp. 68-9.
46 Mr Gordon Noble, *Transcript 28 April 2010*, p. 69.

> … we should encourage [the microfinance] industry to become more sophisticated and to link, creatively and seamlessly, into a finance sector so that someone who does have a great idea is able to demonstrate it, build a business and then take it through the normal change that we would have. It could be that you could eventually take it into the listed markets. That is where it fails at the moment.[47]

6.57 At the individual business level, Dr Asumdu told the Committee that he had been unable to 'get consultancies through the African Development Bank' (ADB), and had been told this was because Australia was not a member of the ADB. He suggested Australia should 'consider seriously the possibility of membership' of the ADB. If Australia became an investing partner, Australian citizens would 'have access to services and other financial products that the bank provides.'[48]

6.58 Dr Asumadu's view was supported by Coffey International.[49]

6.59 DFAT responded to this issue advising that the Government was increasing engagement with multilateral development banks such as the ADB, which could 'play an important role in contributing to the sustainable economic development and social progress of African countries.' Consideration of membership was ongoing, but was not 'a decision to be taken lightly, given the costs associated with membership. This would include 'an expectation of ongoing contribution to the ADB's concessional lending arm (the African Development Fund).' Australia was in the final stages of negotiating an MoU with the ADB 'without raising any expectations of shareholder membership at this stage.'[50]

Issuing of visas

6.60 The submission from the Nigerian High Commission drew attention to recent changes in Australia's visa issuing arrangements in Nigeria. Under the new arrangements service delivery partners had been established across Nigeria—these would send details to South Africa where visas would be issued.[51] The High Commissioner told the Committee:

> I have been putting a lot of pressure and time into asking the office of immigration to change this policy because quite a number of

47 Mr Gordon Noble, *Transcript 28 April 2010*, p. 72.

48 Dr Kwame Asumadu, *Transcript 6 May April 2010*, p. 26.

49 Coffey International, *Submission No.* , p. 101.

50 DFAT, *Submission No. 94*, p. 1179.

51 Nigerian High Commission, *Submission No. 18*, p. 145.

> Nigerian businessmen would like to come to Australia but find it extremely difficult to send their passports to South Africa, which takes about three or four weeks before they are returned. This may be one of the reasons why it is not very easy for a Nigerian businessman to move into Australia and vice versa.[52]

6.61 A similar frustration was expressed by the AABC VC,[53] and by Professor Howieson who told the Committee that two students from Nigeria and Ghana he had invited to attend an international conference had been unable to attend:

> … because it takes a month to get a visa for Australia. They cannot be without their passports for a month, so they are not coming.[54]

6.62 In response DIAC told the Committee that it had had a visa issuing post in Lagos but that changed when the capital moved to Abuja. DIAC commented:

> We now have an arrangement where there are six centres in Nigeria that are able to receive applications and forward them to Pretoria for processing. … Indeed, the Department has quite publicly recently been talking about a transformation arrangement in the way that we deliver services, which encompasses things like expanding our applications through e-visas, through service delivery partners and through better access to client channels. …
>
> If we did not have a service delivery partner arrangement, they would resort to having to use the postal service to which ever post we went to. … In fact, it expands an opportunity by providing six more places where people can go.[55]

Committee comment

6.63 The Committee agrees that increasing the number of locations where Nigerians can obtain visas is in theory an improvement. There is only a benefit, however, if the subsequent communication with the visa issuing post in South Africa is efficient. The Committee notes, however, that potential document fraud might require visa application documents to be physically sent to South Africa for verification. Nevertheless, the issuing of e-visas to low risk individuals should improve timeliness of visa processing.

52 Nigerian High Commissioner, *Transcript 20 April 2010,* p. 54.
53 Professor Geoffrey Willmoth, *Transcript 6 May 2010,* p. 12.
54 Prof. John Howieson, *Transcript 10 March 2011,* pp. 57–8.
55 Mr Todd Frew, *Transcript 21 April 2010,* pp. 26–7.

Recommendation 12

6.64 **The Department of Immigration and Citizenship should expand the issuing of e-visas across Africa, with priority to establishing the service in countries where there is the potential to expand trade, academic, research and other links.**

Tourism

6.65 The market for air travel between Australia and South Africa was described by Qantas as 'thin', and as sitting outside the top 20 air routes between Australia and other countries. Qantas advised that competition for air travellers was increasing because of a 'growing presence' of third country carriers such as Singapore Airlines and Emirates, and as well the introduction of services by V Australia and South African Airways.[56]

6.66 In response to this competition, Qantas was boosting its capacity by increasing services to 7 per week by the end of 2010.[57] The Department of Resources Energy and Tourism (DRET) noted that the capacity on the Australia–South Africa air route had increased by 16 per cent in 2009 with a forecast of an increase of 22 per cent in 2010.[58] This increase in capacity has been reflected in an increase in passenger movements from 340,000 in 2008–09 to 493,000 in the year to February 2010.[59]

6.67 Qantas advised 76 per cent of its passenger traffic originated in, or had a destination of, South Africa and 80 per cent was for leisure—holidays or visiting relatives—and 20 per cent was business.[60] DRET advised the Committee that South Africa was in fact the 18th largest inbound market for air travel.[61]

6.68 The Committee sought information about DRET's strategy for marketing Australia as a tourist destination. DRET responded that its strategy concentrated on South Africa and was managed through its London office. The strategy included:

- joint investment in cooperative marketing campaigns;

56 Ms Jane McKeon, *Transcript 6 May 2010,* pp. 61, 63.
57 Ms Jane McKeon, *Transcript 6 May 2010,* p. 61.
58 DRET, *Submission No. 84*, p. 966.
59 Mr Andrew Wilson, *Transcript 20 April 2010,* p. 82.
60 Ms Jane McKeon, *Transcript 6 May 2010,* p. 62.
61 DRET, *Submission No. 36*, p. 269.

- training and educating travel agents and direct sellers about Australian destinations;
- inviting South African tour operators to Australia's major annual trade forum, the Australian Tourism Exchange; and
- leveraging major sporting events such as the Rugby World Cup.

6.69 In other African markets, industry demand was serviced by the Sydney office through online travel agent training and through Austrade.[62]

6.70 Mr Peter Odhiambo identified tourism as one of a number of sectors in which Australian companies 'could enjoy significant advantages':

> Africa has an abundance of tourism products, but a dearth of tourism infrastructure. It is a popular destination for Europeans, North Americans, and increasingly East Asians. Australia has a flourishing tourism sector. Domestic tourism infrastructure in Australia can be replicated in Africa. The World Tourism Organisation says that Africa is the fastest-growing tourism destination. There are barely any Australian owned tourism facilities in Africa; and Australian airlines (Qantas and V Australia) only fly to South Africa.[63]

Tourism in Zimbabwe

6.71 During its visit to Victoria Falls, Zimbabwe, the Committee Delegation was briefed by representatives of the Zimbabwean tourism industry. Despite international sanctions inhibiting the ability to raise credit and political uncertainty, the tourism industry in Zimbabwe is currently experiencing increased activity. This has flowed through to the population via jobs and has been reflected by improved local services—compared to Harare and Bulawayo (both cities were visited by the Delegation) there is an atmosphere of relative prosperity in Victoria Falls.

6.72 The Zimbabwe Government appears to be responsive to tourism industry needs and the Committee was told that recently there had been a period of 18 months when there was a suspension of import duty for the industry. The indigenisation policy[64] remained an issue, but the Zimbabwe Government appeared to be focusing on the mining sector.

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62 DRET, *Submission No. 84*, p. 966.

63 Mr Peter Odhiambo, *Submission No. 98*, p. 1231.

64 Zimbabwe's indigenisation and empowerment law came into effect in March 2010 and requires foreign owned companies to sell a majority stake to black Zimbabweans.

6.73 There is still significant capacity for expansion which was revealed by the large number of unused cruise vessels which the Delegation saw on the banks of the Zambezi River.

