

Other Free Trade Agreements

ASEAN-Australia-New Zealand Free Trade Agreement

- 6.1 The Agreement establishing the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) was signed on 27 February 2009 and came into effect on 1 January 2010.
- 6.2 For Australia it is a unique agreement – the largest plurilateral agreement that Australia has signed outside the GATT/WTO. It is also our largest agreement overall. It is the first time Australia and NZ have jointly negotiated an agreement with other countries.¹ Australia, NZ and the ten countries of ASEAN² have a total population of around 600 million and an estimated GDP of \$3.1 trillion.³
- 6.3 The Department of Foreign Affairs and Trade (DFAT) noted in its submission, that the Agreement covers 20 per cent of Australia's total trade in goods and services (A\$112 billion in 2008). For ASEAN it is the most comprehensive agreement that the group has negotiated.⁴
- 6.4 DFAT explained that the Agreement offers:

...significant tariff reduction and elimination over time from the more developed ASEAN member countries and Vietnam,

1 Kristen Bondietti, Australian APEC Study Centre, *ASEAN, Australia and New Zealand FTA: Setting New Standards in the Region*, APEC Currents, Issue 1, October 2009, p. 1.

2 ASEAN members are: Burma, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand and Vietnam.

3 Department of Foreign Affairs and Trade, Submission 40, p. 38.

4 Department of Foreign Affairs and Trade, Submission 40, p. 38.

including tariff elimination on between 90 and 100 per cent of tariff lines in each country covering 96 per cent of current Australian exports to the region.⁵

- 6.5 The NZ Deputy High Commissioner agreed with these assessments of the importance of the AANZFTA. He also expressed satisfaction about the way Australia and NZ were able to work together to achieve a significant outcome:

...there is no doubt that perhaps the most important agreement that we have done, and indeed we have done together, is the ASEAN Australian New Zealand free trade agreement with the tongue twisting acronym of AANZFTA.

It is a very significant agreement: 600 million people, which basically makes it the third largest grouping of populations in the world after China and India. It has a combined GDP of more than \$1.9 trillion and accounts for more than \$1.7 trillion of global trade. Two-way trade for us makes ASEAN our second most important market internationally.

It is a critical partner of ours, and most importantly perhaps it is our fastest growing – not only is it No. 2, but it is our fastest growing. It exceeds \$12 billion per annum in annual two-way trade and has more than 121 per cent growth, so it is very significant for us.

That is serious money, that is a serious opportunity, and what is very encouraging is the way in which Australia and New Zealand are working together. Not only did we work together in the negotiations to finish the agreement, but we are also working together to leverage those benefits from the agreement back into our economies. So Austrade and New Zealand Trade and Enterprise, those two bodies around trade promotion, have an active strategy to try to leverage these benefits back for us.⁶

- 6.6 The effect of the AANZFTA is to immediately bind the 2005 applied tariff rates “for all but a few lines”. This is significant because the WTO bound rates for ASEAN countries are generally much higher than the applied rate. The result is continuity and certainty of access for Australian exporters and, as the rates are phased down and eliminated, greater opportunities in the future.⁷

5 Department of Foreign Affairs and Trade, Submission 40, p. 38.

6 New Zealand Deputy High Commissioner, Committee Hansard, 10 March 2010, p. 4.

7 Department of Foreign Affairs and Trade, Submission 40, p. 38.

- 6.7 An overview paper prepared by DFAT comments that:
- AANZFTA is most substantial in the goods area, reflecting the fact that ASEAN has done more internal integration on goods than in the non-goods areas.⁸
- 6.8 A review of the Agreement by Minter Ellison comments that the main market effects will be on trade with Malaysia (total two-way trade A\$14 billion in 2007-08), Indonesia (A\$ 10.8 billion) and Vietnam (A\$8 billion). The framework for trade with NZ will be unaffected; Australia already has FTAs with Thailand and Singapore; and trade with Brunei Darussalam, Cambodia, Burma, Laos and the Philippines, is small by comparison with the other ASEAN countries.⁹
- 6.9 DFAT considered that the outcome on services was good, based on the inclusion of “WTO Plus” services commitments for sectors such as: professional services, education, financial services, and telecommunications. The Agreement makes provision for temporary business entry to include not only suppliers of services but sales representatives and investors. It also includes better rules for intra-corporate transferees in some ASEAN markets.¹⁰
- 6.10 Minter Ellison’s overall assessment of the services and investment provisions was more subdued. The company rated market access for services as “modest, but nevertheless important”. It notes that, in general, the agreement achieves “standstill” on services, preserving existing protection levels; there is little “rollback” of those levels.¹¹
- 6.11 On a more positive note, Minter Ellison notes that the Agreement provides certainty by binding protection levels against increases and establishes a framework for continued negotiations for reduction and removal of services trade barriers. Its assessment also comments that the commitment

8 Department of Foreign Affairs and Trade, The ASEAN-Australia-New Zealand Free Trade Agreement: Overview and Key Outcomes, http://www.dfat.gov.au/trade/fta/asean/aanzfta/aanzfta_overview_and_outcomes.html, accessed 5 March 2010, p. 3.

9 Minter Ellison, *The ASEAN Australia New Zealand Free Trade Agreement: An Overview and Assessment*, Special Report, April 2009, p. 4.

10 Department of Foreign Affairs and Trade, Submission 40, p. 38; Minter Ellison, *The ASEAN Australia New Zealand Free Trade Agreement: An Overview and Assessment*, Special Report, April 2009, p. 8.

11 Minter Ellison, *The ASEAN Australia New Zealand Free Trade Agreement: An Overview and Assessment*, Special Report, April 2009, p. 8.

to “standstill” is more than ASEAN has agreed to in the WTO negotiations.¹²

- 6.12 Other provisions for the services sector allow Australia to request consultations if an ASEAN country offers better deals on services to another AANZFTA country – with the aim of having those conditions extended to Australia also. Minter Ellison comments that:

The practical effect of this probably will be negligible – Australia could ask its ASEAN partners to do that in any event – but the symbolic effect of including a MFN clause in the trade agreement is significant. It highlights that liberalising services on a non-discriminatory basis is a positive objective.¹³

- 6.13 Inclusion of an emergency safeguard provision is more worrying. It only allows an ASEAN country to request consultations; but the aim of those consultations would be to allow that country to escape from a commitment made in the Agreement.¹⁴

- 6.14 DFAT’s assessment of the investment provisions indicates that the Agreement provides greater transparency and certainty for Australian investors. It also establishes an investor-state dispute resolution mechanism.¹⁵

- 6.15 The transparency provisions cover measures such as minimum standards of procedural transparency; rights of review of administrative decisions; and rights to make prior comments before new measures are adopted. The Agreement provides for the establishment, within five years, of a work program to develop market access schedules; covering pre-establishment issues such as foreign equity limits, subject to the agreement of the parties.¹⁶

- 6.16 The Australian APEC Study Centre’s analysis noted that:

In a first for ASEAN, provisions to liberalise investment form an integral part of the agreement alongside those for goods and services. Parties agreed not to discriminate among ... investors and investments and to prohibit performance requirements for them.

12 Minter Ellison, *The ASEAN Australia New Zealand Free Trade Agreement: An Overview and Assessment*, Special Report, April 2009, p. 8.

13 Minter Ellison, *The ASEAN Australia New Zealand Free Trade Agreement: An Overview and Assessment*, Special Report, April 2009, p. 8.

14 Minter Ellison, *The ASEAN Australia New Zealand Free Trade Agreement: An Overview and Assessment*, Special Report, April 2009, p. 8.

15 Department of Foreign Affairs and Trade, Submission 40, p. 38.

16 Department of Foreign Affairs and Trade, Submission 40, p. 38.

Annexes set out the sectors and activities which are exempted from these obligations.¹⁷

6.17 Minter Ellison comments that, unlike the AUSFTA, the AANZFTA does not impact on Australia's Foreign Investment Review Board's thresholds. It also adds that Australia and NZ have excluded the investment and dispute settlement rules for matters between themselves.¹⁸

6.18 The New Zealand Deputy High Commissioner said that he expects that the agreement will signal increases in services trade in investment:

There was one additional comment that I wanted to add on the shifting pattern of trade, and that was to mention where I would expect there to be an increase in trade is around the services and investment flows because, through the ASEAN-Australia and New Zealand FTA, there is now an investment chapter which provides real security of investment for Australian and New Zealand investors. That is better than anything that New Zealand had in place before the agreement was signed, so there is some real certainty now for a New Zealand investor putting an investment into those countries.

I think that is important in a facilitating way and I expect that part of the trade to change. I also expect services trade to change. For example, for New Zealand education services, environmental and engineering services are real priorities. Some of the benefits that we got out of the ASEAN FTA and also out of the Malaysia FTA would give our two countries some competitive advantages compared to other services suppliers. Again, I would expect a modest, but important, shift into that part of the trade.¹⁹

6.19 Other features of the Agreement are:

- Provisions on Intellectual property. It mainly reinforces the obligations under the WTO agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement), but also:
 - ⇒ extends the TRIPS requirements on copyright infringement, to include "cases where a person wilfully commits a significant infringement of copyright that is not committed for commercial

17 Kristen Bondietti, Australian APEC Study Centre, *ASEAN, Australia and New Zealand FTA: Setting New Standards in the Region*, APEC Currents, Issue 1, October 2009, p. 1.

18 Minter Ellison, *The ASEAN Australia New Zealand Free Trade Agreement: An Overview and Assessment*, Special Report, April 2009, p. 8.