6.74 The economic sanctions are imposed by the US and Europe. Australia has confined its sanctions largely to travel bans and sanctions against a small number of ZANU-PF controlled companies.

Travel advisories

6.75 A potential deterrent to Australians contemplating tourism activities in Africa, identified by the Kenyan High Commission, was the issuing of travel advisories by DFAT:

> However, despite the best efforts by African governments to promote tourism, travel advisories that are issued from time to time by [DFAT] go against this spirit. Despite these advisories being reportedly reviewed and reissued regularly, some of the facts included are either outdated or inaccurate.[65]

6.76 The advice on DFAT's Smartraveller website for Kenya in March 2011 is for the traveller to exercise a 'high degree of caution' overall; 'reconsider your need to travel' to four suburbs of Nairobi; and 'do not travel' to the border regions with Ethiopia, Sudan and Somalia. The advice also contained the following:

> We continue to receive reports that terrorists may be planning attacks against a range of targets in Kenya, including Kenyan or Western interests. Western embassies, UN premises, Kenyan Government buildings, shopping areas frequented by Westerners, hotels, bars and nightclubs, restaurants and cafes, tourist resorts, safari lodges, major infrastructure, churches and other places of worship and other places frequented by foreigners may be particular targets. In planning your activities, you should avoid the kinds of places known to be terrorist targets.[66]

6.77 DFAT told the Committee that:

> The government's position is quite clear that they are based on the best information available to guide Australian travellers. They are advice, not direction. There are some security issues of concern in Africa. … It is a firm policy of the government and we will

65 Kenyan High Commission, *Submission No. 25*, p. 186.

66 DFAT Smartraveler, <http://www.smartraveller.gov.au/zw-cgi/view/Advice/Kenya> Accessed March 2011.

continue to provide that advice based on the best information we have available.[67]

Phosphate trade with Morocco

6.78 The Committee received submissions from the Australia Western Sahara Association (AWSA) which expressed concern at the importation of phosphate from Western Sahara (a former Spanish colony) to Australian States by Australian companies:

> We regard these imports as unethical and illegal and urge the Australian government to express this view clearly so that the companies may be encouraged to put their imports on hold until the conflict is resolved. …
>
> However, in terms of international law, the phosphate is not Morocco's to sell. Morocco is the occupying power in this territory, which is still waiting for a vote of self determination since Spain left without accomplishing this act of decolonisation in 1975.[68]

6.79 The Embassy of the Kingdom of Morocco responded that the AWSA's submission was 'based on false information, and use of false information.'[69] It commented that for over 30 years no General Assembly Resolution had conferred the status of occupying power on Morocco and that:

> No recognized international body has ever qualified the exploitation of natural resources by Morocco as acts of plundering detrimental to the inhabitants of the region.
>
> [Further,] since 2004, the Security Council no longer invokes the organisation of a referendum but promotes seeking a negotiated and mutually acceptable political solution.[70]

6.80 DFAT responded with advice that Western Sahara was classified by the UN as a Non-Self-Governing Territory and that Morocco and Polisario disputed sovereignty over the area. Negotiations were ongoing:

> For many years the UN was focused on the terms of a referendum. The referendum did not take place because of disagreement between the parties as to who should be eligible to vote in a referendum. UN efforts are now focused on negotiations to

67 Mr Justin Hayhurst, *Transcript 20 April 2010,* p. 24.

68 AWSA, *Submission No. 104*, p. 1273.

69 Embassy of the Kingdom of Morocco, *Submission No. 108*, p. 1311.

70 Embassy of the Kingdom of Morocco, *Submission No. 108*, pp. 1312, 1314.

> discuss these two proposals 'in good faith' and 'without preconditions'. …
>
> Morocco and the Polisario have had held four rounds of formal negotiations under UN auspices, with the most recent held from 16 to 18 March 2008. … [since then there have been] six rounds of informal talks (the latest round was held in early March 2011), with the aim of restarting a fifth round of formal UN-mediated negotiations.[71]

6.81 Regarding the importation of phosphate from Western Sahara, DFAT drew attention to the need for companies to consider:

> … the possible international law considerations involved in importing natural resources sourced from Western Sahara and [it recommended] companies seek independent legal advice before importing such material.[72]

Investment

6.82 For investment to proceed, DFAT stated that it was important for 'countries to put in place the rules and the context that allows investment to succeed both for the company's economic benefit and for the wider development gains to be made.' Issues such as regulatory certainty, security of title of tenure over mining, and lack of conflict were important.[73]

6.83 The submission from the Australia and Nigeria Business Council and Professor Ann Fitzgerald, Faculty of Law, Queensland University of Technology was more specific, citing:

- the modernising of mining laws;
- the administration of land title and mining registries;
- the creation of publicly available databases of mineral exploration information; and
- the implementation and enforcement of intellectual property systems.[74]

71 DFAT, *Submission No. 113*, p. 1345.
72 DFAT, *Submission No. 113*, p. 1346.
73 Mr Justin Hayhurst, *Transcript 20 April 2010*, pp. 12-13.
74 Australia Nigeria Business Council, Prof. Anne Fitzgerald, *Submission No. 58*, pp. 677-8.

6.84 Three sectors have been identified where there was either investment potential or where investment was occurring—energy; infrastructure; and mineral resources.

6.85 The Nigeria High Commission advised that Nigerian power production facilities were 'grossly inadequate' and there was potential for investment in 'power generation, solar energy development, transformers, electrical meters, and electrical constructions'.[75] The energy sector was also identified by the Kenya High Commission which stated that 'the continent still falls short of its energy requirements.'[76]

6.86 The potential of the African renewable energy sector has been identified in a 2008 Lowy Institute paper, *Policy Brief*.[77] This was supported by WorleyParsons:

> Obviously, Africa is a wonderful location for solar. The difficulty of solar is the expense of it at this stage. The cost of solar is coming down at such a rate that I would think that in the next few years there will be more opportunities for solar, particularly for remote locations in Africa.[78]

6.87 Mr Peter Odhiambo drew attention to infrastructure investments:

> The development of infrastructure in Africa was traditionally dominated by European and American companies. Over the past decade, there has been a shift to the east; Chinese and Indian companies are making substantial investments in Africa's infrastructure. By contrast, Australia, despite its significant advantages in this area, is marked by its absence from Africa's infrastructure development.[79]

Resources sector

6.88 With about 30 per cent of total mineral resources in the world, Africa presents huge opportunities for the resources sector. DRET told the Committee that the percentages of global production for various minerals were:

- bauxite, 43 per cent;

75 Nigeria High Commission, *Submission No. 18*, p. 144.

76 Kenya High Commission, *Submission No. 25*, p. 186.

77 Mr Joel Negin and Mr Glenn Denning, *Shared Challenges and Solutions: Australia's Unique Contribution to the Future of African Development,* Lowy Institute, 2008

78 Mr John Grill, *Transcript 28 April 2010*, p. 90.

79 Mr Peter Odhiambo, *Submission No. 98*, p. 1230.

- copper, 13 per cent;
- diamonds, 27 per cent;
- gold, 21 per cent;
- iron-ore, 17 per cent;
- nickel, 6.5 per cent;
- platinum, 78 per cent; and
- uranium, 38 per cent.

6.89 DRET added:

> … there is a significant amount of production that is occurring in the minerals area in particular. That is an opportunity for Australian companies that we do not intend to miss out on.[80]

6.90 Rio Tinto also commented that Guinea was 'the Saudi Arabia of bauxite.'[81] The AABC ACT Chapter noted that Guinea's bauxite mine was the world's largest, and that Guinea also had the world's largest iron ore deposit.[82]

6.91 These opportunities have not gone unnoticed. As WorleyParsons told the Committee:

> I think the opportunities there are extraordinary. There and Latin America are two areas that we are concentrating on from the growth point of view at the moment. Both of them … have been little affected by the GFC and so are providing great opportunities for us to expand—both in the services we provide and the countries we are in.[83]

6.92 The AABC ACT Chapter agreed with the Committee that, notwithstanding the risk, returns in Africa were 'so much better' than elsewhere:

> You would have to weigh the risk against the reward, but there is no question. This is across the board. It is not only in mining. Typically, your returns on capital in South Africa can be anywhere between 50 and 100 per cent greater than your returns in Australia. … Of course, there is a risk issue here. Australia is a

80 Ms Tanya Constable, *Transcript 21 April 2010*, p. .
81 Mr Bruce Harvey, *Transcript 6 May April 2010*, p. 22.
82 Mr Charles Milward, *Transcript 27 April 2010*, p. 60.
83 Mr John Grill, *Transcript 28 April 2010*, p. 92.

> very stable environment to do business in. So you would expect returns in Africa to be a lot higher—and, indeed, they are. The question is how you manage the risks so you can get the high returns.[84]

6.93 With this incentive, Australian companies are investing in the African resources sector. DFAT advised that a 2008 Lowy Institute report 'estimated that actual and prospective investment by Australian resource companies in Africa could be close to $US 20 billion.'[85] DFAT noted this figure differed from that produced by the Australian Bureau of Statistics, but may have been due to the way companies, particularly multinationals, structured their investments. The amount, however, reflected:

> … the order of magnitude of Australian interest in African mining. It is consistent with the value of current investment in Africa ($US 15 billion) that DFAT obtained in 2007 based on both confidential and published information from a survey of Australian resource companies.
>
> … the actual figure for current and prospective investment by Australian companies could be even higher, considering that the cost of a relatively small mines can be around $US 100 million, while larger projects are valued in billions of dollars.[86]

6.94 DFAT provided the Committee with an update in April 2011:

> DFAT is aware of 227 Australian resources companies with projects on the ground in Africa, as of early April 2011. Of these, 203 are in the mining sector (includes mining operations/minerals exploration/mining services), 24 in oil or gas production/exploration, and one in geothermal exploration. These companies have interests in over 620 projects across 42 countries and one territory (projects encompass mines operating or under construction; oil and gas production facilities; smelters, exploration licences; and service companies' branch offices).
>
> The rapid growth in Australian activity in Africa's resources sector has accelerated over the past year. At least 53 companies and 172 new projects commenced operation the first time in Africa since the beginning of 2010. …

84 Mr Charles Milward, *Transcript 27 April 2010*, p. 55.

85 Lowy Institute Paper 24, *Into Africa: How the Resource Boom Is Making Sub-Saharan Africa More Important to Australia*, p. 57.

86 DFAT, *Submission No. 46*, pp. 488-9.

> The total projected capital investment of projects at the feasibility study stage is more than A$27 billion, based on publicly released feasibility studies and other estimates released by companies.[87]

6.95 The submission from AAMIG indicated that '150 ASX listed mining and exploration companies, with a collective market capitalisation of over A$260 billion' were active in 40 African countries. A further 80 mining service companies were estimated as having Africa-based operations or were routinely involved in African assignments.[88]

6.96 Several issues have been raised concerning Australian resource company involvement with Africa. These were:

- the assessment of sovereign risk;
- raising finance;
- corporate social responsibility;
- transparency of operations; and
- safety of uranium mining

Sovereign risk

6.97 DFAT regards corruption as being a significant challenge in Sub Saharan Africa:

> Of the 47 Sub Saharan African countries reviewed in Transparency International's *Corruption Perceptions Index 2009*, corruption was perceived as rampant in 31 (a score of less than three out of 10), and a serious challenge in 13 (a score between three and five of 10). Only three countries—Botswana, Mauritius and Cape Verde—scored more than five out of 10. In Northern Africa, corruption was perceived as 'rampant' in 35 countries, and as a 'serious' challenge in the remaining two countries.
>
> … In many countries weak institutions mean that enforcement remains inconsistent, despite increasing awareness, reporting of corruption and the strengthening of legal frameworks.[89]

6.98 Coffey International supported the view that there was a direct correlation between the corruption index and the levels of sovereign risk country to country, and that the other factor was instability.[90]

87 DFAT, *Submission No. 113*, p. 1342.

88 AAMIG, *Submission No. 50*, p. 612.

89 DFAT, *Submission No. 46*, p. 467.

6.99 Regarding corruption, the witness from Paladin Energy told the Committee that he was responsible for deciding whether his company could operate in particular countries:

> It is a core principle of the company that we will not pay a single dollar in bribes. We are opposed to that, for obvious reasons. The reality is that that simply means that there are some countries in which you cannot operate. …
>
> … there are other countries where clearly there is bribery and corruption and there is no question that you will be asked. You will be pressed at various levels, whether it is facilitation payments or whether it is of a much higher order …
>
> You have to persevere and you have to be firm, but once you have declared it and if they see it is in their interests for you to be there then at the end of the day, although it may take longer to get there, it may take longer to get the process completed, you can do it. … do your homework, understand the country you are going into, understand its processes and its culture, be wide-eyed but operate as you would at home.[91]

Raising finance

6.100 For companies wishing to invest in Africa, options include raising capital on stock exchanges and seeking support from the Export Finance and Insurance Corporation (EFIC).

Stock exchanges

6.101 The AABC ACT Chapter's submission suggested there was 'a perception' that the Australian capital markets had a 'limited appetite for African risk'. Consequently, Australian companies seeking finance to establish or expand operations in Africa would often seek to list on the Toronto or London Stock Exchanges. This was, the submission suggested, because the Australian investment community had poor knowledge of the continent:

> Investment analysts are far less likely to have direct experience of Africa and may therefore be more conservative in their recommendations regarding African prospects. The investment community in Toronto on the other hand has developed what can probably be described as a financial cluster around African mining investment with several analysts focused on this area. This no

90 Mr Roderick Reeve, *Transcript 28 April 2010*, p. 29.

91 Mr Gregory Walker, *Transcript 6 May April 2010*, p. 42.

> doubt contributes to the attraction of that stock market to companies operating in Africa.[92]

6.102 This view was supported by Coffey International, a company which values deposits and assists in the raising of capital:

> … the researchers and analysts … do not have strong information when it comes to decisions around whether to invest in an African nation or not. Therefore, their decisions are often guided by other sources of information and quickly become quite concerned about risks in areas like governance, legal systems, security, transport and so on.[93]

6.103 The AABC ACT Chapter told the Committee about an attempt to bridge the knowledge gap:

> … a contingent of 20 analysts [were taken] to West Africa last year specifically to try and educate them about the opportunities there. I think it is a process that will have to develop, and I have no doubt that Australian capital will start flowing more strongly as the expertise develops.[94]

Export Finance and Insurance Corporation (EFIC)

6.104 The role of EFIC, under its legislation, is to complement the private sector in promoting trade and investment, and doing so profitably. EFIC told the Committee that it had products to help Australian businesses:

> … win business when they are tendering for business. We have products that helps them to finance what they have won or help their buyers to finance what they seek to acquire from Australia. We have products that help them to protect their investments or to protect themselves against payment risk when they are working in foreign jurisdictions.

6.105 EFIC advised that it either lent directly or provided bank guarantees 'within a very tightly defined framework of Australian and international law and guidelines, including those related to ethical, environmental and social standards of business.' EFIC had provided some $US 353 million over the past six years to Australian resource companies active in exploration and development, and to engineering and service companies. This figure was expected to rise to $US 500 million in the next two or three

92 AABC ACT Chapter, *Submission No. 43*, p. 440.

93 Mr Roderick Reeve, *Transcript 28 April 2010*, p. 29.

94 AABC ACT Chapter, *Transcript 27 April 2010*, p. 59.

years. Companies supported had interests in Mozambique, Ghana, Zambia and Mali.[95]

6.106 Jubilee Australia has criticised EFIC's transparency. This is discussed at paragraph 6.164.

Corporate social responsibility

6.107 The submission from Oxfam Australia (Oxfam) advocated that mining sector companies investing in Africa should address issues of corporate social responsibility including:

- Business and human rights
- Accountability and grievance mechanisms
- Doing business in conflict zones
- Free prior and informed consent
- The gender impacts of mining[96]

Business and human rights

6.108 Oxfam identified core elements including:

> … having a human rights policy, undertaking human rights impact assessments with community participation integrating human rights throughout a company and tracking as well as reporting performance – both good and bad.