19 New Zealand Deputy High Commissioner, Committee Hansard, 14 April 2010, p. 13.

advantage or financial gain, but which has ‘a substantial prejudicial impact’ on the owner of the copyright”

⇒ adds a commitment that central government agencies will use only legitimate computer software and will encourage other regional and local government to do the same

⇒ requires the implementation of several measures to enhance the transparency and management of intellectual property rights.²⁰

- Economic Cooperation. The Agreement provides for economic cooperation in the form of technical assistance and capacity building to assist developing ASEAN countries in implementing the FTA

⇒ Australia has committed up to \$20 million for these projects over a five year period.²¹

6.20 In anticipation of the completion of this agreement, Austrade restructured its representation in the ASEAN area into regional industry teams. Each Senior Trade Commissioner and Trade Commissioner now leads one of these teams, which complement Austrade’s industry coverage in Australia. Austrade estimates that:

Based on the results from the Singapore-Australia FTA (SAFTA) and the Thailand-Australia FTA (TAFTA) where export figures practically doubled after implementation, it is anticipated that AANZFTA will deliver similarly substantial export growth.²²

6.21 Austrade also indicated that a commercial strategy was being prepared to:

...identify by industry sector which countries offer key opportunities to ensure Australian companies are informed and are able to make the most of the window of opportunity offered by AANZFTA²³

6.22 The analysis by the Australian APEC Study Centre concluded:

The agreement also adopts a more simplified structure than many of ASEAN’s other FTAs, to the benefit of traders, investors and governments. It minimises some of the complexity associated with multiple “tracks” for liberalisation for different categories of products which have been adopted in FTAs with other trading

20 Minter Ellison, *The ASEAN Australia New Zealand Free Trade Agreement: An Overview and Assessment*, Special Report, April 2009, p. 4.

21 Department of Foreign Affairs and Trade, Submission 40, p. 38.

22 Austrade, Submission 18, pp. 3 and 10.

23 Austrade, Submission 18, p. 10.

partners. AANZFTA limits commitments for all parties to two “tracks:” sensitive products are differentiated from “normal products” but are generally not excluded from tariff reductions. The need for differential commitments among parties at varying levels of development is recognised through lengthier time periods for tariff reductions. Transparency is achieved through specification of agreed reductions and timing for their implementation in schedules annexed to the agreement.²⁴

- 6.23 The Sub-Committee asked the NZ Deputy High Commissioner whether he expected major changes in trade patterns under the influence of the new agreement. He commented;

Let me put it from the perspective of New Zealand. ASEAN is our second largest trading partner as a block. Australia is our most important trading partner. I do not expect that to change.

Where I do expect something of a change is perhaps a little bit of a move to distribute some of that trade across a broader set of the ASEAN countries. At the moment, for both of us, our focus has been particularly around Indonesia, Malaysia, Thailand and Singapore.

The interesting thing is going to be the extent to which this ASEAN-Australia and New Zealand FTA helps us get into new markets in a bigger way. We already have for instance a fast growing trade with Vietnam. I would expect Vietnam to be at the core of that. I would expect a modest, but growing, trade with countries like Cambodia and Laos and I would expect the trade with Malaysia to continue to expand fairly quickly too, especially as that economy grows.

With Indonesia there are some very particular benefits to the agreement. In terms of shifting the pattern of trade, I am not sure about that, for the simple reason that from New Zealand’s perspective – which is a little bit different to Australia – more than half the products that we ship to Indonesia are agricultural products. They are beef and dairy.

There is a limit to the amount we could produce so that even if tomorrow we got duty free access to Indonesia, we would not be flooding that market with dairy products or with beef because there are a whole set of other markets that we need to service and

24 Kristen Bondietti, Australian APEC Study Centre, *ASEAN, Australia and New Zealand FTA: Setting New Standards in the Region*, APEC Currents, Issue 1, October 2009, p. 1.

we would not have the kind of supply to really put into that market anyway, so I would not expect that to happen.

I remember with the China negotiations there was a concern on the part of the Chinese that this would shift the pattern of trade forever and that if they removed the 20 per cent tariff on skim milk powder that they would be flooded with New Zealand product.

I think the point we made to them was that, even if you geared up every single farm in New Zealand just to produce for China you would be producing less than 20 to 30 per cent of all of China's demand anyway. In the meantime we would not be servicing anywhere else in the world where we have some very high value markets to protect, not least against Australian competition.²⁵

- 6.24 The Deputy High Commissioner said that the relationship with ASEAN could be central to our future ties to the Asia-Pacific region:

... whenever you think about the Asia-Pacific region, it is an inescapable fact that you have got ASEAN at its centre. Those 10 member countries have been very deft about the way in which they have ensured that they are the centre of gravity in the region.