6.109 Failure to respect human rights, Oxfam suggested, 'can result in loss of housing, land and livelihood, environmental degradation, social unrest and poor health outcomes.'[97]

Accountability and grievance mechanisms

6.110 Oxfam suggested mining companies should be accountable to countries where they operated through 'a formal and ongoing mechanism for stakeholder engagement and a grievance mechanism through which complaints can be raised and resolved.' The submission drew attention to several internationally recognized documents which provide guidelines, including:

- the OECD Guidelines for Multinational Enterprise;
- the UN Global Compact;

95 Mr Angus Amour, *Transcript 7 December April 2010*, pp. 38-9.

96 Oxfam, *Submission No. 39*, p. 361.

97 Oxfam, *Submission No. 39*, p. 362.

- the Equator Principles;
- the UN Principles for Responsible Investment;
- the International Council on Mining and Metals Sustainable Development Framework;
- the Extractive Industry Transparency Initiative; and
- the Kimberley Process Certification Scheme.[98]

Doing business in conflict zones

6.111 Oxfam drew the Committee's attention to the risks of mining companies operating in conflict or post-conflict zones. It was often not a case of simply not operating in such zones, Oxfam acknowledged, because investment by responsible businesses was often needed to repair the country's shattered economy.[99] Oxfam also told the Committee that there was a:

> … large presence of Australian companies operating in countries that are either in conflict, post-conflict or have a weak regulatory environment, and that creates new challenges. … it depends on the level of investment they have in their own due diligence mechanisms and their own investment in developing human rights compatible policies …

Free, prior and informed consent

6.112 Oxfam expressed the view that gaining free, prior and informed consent before undertaking activities on community or indigenous people's land was 'fundamental to a rights-based approach to development and offers practical benefits to all stakeholders including government and industry.'[100]

6.113 The Committee notes after discussions with Adamus Resources, operators of a gold mine in Ghana, that obtaining agreements with local communities may take several years.

Gender impacts of mining

6.114 Oxfam commented that 'women can experience the direct and indirect consequences of mining operations in different, and often more pronounced ways than men.' This included:

98 Oxfam, *Submission No. 39*, pp. 363-4.

99 Oxfam, *Submission No. 39*, p. 366.

100 Oxfam, *Submission No. 39*, p. 367.

- Failure to include women when negotiating community consent …
- The payment of compensation and royalties goes to men 'on behalf of families' which denies women access to the financial benefits of mining
- Loss of land and displacement can lead to loss of livelihoods and increased work burdens for women
- Displacement and the shift to a cash-based economy can diminish women's traditional status in society
- The effects of environmental degradation can undermine women's capacity to provide food and clean water for their families
- The employment of men in mines results in a withdrawal of labour from traditional subsistence activities and increases the work burden for women
- The influx of a transient male workforce can result in social and health problems …
- Discrimination in the mine workplace[101]

Performance of Australian mining sector companies

6.115 DFAT's submission commented that 'Australian companies have a good record in Africa in the area of corporate social responsibility'. The witness from Oxfam stated:

> Overall, I think Australian companies have some good examples of where they are attempting to give consideration to the challenges that they face through their policy work. What is most critical is: how they go about implementing those policies, particularly if they have a management structure which means that there is not as much communication as there could be between head office in Australia, for example, and site management in a country in Africa.[102]

6.116 Oxfam told the Committee that its mining advocacy strategy included direct engagement 'with mining companies, around assisting them to develop policies and practice to enhance their operations offshore with regard to corporate accountability.' To that end, Oxfam is a member of BHP's external forum enabling it to provide advice and comment on BHP's offshore business conduct. Oxfam had also assisted Rio Tinto in developing its gender assessment tools and guidance. The challenge, Oxfam commented, was:

101 Oxfam, *Submission No. 39*, p. 368.

102 Ms Serena Lillywhite, *Transcript*, 5 *May 2010*, p. 76.

> … getting access to the small and junior companies that are operating in the countries of Africa. Quite often that is where policies and practice around protection of and respect for human rights may be less well developed than they are in some of the larger mining companies.[103]

6.117 The challenge provided for smaller companies was also highlighted by Responsible Investment Consulting:

> The exploration stage of a mining project has significant challenges, and that is the space that we see when we look at those companies. … That is the space where there is a lack of sustainability focus, and I think that is a risk to our reputation in the long term.[104]

6.118 When it comes to endorsement of principles and reporting, Responsible Investment Consulting indicated that Australian companies in general have some way to go:

> In terms of corporate social responsibility, the international standard that many companies adhere to is the United Nations Global Compact. Around 7000 companies have endorsed these 10 principles, and they cover everything from human rights to labour standards and environmental issues. The challenge we have in the Australian listed market is that only seven companies in terms of the ASX 200 are actually endorsing these global compact principles. …
>
> The international framework … for companies providing sustainability information—and that is their environment, social and governance performance—is the Global Reporting Initiative. … We have found that only 10 per cent of the ASX 200 market actually reports according to the GRI reporting framework. That means that investors do not have enough information in order to judge their investment decisions, and that is certainly a worry.[105]

6.119 The Committee received detailed evidence from mining company witnesses about some of their company's corporate social responsibility activities, and the Committee Delegation visited the Adamus Resources mining site in Ghana. Details of the visit are at paragraph 6.148.

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103 Ms Serena Lillywhite, *Transcript*, 5 *May 2010*, p. 75.

104 Mr Gordon Noble, *Transcript 28 April 2010*, p. 72.

105 Mr Gordon Noble, *Transcript 28 April 2010*, pp. 66-67.

Mining industry associations

6.120 The Committee received evidence from two mining industry organisations—the Australian Uranium Association (AUA); and the Australia-Africa Mining Industry Group (AAMIG).

6.121 The submission from the AUA provided details of its Charter and Industry Code of Practice. The Code was developed in accordance with the International Council on Mining and Metals Sustainable Development Framework and the Minerals Council of Australia's sustainable development statement, *Enduring Value.*[106]

6.122 The CEO of the AUA told the Committee that the Association annually surveyed its members' performance under its code.[107] He acknowledged, however, that the survey was a self-assessment instrument, but the issue of independent audits was one which had been considered.[108] He commented on the outcome of membership of the AUA:

> … the experience of members of the Association is that a commitment to Australian standards of practice in the area in which we work has been of benefit to our members and of reassurance to the host countries and the host communities in which they operate. …
>
> What counts is that we build trust amongst our stakeholders, many of whom are local communities, … Most of all we should never breach trust, because once we breach trust that is very hard to get it back again. So what counts, I think, is our behaviour, and that is why we place is so much emphasis on our operational performance and on our relationship with our stakeholders.[109]

6.123 The submission from AAMIG stated:

> Australian mining companies continue to build an extremely sound reputation for their environmental and social responsibility in an international context, including Africa. The majority of companies prefer to transpose more numerous, but familiar, Australian standards in relation to safety, and environmental and social requirements, rather than adopt the often less onerous

106 AUA, *Submission No. 62*, p. 719.

107 Mr Michael Angwin, *Transcript 8 December 2010*, p. 43.

108 Mr Michael Angwin, *Transcript 8 December 2010*, p. 46.

109 Mr Michael Angwin, *Transcript 8 December 2010*, pp. 46, 48.

> international standards or those of the jurisdictions in which they operate.[110]

6.124 The submission also summarised the social development programs undertaken by mining companies in Africa.[111] Several of these programs were highlighted when representatives from BHP Billiton, Paladin Energy, and Rio Tinto appeared before the Committee.