They have been very clever in the way that they have negotiated with China, Japan, Korea, Australia and New Zealand; where in each case they have made sure that they are the centre of gravity. They are the magnet around which everyone else is building processes. TPP comes at them from another angle, pulling out some of their members, and clearly others are actively thinking about how they might engage in that.²⁶

Other FTAs Under Negotiation

China

- 6.25 In 2003 Australia and China signed the Australia-China Trade and Economic Framework. As part of that agreement the two countries agreed

25 New Zealand Deputy High Commissioner, Committee Hansard, 14 April 2010, p. 12.

26 New Zealand Deputy High Commissioner, Committee Hansard, 14 April 2010, p. 5.

to carry out a joint feasibility study to determine whether to begin negotiations for a bilateral Free Trade Agreement.²⁷

6.26 The final report of the study, in March 2005, concluded that:

...an Australia-China FTA is feasible and, on balance, would substantially benefit both countries. Should both governments decide to enter into FTA negotiations covering goods, services, investment and bilateral cooperation as outlined in the study, it is recommended that the negotiations should begin as soon as possible.²⁸

6.27 The first round of negotiations on the FTA was held in May 2005 and there have now been fifteen meetings. The most recent was held in June 2010. The DFAT update report on the latter meeting indicated that there were still a number of difficult and sensitive issues to be settled.²⁹

6.28 The report said that:

On market access for goods there was a detailed discussion on both Australia and China's requests in agriculture and industrial products. ...There was also a further exchange of views on how to deal with China's sensitive sectors, in particular agriculture.

Further progress was made in the goods chapters with broad and productive discussions of trade in goods, rules of origin, sanitary and phytosanitary (SPS) issues, technical barriers to trade (TBT) and customs procedures.

Australia and China discussed possible elements to include in the text of the services and investment chapters. On services and investment market access, the two sides had a constructive and detailed exchange of views on ...investment, financial services and movement of natural persons...

Discussions were held on the institutional and framework, intellectual property and electronic commerce chapters ...

27 Department of Foreign Affairs and Trade and China's Ministry of Commerce, Australia-China Free Trade Agreement Joint Feasibility Study, Final Report, Canberra, March 2005, p. 3.

28 Department of Foreign Affairs and Trade and China's Ministry of Commerce, Australia-China Free Trade Agreement Joint Feasibility Study, Final Report, Canberra, March 2005, p. 134.

29 Department of Foreign Affairs and Trade, Australia-China FTA Negotiations, Subscriber update: Fifteenth round of negotiations, July 2010, http://www.dfat.gov.au/geo/china/fta/100706_subscriber_update.html accessed 1 September 2010.

Australia reiterated its interest in including provisions on government procurement and competition policy in the FTA.³⁰

Republic of Korea

- 6.29 In his evidence to the Sub-Committee, the NZ Deputy High Commissioner commented on the value of NZ's agreement with China and the significant impact it has had on their two-way trade:

Obviously, the New Zealand-China Free Trade Agreement that we signed has been a very significant agreement for us. To give you a sense of the figures that we are talking about, we have had an increase of \$1.1 billion worth of trade with China, and that has happened during a global recession. To put that in context for you, that is the equivalent for New Zealand of adding a market the size of Korea to our export profile. So in the space of one year since the FTA came into force we have added a market the size of Korea to our trading experience.

Supplementing that agreement, we concluded the FTA with Hong Kong late last year. That is the only FTA that Hong Kong has signed beyond the one that it has with China. It complements very nicely the agreement we have with China and recognises the fact that a lot of New Zealand companies operate out of Hong Kong, looking to get access to the Chinese market.³¹

- 6.30 In April 2008 a joint non-government study by ITS Global from Australia and the Korean Institute for International Economic Policy found that:

A free trade agreement between Australia and the Republic of Korea offers significant opportunities to further strengthen our highly complementary and growing bilateral trade and investment relationship, and deliver gains to both countries through closer economic integration.³²

- 6.31 The then Minister for Trade said that the Government was committed to pushing ahead with the FTA and commented that:

30 Department of Foreign Affairs and Trade, Australia-China FTA Negotiations, Subscriber update: Fifteenth round of negotiations, July 2010, http://www.dfat.gov.au/geo/china/fta/100706_subscriber_update.html accessed 1 September 2010.

31 Committee Hansard, 10 March 2010, p.5.

32 Australia-Republic of Korea Free Trade Agreement Feasibility Study, Joint Study by ITS Global and the Korean Institute for International Economic Policy, 17 April 2008, Executive Summary, p. 5.

The study clearly shows there is scope for a high-quality Australia-Korea free trade agreement that comprehensively liberalises two-way trade in goods and services as well as investment.³³

- 6.32 In a Statement to the Parliament on 10 March 2009, the Minister announced that agreement had been reached to commence negotiations for a Free Trade Agreement:

Following the completion of two rounds of officials-level preparatory talks in December last year, last week on 5 March 2009, the Prime Minister and President Lee announced that the two countries had agreed to launch FTA negotiations.