BHP Billiton

6.125 The representative from BHP Billiton, Mr Ian Wood, Vice President, Sustainable Development and Community Relations, told the Committee that it had 'one global, consistent operating standard within the company' and that policies and standards which were applied in Australia were also applied in Africa and all other developing countries.[112] These principles were based on high level international protocols such as the Universal Declaration of Human Rights, the UN Global Compact and the International Council on Mining and Metals Sustainable Development Framework. As a result, BHP Billiton had found that governments did not have issues with its operating principles.[113]

6.126 The company also had:

> … a group of highly skilled internal auditors that audit each one of our assets at least every two years to check conformance with those standards. If there are gaps identified, they have to implement an improvement plan to address those gaps. If the gaps are significant, it gets reported all the way up to the group management committee and the board. … Every year we produce a detailed sustainability report which is audited externally by external auditors.[114]

6.127 BHP Billiton stated that it would not proceed with new projects unless its project development teams could 'demonstrate that projects [had] broad based community support.' Regarding resettlement of communities, BHP Billiton commented that its approach was always to avoid resettlement, but if it was necessary it was committed to follow the guidelines of the International Finance Corporation for community resettlement. [115]

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110 AAMIG, *Submission No. 50*, p. 610.
111 AAMIG, *Submission No. 50*, p. 610.
112 Mr Ian Wood, *Transcript 7 December 2010*, p. 28.
113 Mr Ian Wood, *Transcript 7 December 2010*, p. 31.
114 Mr Ian Wood, *Transcript 7 December 2010*, p. 36-7.
115 Mr Ian Wood, *Transcript 7 December 2010*, p. 29.

6.128 It sought to differentiate itself from:

> … some of the other investment dollars flowing into Africa by demonstrating the commitment we make to operating globally high standards, the commitment we make to paying fair taxes and royalties, the commitment we make to employing local people, the commitment to education and training and to community programs expenditure.[116]

6.129 BHP Billiton added that its community programs were run with partners—it did not:

> … hold itself up as an aid agency or a service deliverer at all. We work very closely with our program delivery partners to make sure we get the right organisation … We never just sign cheques and leave them to it; we actively engage and participate.[117]

6.130 BHP Billiton advised the Committee that it has a target of spending one per cent of its pre-tax profit on community programs which in 2009-10 amounted to $200 million.[118] Commenting on this figure, Mr Andrew MacLeod, an adviser to Responsible Investment Consulting, stated:

> … BHP Billiton is the third largest development agency in Australia. … that puts them after the Australian government and World Vision and puts them in front of the Red Cross and the plethora of other agencies and organisations that do aid and development.[119]

6.131 Mr MacLeod supported such private sector assistance because its delivery effectiveness was motivated by self-interest and was evaluated on outcomes because of the need to demonstrate value for money to shareholders. This was in contrast, Mr MacLeod suggested, to the public sector where performance was measured in terms of money spent:

> A well constructed corporate social responsibility or community investment program tends to work because there is a link with the profit motive and because the company has invested in the success of the outcome of the program. It is in BHP Billiton's interest to have a better educated second generation workforce and it is in BHP Billiton's interest to have less absenteeism caused by malaria.

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116 Mr Ian Wood, *Transcript 7 December 2010*, p. 34.
117 Mr Ian Wood, *Transcript 7 December 2010*, p. 32.
118 Mr Ian Wood, *Transcript 7 December 2010*, p. 34.
119 Mr Andrew MacLeod, *Transcript 6 May 2010*, p. 46.

> … because they are answerable to their shareholders, they do need to show effect for the money they are spending. [120]

6.132 In Mozal, Mozambique, BHP Billiton has an aluminium smelter. It conducted an anti-malaria program in the area which was, 'a partnership between the Mozambique government, the South African government and the Lesotho government, with private participants like BHP Billiton'.[121] Mr MacLeod noted that the program had resulted in the rates of malaria declining 'from 74 per cent of the population to 17 per cent.'[122]

6.133 The HIV/AIDS program run by BHP Billiton in its South African operations had resulted in infection rates of 14 to 15 per cent, whereas the demographic infection rate was 'closer to 25 per cent or higher.' [123]

Paladin Energy

6.134 The representative from Paladin Energy, Mr Gregory Walker, General Manager, International Affairs, explained to the Committee that his responsibility was oversight of the company's 'social responsibility programs in-country and corporate relationship with the host governments.' He agreed with Oxfam concerning communication between head office and on-site management in Africa:

> I think that this is true generally, but also specifically in the case of social responsibility. Paladin recognises this fact and it is part of my accountability within the company to ensure that those linkages exist and that the cultural values we espouse at head office are in fact reflected at the sites.[124]

6.135 In developing its mine site in Malawi, Paladin Energy had:

> …'established and conduct[ed] a formal process of negotiation and consultation with local traditional authorities and the community as well as the government of Malawi. This is an ongoing regional program which is conducted informally almost on a daily basis and formally on a quarterly basis.[125]

6.136 The environmental impact assessment process had been undertaken by an internationally recognized consulting group and followed requirements in Malawi legislation which were comparable to Australian requirements:

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120 Mr Andrew MacLeod, *Transcript 6 May 2010*, p. 46.
121 Mr Ian Wood, *Transcript 7 December 2010*, p. 29.
122 Mr Andrew MacLeod, *Transcript 6 May 2010*, p. 46.
123 Mr Ian Wood, *Transcript 7 December 2010*, p. 29.
124 Mr Gregory Walker, *Transcript 6 May 2010*, p. 35.
125 Mr Gregory Walker, *Transcript 6 May 2010*, p. 37.

> The Kayelekera EIA was subjected to extensive stakeholder review by government agencies, NGOs, the general public and international experts, including the International Atomic Energy Agency. Both the Kayelekera mine and its EIA have been designed to meet not only local regulatory requirements but also international standards and guidelines, such as those stipulated under the Equator Principles.[126]

6.137 Paladin Energy's performance against its commitments was routinely audited by its banking consortium's independent technical consultant. [127]

6.138 Paladin Energy described to the Committee the impact of its operations in Malawi:

> Prior to investment of in excess of some $200 million in Kayelekera, Malawi had no modern mining industry at all, much to their distress, just a handful of small partisan operations mainly focused on coal and gemstones. It has been estimated that Kayelekera, once it is in full production, will add 10 to 15 per cent to Malawi's GDP and account for up to 70 per cent of total foreign earnings. … The project has provided a direct employment for some 2250 Malawians during the construction phase and will, long-term, about 500 local people during the operations phase. … the company has spent more than US$10 million on social development projects, most notably in construction of a new water supply project for the northern regional town of Karonga. It utilises Australian filtration technology and guarantees the 40,000 odd residents of Karonga for the first time in almost living memory a clean, reliable, assured source of water which is designed to meet the town's needs until at least 2025.[128]

6.139 Paladin Energy also advised that it employed four Australian environmental or community development officers who worked in 'agricultural outreach, education support, HIV/AIDS, and health and hygiene campaigns.' The company had also 'built or renovated schools, built new teacher's housing and established health clinics.'[129]

126 Mr Gregory Walker, *Transcript 6 May 2010*, p. 37.

127 Mr Gregory Walker, *Transcript 6 May 2010*, p. 37.

128 Mr Gregory Walker, *Transcript 6 May 2010*, pp. 36-7.

129 Mr Gregory Walker, *Transcript 6 May 2010*, p. 37.

Rio Tinto

6.140 The representative from Rio Tinto, Mr Bruce Harvey, Global Practice Leader, Communities, told the Committee that it had a small corporate team, reporting directly to the Rio Tinto board, which 'oversights policy, community standards and guidance notes to operating teams on the ground and, more importantly, runs a very important assurance function'. In addition, the team's performance was subject to independent auditing—the auditors reviewed a sample of Rio Tinto's operations on an annual basis.[130]