On the same day, I met my Korean counterpart, Kim Jong-hoon, and we have agreed to hold the first formal round of negotiations in May.³⁴

- 6.33 The most recent comments by the Department of Foreign Affairs and Trade indicate that in the first five rounds of negotiations considerable progress has been made:

The fifth round of FTA negotiations between Australia and Korea was held in Canberra from 25 to 28 May 2010.

Real progress was again made at this round - both sides are clearly keen to see this negotiation through to conclusion as quickly as we can, and this has underpinned the constructive attitude both sides continue to demonstrate. Nevertheless, significant challenges remain in achieving improvements in Korea's goods market access offer, particularly on agriculture.

Overall, the majority of chapter texts have been effectively concluded, including on topics such as Technical Barriers to Trade (TBT), Sanitary and Phytosanitary Standards (SPS), Dispute Settlement, Customs Procedures and Trade Facilitation, and E-Commerce, although all chapter negotiations remain subject to the legal scrub process and the conclusion of the agreement as a whole.

In the lead-up to the fifth round, the two sides exchanged further clarifications regarding each side's respective goods market access interests. At the round, Australia continued to highlight the

33 The Hon Simon Crean MP, Minister for Trade, Media Release, *Study Reveals Gains to Australia from FTA with Korea*, 22 April 2008, p. 1.

34 Minister for Trade, Hon Simon Crean MP, Ministerial Statement, *Australia-Korea Free Trade Agreement*, http://www.trademinister.gov.au/speeches/2009/090310_korea_fta.html, accessed 12 October 2010.

improvements we need in Korea's goods offer, particularly for priority agricultural products. Korea similarly highlighted its interest in the elimination of Australia's tariffs on its priority industrial products.

The two sides continued with constructive exchanges on goods-related chapters. In addition to those chapter texts mentioned above, these include chapters on Trade in Goods, Trade Remedies and Rules of Origin. Despite the effective conclusion of some goods-related chapters, further discussion will be required in certain areas. The two sides also continued to discuss each side's proposals for enhanced cooperation in the agricultural, energy and mineral resources sectors.

We also had substantial discussions on various services and investment topics. Text negotiations in the five relevant chapters (Cross-Border Trade in Services, Investment, Financial Services, Telecommunications and Movement of Natural Persons) have moved close to conclusion in most areas. Before the round, the two sides exchanged revised services and investment market access requests, and the fifth round provided an opportunity to further discuss each side's priorities and sensitivities. Australia's requests have focused on sectors including financial services, telecommunications, professional services and education.

Negotiations on other chapters, including Intellectual Property Rights and Government Procurement, made further good progress. Both sides also exchanged and discussed initial government procurement market access offers, and this discussion will continue at future meetings.³⁵

Japan

6.34 In 2006 a joint study on ways of enhancing economic relations between Japan and Australia included an examination of the feasibility of a Free Trade Agreement. The Final Report from that study concluded:

... that a comprehensive and WTO-consistent EPA³⁶/FTA would bring about significant benefits to Australia and Japan.³⁷

35 Department of Foreign Affairs and Trade, *Australia-Republic of Korea FTA: Overview of developments at the fifth round of negotiations*, 4 June 2010, http://www.dfat.gov.au/geo/rok/fta/newsletter_100604.html, accessed 12 October 2010.

36 Economic Partnership Agreement.

- 6.35 This study followed the release in 2005 of a joint study of the costs and benefits of trade and investment liberalisation between the two countries, which found:

Overall, GDP and trade would increase in both countries as a result of liberalisation. The estimated magnitude of the macroeconomic gains varied between the studies, ranging from 0.66 per cent to 1.79 per cent for Australia's GDP in 2020, and between 0.03 per cent and 0.13 per cent for Japan's GDP in 2020.

In sectoral terms, it was found that the liberalisation would result in an increase of exports, production and labour in the majority of sectors on both sides. Output from Japan's manufacturing (both durable and non-durable), services, energy and mining sectors would all increase as a result of liberalisation, as would output from Australia's agriculture, manufacturing (both durable and non-durable), services and energy sectors.

On the other hand, a significant decrease in some of Japan's agricultural sectors would be observed. The most noticeable change (decline) in employment occurs in Japan's Agriculture and food sector, but it grows in other sectors of the economy.

In Australia, liberalisation was estimated to cause employment to grow in the non-durable manufacturing sector. Bilateral trade was estimated to increase considerably as a result of liberalisation. As may be the case with FTAs, the studies found that some of this increase in bilateral trade would be due to trade diversionary effects, which would have adverse impacts on third countries, such as US, EU, China and ASEAN.

- 6.36 Since then, 11 rounds of negotiations have been held on the Australia-Japan Free Trade Agreement. The most recent round was held in Canberra from 19-23 April 2010. The DFAT Newsletter reporting on the discussions, said that more than 50 sessions were held over the five days and that "steady progress was made".³⁷

- 6.37 Speaking at a Japan-Australia Business Cooperation Committee FTA Symposium in June 2010, the former Minister for Trade said:

37 Joint Consultative Committee, Joint study for Enhancing Economic relations between Japan and Australia, including the Feasibility or Pros and Cons of a Free Trade Agreement, Final Report, December 2006, p.18, http://www.dfat.gov.au/fta/japan/study_group_report.pdf, accessed 19 October 2010.

38 Department of Foreign Affairs and Trade, Australia-Japan Free Trade Agreement, Newsletter Update 11, http://dfta.gov.au/fta/japan/newsletter_update_11.html, accessed 19 October 2010.

Australia and Japan can be proud of the growth we've achieved in our trade and investment relationship. It's therefore surprising that after 40 years we don't have an FTA (or Economic Partnership Agreement)

So we cannot afford to become complacent. While our economies are already highly integrated, there is more work to do. This is why Australia and Japan are pursuing a comprehensive Free Trade Agreement or Economic Partnership Agreement.

It will raise the bar. It will bring both economies to a new level of integration. And it will set the modern framework for our trade and economic relationship.

Steady progress has been made since negotiations began in 2007. Australia has agreed to include specific chapters of interest to Japan on food supply and energy and mineral resources. But we cannot shy away from the challenges that remain.

Australia appreciates the sensitivities and complexities of the Japanese agriculture system. Nonetheless, to be meaningful, an FTA must include agriculture. The ANZFTA agreement clearly demonstrated that we have the ability to address sensitivities. So we should not just focus on the difficulties.

The opportunities on offer through an FTA are huge, particularly in services and investment. And both countries can win from high-quality commitments on agriculture in the FTA. Implementing the FTA would be a powerful vehicle for change and it would deliver major benefits to the Japanese economy.

For our part, Australia has worked hard to reform its economy. Reform of some sectors has taken time and involved political pain. But the reforms have been worth the pain.

As a result of our reforms, Australia has continued to grow, both through the Asia Financial Crisis of the 1990s and, more recently, through the Global Financial Crisis. Australia understands that reform takes time. We stand ready to work with Japan to craft a commercially meaningful FTA that takes account of this dynamic.

My key message today is that we cannot let difficulties and sensitivities deter our efforts to forge a comprehensive agreement that expands opportunity. The liberalisation of trade and investment is not just about the two way flow of goods and services.

It would also serve to further encourage Australian and Japanese companies to work together in third country markets across the region – particularly through global supply chains and the use of public private finance to progress infrastructure development.

We are optimistic that Australia and Japan can deal with our respective sensitivities to conclude a high quality, comprehensive FTA which delivers enhanced opportunities for both countries. Timing is important. Australia considers a Japan-Australia FTA to be a critical pillar of our region's modern architecture.³⁹

Malaysia

6.38 In July 2004, Australia and Malaysia agreed to conduct parallel scoping studies on a possible Free Trade Agreement. In 2005, the Department of Foreign Affairs and Trade release the Australian study, which found:

An FTA would provide a basis for much stronger cooperation and further liberalisation on a wide range of issues. It would tend to encourage closer inter-agency cooperation between the two Governments. Possible areas of greater cooperation and/or further liberalisation include customs procedures, industrial technical barriers to trade, investment, the movement of natural persons, electronic commerce, competition policy, intellectual property, and government procurement. Cooperation in these areas would substantially increase the gains from an FTA for both countries.

A free trade agreement is consistent with the broader policies being pursued by both countries. For Australia, an FTA would deepen its integration with the ASEAN economies, building on agreements negotiated with Singapore and Thailand. It would help to promote Australia's commercial interests in Malaysia as it liberalises trade on a preferential basis with other economies, including in the region. It would serve to complement and reinforce liberalisation efforts in the regional and multilateral arena. More generally, an FTA with Malaysia would strengthen the broader bilateral relationship.

For its part, Malaysia would benefit from a closer relationship with the fourth largest economy in the region, and one of the most strongly performing developed economies over the last decade.

39 Minister for Trade, The Hon Simon Crean MP, *Australia and Japan – Seizing Opportunities*, Japan-Australia Business Cooperation Committee FTA Symposium, Tokyo, 7 June 2010, pp. 4-5.

Malaysia's attractiveness as an investment destination would increase, particularly if it were to liberalise further its investment regime and make it more attractive to business.

The study concludes that the case for a free trade agreement with Malaysia is very strong. Accordingly, it recommends that Australia seek to enter into negotiations with Malaysia to establish a comprehensive and WTO-consistent free trade agreement.