6.141 Mr Harvey added:

> … we have literally hundreds, if not thousands, of people at sites all around the world who work in direct engagement with host communities and governments. More importantly, every single one of our operating officers has a communities and socio-economic mandate, because as I said we are not running a philanthropic organisation; we're running a business, and the single biggest contribution we make is in the business activities of our operations. So a huge effort is going into local training and employment, the development of local and national procurement programs, regional infrastructure, environmental co-management programs, site and land access security, and human rights protocols.[131]

6.142 Rio Tinto described its contribution to the gross domestic product of Namibia where it had been operating for 35 years:

> Close to 100 per cent of our employees are Namibian. We currently contribute four per cent of Namibia's GDP. In the past it has been much larger. Twelve per cent of the current exports of Namibia are from that operation. … An informal measure of ours is that over time we want to see our GDP contribution reduce because that implies the rest of the economy is growing strongly. That is absolutely demonstrable in Namibia.[132]

130 Mr Bruce Harvey, *Transcript 6 May 2010*, pp. 15, 18.

131 Mr Bruce Harvey, *Transcript 6 May 2010*, p. 16.

132 Mr Bruce Harvey, *Transcript 6 May 2010*, p. 18.

6.143 Also in Namibia, Rio Tinto has established the Rossing Foundation:

> Over the years it has invested at a national level a substantial amount of money … It has co-partnered with the European Union and a number of other highly credible international donor organisations. In fact, that has happened as a result of the governance conditions … It is one of the strongest governed development organisations. It is essentially a development NGO. Other donors are happy to put funds into the organisation because they know that it will be well governed and the money will be well spent. It is essentially a partnership with the Namibian government. … since 1978, $33 million has been donated from the operation through the Rossing Foundation and more through leverage in with others, specifically to projects directed at empowering women, agricultural development, small and medium enterprise development, education centres—mathematics, science—and many other things.[133]

6.144 In addition, in Limpopo Province, South Africa, the Palabora Foundation provides 'the logistical-administrative support, the clinics and all the anti-retroviral medication and other things' for the HIV-AIDS program in the region.[134] The Foundation was created in 1986 in partnership with the provincial government of Limpopo. Until 2001, it received three per cent of the after-tax profit of Rio Tinto's Palabora copper mine. After 2001 its operating expenses have been met by interest earned from its trust fund.[135]

6.145 Responding to the issue of joint ventures with other countries in developing Africa's resources, Rio Tinto advised that its new iron ore Simfer project in Guinea was a joint-venture with a Chinese company Chinalco. Rio Tinto stated:

> All of those operations comply fully with Rio Tinto's international expectations, which are to an Australian standard. The sovereign and private equity companies are not constrained by similar self-discipline, and that puts us at a distinct disadvantage, but we are certainly not going to reduce our standards of behaviour.[136]

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133 Mr Bruce Harvey, *Transcript 6 May 2010*, p. 19.

134 Mr Bruce Harvey, *Transcript 6 May 2010*, p. 24.

135 <http://www.pafound.co.za/who-are-we.html>

136 Mr Bruce Harvey, *Transcript 6 May 2010*, p. 23.

Adamus Resources

6.146 While in Ghana, the Committee Delegation inspected the Adamus Resources Nzema Gold Project in western Ghana. The Delegation visited the Salman village resettlement project and was provided with the report of Adamus Resources' activities.[137]

6.147 The Salman resettlement was preceded by a two-year consultation period which resulted in a Resettlement Agreement. The resettlement involved 'over 2000 people, 450 structures and 19 public buildings', and was based on:

> … Ghana EPA standards, as well as previous resettlement projects in Ghana. It is a 'like-for-like' resettlement, with additional terms agreed with the community that go beyond statutory minimum requirements. These include the provision of a police station and medical clinic in the village, bathrooms and verandas to all houses, larger room sizes compared to standard practice and a commitment to provide electrical distribution throughout the village.[138]

6.148 In partnership with AusAID, training has been provided at nearby training institutes for 141 local community youths in 'carpentry, welding and fabrication, mechanical, plumbing, masonry, and electrical installation.' The report noted that 'almost 60% of those involved are now self-employed, 24% working within organisations including Adamus and its contractors, and 5% are continuing with further education.'[139]

6.149 In addition, Adamus Resources had:

- built three schools and provided text books, stationery, sporting goods and other suppliers;
- installed mechanised bore holes in local schools, communities and nursing facilities;
- repaired existing bore holes;
- partnered with a mobile Telco to deliver a 3-G network to the plant site and adjoining communities; and

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137 Exhibit No. 52, Adamus Resources, *Nzema Gold Project, Ghana. Increasing value through gold production and exploration.*

138 Exhibit No. 52, pp. 22-3.

139 *Exhibit No. 52*, pp. 24-5.

- conducted a malaria education program during which 160 treated mosquito nets were 'distributed to vulnerable community groups, particularly pregnant women, new mothers and community elders.'[140]

6.150 The report noted Adamus Resources was committed:

> … to the Community Consultative Committee made up of representatives of local government authorities, traditional councils, farmers and Company representatives, [which was] paramount to receiving continued assistance and support from affected communities.[141]

6.151 The company was also undertaking a progressive rehabilitation of the mine site and was conducting ongoing water sampling, dust monitoring and waste management.[142]

The response of African governments

6.152 In September 2010, South Africa's Department of Mineral Resources issued an amendment to The Broad-Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry. The provisions included:

- ownership—achievement of a percentage ownership by historically disadvantaged South Africans;
- procurement and enterprise development—procuring a minimum percentage of capital and consumer goods from black economic empowerment entities; and contributing a minimum percentage of annual income towards socio economic development of local communities;
- employment equity—achieving a minimum percentage of historically disadvantaged South African demographic representation at all levels of management;
- human resource development—investing a percentage of annual payroll in essential skills development activities;
- mining community development—investment in community consultative and collaborative processes, and assessment of developmental needs;

140 *Exhibit No. 52*, pp. 26-8.
141 *Exhibit No. 52*, p. 27.
142 *Exhibit No. 52*, p. 29.

- housing and living conditions—targeted improvement of standards of housing and living conditions for mineworkers; and
- sustainable development and growth of the mining industry—improvement of environmental management and health and safety performance.[143]

6.153 It appears to the Committee that the South African initiative has been reflected in a strengthening of SADC's attitude towards the foreign extractive industries sector. A joint statement issued by SADC's Parliamentary Forum and the Southern Africa Resource Watch in October 2010 contained the following:

> Sub Saharan Africa continues to be resource rich but paradoxically remains unlikely to meet most of the United Nations' Millennium Development Goals, and more especially the goal on Eradicating Extreme Poverty. …
>
> Our governments are deemed to be lenient towards Foreign Direct Investors whereas it is necessary to uphold stringent standards prevalent in their respective countries of origin …[144]

6.154 The resolutions in the statement included:

> - … African countries and urged to prioritise their own development needs and zealously guard national interest and sovereignty. …
> - The legislative and institutional environments currently obtained are weak and urgently require strengthening to ensure greater returns from the extraction of natural resources;
> - It is imperative that Strategic Environmental and Social Impact Assessments be prepared by reputable experts, who are independent of both government and private sector interests …
> - Local communities living adjacent to extraction areas, including those who are moved from their traditional lands, are often neglected and there is a need to ensure that they become ultimate beneficiaries through participation and overall empowerment;
> - … Mining companies should be held liable for remediation for the entire operation; …
> - The corporate practice of hoarding mining revenues outside the borders of a country where mining is taking place, militates

143 <http://www.dmr.gov.za/Policie_And_Promotion/Documents/Documents/Amended_of_BBSEE_Charter.pdf> Accessed May 2011.