On goods, any FTA should cover all tariff and non-tariff measures. It should address comprehensively impediments in services sectors, including education, professional services, telecommunications and financial services. There would also be significant benefits from steps to strengthen cooperation and/or promote liberalisation in such areas as customs procedures, industrial technical barriers to trade, investment, the movement of natural persons (particularly business persons), electronic commerce, intellectual property, and government procurement. Any FTA should include provision for review, so that it becomes a basis for developing further cooperation over time.⁴⁰

6.39 On 7 April 2005, Australia and Malaysia agreed to launch negotiations on a bilateral Free Trade Agreement (FTA). Negotiations were paused in early 2007 to allow both sides to focus on finalising the ASEAN-Australia-New Zealand FTA, which was concluded in August 2008 and entered into force on 1 January 2010. The then Minister for Trade, Mr Crean, and his Malaysian counterpart, the Malaysian Minister for International Trade and Industry, Mr Muhyiddin, announced the resumption of bilateral FTA negotiations in October 2008.⁴¹

6.40 In April 2010 the 7th round of negotiations was held in Kuala Lumpur. The DFAT update announced that: "Good progress was made across the negotiations to further narrow areas of difference". Taking into account the newly activated AANZFTA the update commented:

The round sharpened the understanding on both sides of what would constitute 'AANZFTA-plus' outcomes, and a process for

40 Department of Foreign Affairs and Trade, *An Australia-Malaysia Free Trade Agreement: Australian Scoping Study*, February 2005, pp. viii and x.

41 Department of Foreign Affairs and Trade, *Australia-Malaysia Free Trade Agreement Negotiations, Overview*, <http://www.dfat.gov.au/fta/mafta/index.html>, accessed 19 October 2010.

exchanging market access offers ahead of the next round was discussed.⁴²

- 6.41 The 8th round was held in Canberra from 18-22 October 2010 and further progress was made with market access negotiations. Australia provided Malaysia with a paper outlining its offer on tariffs and the commitments it would ask in return. Initial access offers on services and investment were exchanged.
- 6.42 Discussions were held on draft chapters covering: goods; rules of origin; customs procedures; safeguards; sanitary and phytosanitary measures; and on standards, technical regulations and conformity assessment procedures. Progress was also made on issues such as: electronic commerce, competition policy and intellectual property.

Under Consideration

India

- 6.43 Recent years have seen remarkable growth in the trading relationship between India and Australia, fuelled by the many complementarities between the two economies. Over the past five years, bilateral trade in goods and services has increased by 24 per cent annually to US\$16 billion in 2008–09. Two-way investment is also significant, estimated at over US\$1.5 billion including portfolio investment in 2008.⁴³
- 6.44 Against this backdrop, Australia and India agreed in April 2008 to undertake a feasibility study for a possible bilateral free trade agreement (FTA) to explore the scope for building an even stronger economic and trade relationship. The feasibility study shows that significant barriers to goods and services trade remain in both countries.
- 6.45 An FTA between India and Australia would be expected to address tariff and non-tariff barriers. It would go beyond each country's commitments in the World Trade Organization (WTO) and cover substantially all trade

42 Department of Foreign Affairs and Trade, Australia-Malaysia Free Trade Agreement Negotiations, April 2010 update, http://www.dfat.gov.au/fta/mafta/updates/1004_update.html, accessed 19 October 2010.

43 The information in the following paragraphs is summarised from: Department of Foreign Affairs and Trade, Australia-India Joint Free Trade Agreement Feasibility Study, May 2010, Executive Summary, <http://www.dfat.gov.au/fta/india/Australia-India-Joint-FTA-Feasibility-Study.html#summary>, accessed 20 October 2010.

in goods. Services liberalisation would seek to remove barriers that impose additional costs on exporters and erode competitiveness. A possible FTA would be expected to have substantial services sector coverage.

- 6.46 Australia-India investment flows are modest relative to bilateral trade, reflecting both regulatory and other impediments and, to some extent, a lack of awareness of business opportunities in the other country. A possible FTA may address this imbalance by removing – or reducing – existing restrictions in both foreign investment regimes. It could also focus on enhancing transparency and strengthening investment protection mechanisms.
- 6.47 A comprehensive FTA offers scope to take the relationship to the next level to the mutual advantage of both economies. It could foster even stronger growth, including through more diverse trade and investment flows. Cooperation, capacity building and exchange of information on other issues such as the protection of intellectual property rights (covering all issues including TRIPS & CBD, and GIs inclusive of non-food GIs), SPS & TBT matters, competition policy and government procurement could also be considered during possible FTA negotiations.
- 6.48 To make an assessment of the possible trade gains from the proposed FTA, independent economic modelling was commissioned in both the countries for the study. The results provide insights into how an FTA might impact on bilateral trade and investment flows as well as economic welfare. ...The results indicate that the welfare of the two countries would increase with the conclusion of an FTA. The welfare gains for both the countries could be in the range of 0.15 and 1.14 per cent of Gross Domestic Product (GDP) for India and 0.23 and 1.17 per cent of GDP for Australia. An Australia-India FTA could result in a modest positive impact on total global economic output.
- 6.49 The Joint Study Group concluded that a bilateral FTA is feasible and recommended that both governments consider the negotiation of a comprehensive India-Australia FTA.
- 6.50 The then Minister for Trade and his counterpart the Indian Minister of Commerce and Industry “endorsed the feasibility study recommendation noting that both sides would need to undertake further internal processes before negotiations could be launched”.⁴⁴

44 Former Minister for Trade, Mr Simon Crean MP, *Major step towards a Free Trade Agreement between Australia and India*, Media Release, 4 May 2010.