144 SADC Parliamentary Forum; SARW, *Parliamentary statement, 'Towards enhancing Parliamentary legislative and oversight role in extractive industries sector.'* 30 October 2010.

against the balance of payments of that country and should thus be discouraged; …

- There is thus a need for a SADC Parliament … which would ensure harmonisation of legislation and lead to greater regional oversight of extractive operations;
- The role of civil society including media is crucial in providing a sound partnership in tracking, raising public awareness on critical issues as well as assisting in oversight of function.

6.155 Responding to this statement, BHP Billiton said:

> While we would not necessarily agree with every one of the recommendations, the sorts of areas that they have identified as being important gaps that need to be addressed, if all countries in Africa are to capitalise on their resource endowment, seem to be in the right sorts of areas.[145]

Transparency

Extractive Industries Transparency Initiative

6.156 The Extractive Industries Transparency Initiative (EITI) is a coalition 'of governments, companies, civil society groups, investors and international organisations' which has developed a 'globally developed standard that promotes revenue transparency' at the country level. It aims 'to strengthen governance by improving transparency and accountability in the extractives sector.' [146]

6.157 DFAT advised that a key objective of EITI was the 'verification and full publication of company payments and government revenues from oil, gas and mining.' Since 2007 Australia had provided $1.4 million to the EITI.[147]

6.158 There are several stages in a country becoming an EITI compliant nation:

- a country signals its intent to implement the EITI;
- when the EITI Board considers a country has met four indicators, including the development of a work plan, it becomes an **EITI Candidate**;
- to achieve **EITI Compliant** status a country must complete an EITI validation by an independent validator, meeting all EITI indicators, within two years of becoming a candidate;

145 Mr Ian Wood, *Transcript 7 December 2010*, p. 36.
146 <http://eiti.org/eiti> Accessed May 2011.
147 DFAT, *Submission No. 46*, p. 500.

- thereafter the validation occurs every five years.

6.159 If the EITI validation only shows progress of a candidate nation towards EITI, it retains its candidate status, but if there is no meaningful progress, the EITI Border may revoke candidate status.

6.160 The EITI website indicates that in 2011 there were:

- 11 compliant nations—5 are in Africa;[148]
- 24 candidate countries—15 are in Africa;[149] and
- 4 countries have signalled their intent to implement EITI—3 are in Africa.[150,151]

6.161 In a supplementary submission, DFAT provided further details:

> … 50 of the world's largest mining, gas and petroleum companies are supporting company members of the initiative. Five Australian mining companies have already endorsed EITI including BHP Billiton, Rio Tinto, Santos, Woodside and Newmont.
>
> In addition, 80 of the world's largest investment institutions are supporting investor members of the initiative. The largest manager of Australian sourced funds, Colonial First State Asset Management, has also endorsed EITI.[152]

6.162 Mr Roger Donnelly, Chief Economist, EFIC summarised the initiative as being an urging of host governments to publish what they receive and mining companies to publish what they pay in order to 'shine a bright light of transparency upon what is going on to minimise the risk of corruption'. Mr Donnelly commented that industry saw it as necessary but not sufficient for achieving good governance and transparency. A lot of companies, he suggested, saw value in signing up to the initiative because it enabled them to engage in dialogue with the host country to encourage them to also adopt the initiative.[153]

6.163 BHP Billiton stated that it was a strong supporter of EITI and it had begun to report its taxes and royalties on a country by country basis. If governments were intent on keeping EITI-relevant information secret,

148 Central African Republic, Ghana, Liberia, Niger, Nigeria.

149 Cameroon, Chad, Cote d'Ivoire, Democratic Republic of Congo, Gabon, Guinea, Madagascar, Mali, Mauritania, Mozambique, Republic of the Congo, Sierra Leone, Tanzania, Togo, Zambia.

150 Equatorial Guinea, Ethiopia, Sao Tome and Principe.

151 <http://eiti.org/implementingcountries> Accessed June 2011.

152 DFAT, *Submission No. 94, p. 1180.*

153 Mr Roger Donnelly, *Transcript 7 December 2010*, p. 46.

BHP Billiton added, 'you have to question their motive, and if that is corruption and misappropriation then maybe that is a government that we are better off not working with.[154]

6.164 Further, the Committee notes that of the First World Countries, Norway is the only country that is EITI compliant and that no other countries are either EITI candidates or have signalled intent to adopt EITI principles.[155] Indeed, Australia has been criticised for encouraging countries to implement EITI, but is not itself taking steps to become an EITI compliant country.[156]

Committee comment

6.165 The Committee is satisfied that the Australian mining sector operating in Africa is committed to fulfilling its corporate social responsibility obligations.

6.166 Unfortunately, no evidence has been received from small exploration companies who do not necessarily have a long-term commitment to a project beyond proving its economic viability. Consequently there is value in government continuing to espouse the need for corporate social responsibility policies and adherence to those policies especially to new entrants and small operators.

6.167 The Committee notes the government's support for the EITI process, but the promotion of this concept needs to be ongoing.

6.168 The Committee considers it would considerably enhance Australia's advocacy of EITI adoption if it was itself engaged in the process of becoming EITI compliant.

Recommendation 13

6.169 **The Government should undertake steps for Australia to become an EITI compliant country.**

154 Mr Ian Wood, *Transcript 7 December 2010*, pp. 30, 33.

155 <http://eiti.org/implementingcountries> Accessed June 2011.

156 See Oxfam, *Submission No. 39*, p. 364; and *Transcript 7 December 2010,* p. 47.

Recommendation 14

6.170 **The Government should promote corporate social responsibility and continue to promote the Extractive Industries Transparency Initiative principles and other corporate social responsibility instruments to the Australian mining sector, in particular at the Australia Down Under Conference, and especially to new entrants and small operators.**

Recommendation 15

6.171 **The Government should facilitate contacts between mining sector companies, NGOs, and the broader private sector who are able to assist them in creating and executing corporate social responsibility policies.**

Transparency of the Export Finance and Insurance Corporation

6.172 Jubilee Australia has criticised EFIC for its lack of transparency. Its report, *Risky Business,* drew attention to the exemption from the *Freedom of Information Act 1982* enjoyed by EFIC for documents relating to its Insurance and Financial Service Products and National Interest Transactions. The report commented:

> Statutory exclusions like Section 7 of the FOI Act, dual accounts (each with a distinct statutory regime), and a low public profile combined to make EFIC one of the most scrutinised and least accessible statutory corporations in Australia.[157]

6.173 Jubilee Australia told the Committee that there needed to be:

> … increased government scrutiny of EFIC to ensure its support for our exporters does not come at the cost of social and economic development and environmental protection of the countries of Africa.[158]

6.174 Specifically, Jubilee Australia sought increased disclosure to include the public release of:

- all project Action Plans and Impact Assessments created by the client in compliance with the International Finance Corporation (IFC) Performance Standards;

157 Jubilee Australia, *Risky Business – Shining a Spotlight on Australia's Export Credit Agency*, p. 14.
158 Ms Adele Webb, *Transcript 7 December 2010*, p. 3.

- IFC Performance Standard benchmarking completed by EFIC staff in compliance with the EFIC Environment Policy;
- all documents received by EFIC from clients relating to ongoing compliance with measures agreed in the environmental assessment to mitigate environmental and social harm, and the results of ongoing monitoring programs.[159]

6.175 EFIC responded to these criticisms, and to the *Risky Business* report in a supplementary submission.[160] EFIC stated that in its reporting, it followed ASX guidelines and 'follow every conceivable rule and regulation when it comes to disclosure of significant environmental projects.'[161] EFIC added:

> We have a category A [projects], which is where there is a significant risk or a significant potential for impacts. For those ones, before making a decision to support a project, we disclose whatever environmental and social information we have at the time, which is usually an impact assessment of some kind or sometimes management plans if they are available. … Then, in our annual reports, for that type of project we typically say: 'We looked at this project. The major issues that we were concerned about were these and, typically, this is how we would manage those.' So we actually do what they are asking for. We do not do it in the same format perhaps, but we disclose and publish a lot more than we are obliged to under our international obligations.[162]

6.176 In withholding commercial-in-confidence material, EFIC told the Committee that often small firms gave EFIC their financial statements which would enable the identification of the salary of their CEO. The commercial-in-confidence extension was based on the fact that firms did not want that sort of information in the public arena. EFIC's reason was that from experience, it had found it would get a 'better quality of information from these companies' when they were told it was not going to be released.[163]

6.177 EFIC also advised the Committee that after the public hearing it had met with Jubilee Australia and Oxfam Australia, and others, as part of a review of its environment policy.