6.51 The Minister added:

The joint study finds that an Australia- India FTA is feasible. It makes a strong economic case that both Australia and India would gain significant economic benefits from a comprehensive FTA. An FTA would open up trade, investment and job opportunities in both countries.

An FTA with India will continue the momentum of Australia's economic integration with Asia – the fastest growing region in the world.⁴⁵

6.52 The Minister also noted the rapidly growing trade relationship, allied with India's fast-growing economy, large population and the largely complementary nature of the two economies:

India is Australia's fastest-growing major two-way trading partner, reflecting the largely complementary nature of the two economies. Two-way trade grew 55 per cent to nearly \$22 billion in 2008-09.

India is the world's largest democracy and is a market of 1.2 billion people. Its youthful population, diversified economy, and growth trajectory present significant opportunity for Australian business, especially in the agriculture, energy, manufacturing, mining and services sectors.

Australia's exports to India have increased by an annual average of over 25 per cent over the past five years, making India our fastest-growing major export market. It is our fourth-biggest export market, up from 13th a decade ago.

Industry consultations in Australia and India revealed broad support for an FTA with India; and Australia engaged stakeholders through requests for public submissions and nationwide consultations.⁴⁶

Indonesia

6.53 In August 2007 Australia and Indonesia commenced a joint feasibility study on a possible bilateral Free Trade Agreement. The study examined the potential impact on the two countries of an FTA and included

45 Former Minister for Trade, Mr Simon Crean MP, *Major step towards a Free Trade Agreement between Australia and India*, Media Release, 4 May 2010.

46 Former Minister for Trade, Mr Simon Crean MP, *Major step towards a Free Trade Agreement between Australia and India*, Media Release, 4 May 2010.

examination of the implications for economic growth, trade, investment, commercial linkages and competitiveness.⁴⁷

- 6.54 In summary, the findings of the study were positive and indicated that completion of an agreement would be worthwhile for both countries:

The feasibility study finds that a bilateral FTA between Australia and Indonesia would provide worthwhile benefits for Australia. It finds that the gains for Indonesia would also be worthwhile, and would, consistent with expectations, be of a greater magnitude.

More broadly, however, the feasibility study confirms that while a range of impediments to bilateral trade will be eliminated by each country as part of the recently concluded ASEAN-Australia-New Zealand FTA (AANZFTA), significant barriers to trade and investment flows between Australia and Indonesia will remain after AANZFTA enters into force.

The study shows that the greatest gains would be achieved under an FTA that would eliminate tariffs and non-tariff barriers to all trade between the two countries. At a minimum, a bilateral FTA should go beyond each country's commitments in the World Trade Organization (WTO) and under AANZFTA. In negotiating an FTA, the study recognises that each party to negotiations would take into account its potential domestic adjustment costs for each sector.

The feasibility study also demonstrates that the objective of an FTA negotiation ought to be the removal of all barriers to bilateral services trade. Such barriers impose additional costs on exporters and consumers, and retard economic competitiveness. A bilateral FTA would be expected to cover all services sectors of importance to each country.

In the investment sphere, the study shows that Indonesia-Australia investment levels, though not insubstantial, underperform relative to growing bilateral trade and Australian investment in some other ASEAN economies.

A comprehensive FTA that eliminates the widest possible range of direct and indirect barriers to Australian investment in Indonesia would enhance the bilateral relationship in a number of important respects. First, Indonesia would be better placed to attract

47 Department of Foreign Affairs and Trade, *Australia-Indonesia FTA Joint Feasibility Study*, <http://www.dfat.gov.au/fta/indonesia/index.html>, accessed 20 October 2010.

Australian investment, especially in key mining and resources sectors. Second, Indonesian investors may become more familiar with, and more confident about their ability to exploit the investment opportunities available to them in Australia.⁴⁸

- 6.55 Having received the completed study the two governments have agreed to consider its recommendations with a view to possible commencement of negotiations toward an FTA.⁴⁹

48 Department of Foreign Affairs and Trade, Australia-Indonesia Free Trade Agreement Joint Feasibility Study, pp. 2-3, http://www.dfat.gov.au/fta/indonesia/aus-indon_fta_jfs.pdf, accessed 20 October 2010.

49 <http://www.dfat.gov.au/fta/indonesia/index.html>, accessed 20 October 2010.