6.178 An issue which had been raised by Jubilee Australia—the publication of EFIC board minutes—was discussed and revealed that the underlying

159 Jubilee Australia, *Risky Business*, p. 6.

160 EFIC, *Submission No. 99*, pp. 1237–40.

161 Mr Angus Armour, *Transcript 7 December 2010*, p. 44.

162 Mr Jan Parsons, *Transcript 7 December 2010*, p. 45.

163 Mr Angus Armour, *Transcript 7 December 2010*, pp. 44–5.

concern was the desire to receive timely information 'concerning EFIC's provision of support to exporters.' In response, EFIC had agreed to maintain on its website a table listing all signed transactions. This would be updated several times a year and 'interested persons will be able to receive an automatic alert each time the table is updated.'[164]

Safety of uranium mining

6.179 The Australian Conservation Foundation (ACF) expressed concern about uranium mining in Africa:

> ACF believes that the absence of a robust regulatory regime covering this sector in many African countries could see a situation where Australian companies are engaged in activities that would not be acceptable in this nation, especially given that many of the Australian companies active in the African uranium sector are juniors with limited capacity and little or no operational experience or proven compliance ability.[165]

6.180 As a result, the ACF proposed a series of recommendations designed to create 'a culture of accountability and transparency' including practical mechanisms 'on the ground, particularly through strengthening civil society.' Other recommendations concerned 'not facilitating or financing Australian companies either through rebates or exploration tax write-offs'.[166]

6.181 The ACF witness added that if uranium miners responded that they were in fact operating to Australian standards, his response was:

> I welcome that and I would say, 'Prove that by mandating it, and do not be hostile to it.' That is the way to engender confidence and earn a social license. 'Don't tell us about it. Legislate it, regulate it, monitor it independently and rigorously. If you can prove it then you've stepped up.'[167]

6.182 The ACF also noted that there were many policy documents, but they were inadequate because there was no mechanism for punishment or penalty for non-compliance and there was no independent assessment of how a company performed against those procedures.[168]

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164 EFIC, *Submission No. 99*, p. 1238.

165 ACF, *Submission No. 40*, p. 403.

166 Mr Dave Sweeney, *Transcript 5 May 2010*, p. 84.

167 Mr Dave Sweeney, *Transcript 5 May 2010*, p. 88.

168 Mr Dave Sweeney, *Transcript 5 May 2010*, p. 85.

6.183 In response, the AUA commented that the ACF submission and its proposals lacked 'an analytical or evidential basis' and there was 'little to connect the ACF recommendations to identified problems or issues'. The detailed response included:

- The ACF provides no independent analysis to show that African countries lack a robust regulatory regime for uranium
- There is no basis for the assertion that small and mid-tier uranium companies necessarily have limited capacity and operational experience. Small does not mean incapable. If, as the ACF implies, lack of a proven track record of compliance should be a criterion for a licence to operate, no new business would ever get off the ground. …
- The ACF gives no indication that it has sought or taken into account the potential reaction of sovereign African countries to its proposal that an Australian regulator make assessments of uranium industry performance in those countries. …
- The ACF has not made out any case for Australian uranium companies operating in Africa to be excluded from receiving support from Australian government programs that are generally accessible by Australian companies operating overseas.[169]

6.184 The AUA noted that all its members had agreed 'to adopt and apply the Association's *Charter* and its *Code of Practice*. The Code contained the following sections:

- Continuous improvement to best practice in management
- Safely manage, contain and transport all hazardous material, tailings and other wastes
- Provide adequately for mine closure and rehabilitation
- Continuous improvement in best practice in radiation control
- Regulatory obligations
  - ⇒ As a minimum, adhere to the applicable international and national laws, regulations and codes that govern the industry
- Provide information about uranium and its properties to stakeholders.[170]

6.185 AUA also stated that its members were fully aware of the obligations to operate to high standards, were committed to doing so, and were doing

169 AUA, *Submission No. 62*, p. 718.

170 AUA, *Submission No. 62*, p. 718.

so. Also, the standards to which they worked with those that applied to them in Australia.[171]

6.186 Regarding the risk of proliferation, the AUA commented that uranium mining itself was not a significant proliferation risk which was why the IAEA focused on safeguarding 'the back end of the nuclear fuel cycle.'[172]

Committee comment

6.187 The Committee notes the ACF comments and AUA response. A solution would be to introduce independent auditing of AUA member performance in the interests of providing openness and transparency.

Australia Africa Council

6.188 One proposal considered by the Committee was that an Australia-Africa Council be created by DFAT to foster relations between Australia and African nations.[173] Mr Sibraa told the Committee that such a council could be a significant help to Australia's interests in Africa, especially if focused, in particular, on the areas of trade and resources.[174]

6.189 There are currently nine geographically-specific councils sponsored by DFAT through which it seeks to enhance relationships with other nations, and groups of nations.[175]

6.190 These councils comprise stake-holders with interests spanning Australia and the specified nation or group of nations, including representatives from the business community. Members of the Council on Australia Latin America Relations, for example, include representatives from: mining and other industries; higher education; financial services; the Lowy Institute; and the Australia-Brazil Chamber of Commerce.[176]

171 Mr Michael Angwin, *Transcript 8 December 2010*, p. 43.

172 Mr Michael Angwin, *Transcript 8 December 2010*, p. 47.

173 *Transcript 28 April 2010*, p. 49.

174 Hon. Kerry Sibraa, *Transcript 28 April 2010*, p. 2.

175 Current councils are the: Australia-China Council; Australia-India Council; Australia-Indonesia Institute; Australia-Japan Foundation; Australia-Korea Foundation; Australia-Malaysia Institute; Australia-Thailand Institute; Council for Australian-Arab Relations; and the Council on Australia Latin America Relations. <http://www.dfat.gov.au/>. Accessed June 2010.

176 <http://www.dfat.gov.au/coalar/members.html> Accessed June 2010.

6.191 A sample of selected councils—the Australia-China Council; Australia-India Council; and Council for Australia Latin America Relations—indicates that their budgets range from approximately $500,000 to $750,000 per annum, of which approximately 10% is spent on administration. The Australia-China and Australia-India Councils spend most of their budget to fund grants allocated through competition rounds. The Council for Australia Latin America Relations devotes much of its discretionary spending to events which promote relations between Australia and Latin American nations.[177]

6.192 Two of these councils were created as a response to recommendations of parliamentary committee inquiries. The Australia-India Council was created in response to a recommendation of the Senate Standing Committee on Foreign Affairs, Defence and Trade, while the Council on Australian Latin America Relations was created in response to a recommendation of the Trade Sub-Committee of this Committee.[178]

Committee comment

6.193 The Committee believes the links between Australian and African nations and the increasing trade and investment and other opportunities warrant the establishment of an Australia-Africa Council along lines similar to those currently existing for other countries and regions.

Recommendation 16

6.194 **The Department of Foreign Affairs and Trade should establish, and provide adequate funding for an Australia-Africa Council.**

177 <http://www.dfat.gov.au/aic/aic_annual_report/AIC_program_report_2008_09.pdf> <http://www.dfat.gov.au/acc/acc_introduction.html>; <http://www.dfat.gov.au/coalar/publications/annual_report_2009.pdf> Accessed June 2010.

178 <http://www.dfat.gov.au/aic/aic_intro.html>; <http://www.dfat.gov.au/coalar/> Accessed June 2010.