

Report 102

Treaties tabled on 12 and 16 March 2009

Agreement Establishing the Association of Southeast Asian Nations-Australia-New Zealand Free Trade Area (Cha-am, Phetchaburi, Thailand, 27 February 2009)

Agreement between the Government of Australia and the Government of the Isle of Man on the Exchange of Information with Respect to Taxes (London, 29 January 2009)

Agreement between the Government of Australia and the Government of the Isle of Man for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments (London, 29 January 2009)

© Commonwealth of Australia 2009

ISBN 978-0-642-79196-2 (printed version)

ISBN 978-0-642-79197-9 (HTML version)



Contents

Membership of the Committee	v
Resolution of Appointment	vii
List of abbreviations	viii
List of recommendations	ix
1 Introduction	1
Purpose of the Report	1
Conduct of the Committee's Review	2
2 Agreement Establishing the ASEAN – Australia – New Zealand Free Trade Area	3
Introduction	3
The prudential purpose of the Agreement.....	5
Interaction with other treaties and the treatment of rules of origin	6
The outcome for particular tariff lines.....	7
Horticulture in the ASEAN – China free trade agreement	9
AANZFTA tariff outcomes worse than bilateral free trade agreements	10
Applied tariff outcomes and the Most Favoured Nation rate.....	11
Australian negotiators and the horticulture industry	12
Speed of tariff reduction.....	14
Environment, human rights and labour provisions	15
Conclusion	16

3	Two taxation Agreements with the Isle of Man	17
	Introduction	17
	Agreement between the Government of Australia and the Government of the Isle of Man on the Exchange of Information with Respect to Taxes (TIEA)	18
	Obligations	18
	Effectiveness of taxation information exchange agreements	19
	Reasons to take treaty action.....	20
	Costs and implementation.....	21
	Agreement between the Government of Australia and the Government of the Isle of Man for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments (taxing rights Agreement).....	21
	Obligations	21
	Reasons to take treaty action.....	22
	Costs and implementation.....	22
	Future treaty action for both Agreements.....	23
	Consultation	24
	Conclusion and recommendations	24
	Appendix A - Submissions.....	27
	Appendix B - Witnesses	29
	Thursday, 7 May 2009 - Darwin	29
	Monday, 11 May 2009 - Canberra.....	29
	Friday, 29 May 2009 - Canberra	29



Membership of the Committee

Chair Mr Kelvin Thomson MP

Deputy Chair Senator Julian McGauran

Members	Mr Jamie Briggs MP	Senator Simon Birmingham
	Mr John Forrest MP	Senator Michaelia Cash
	Ms Jill Hall MP	Senator Don Farrell
	Hon John Murphy MP	Senator Scott Ludlam
	Ms Belinda Neal MP	Senator Louise Pratt
	Ms Melissa Parke MP	Senator Dana Wortley
	Mr Luke Simpkins MP	
	Ms Maria Vamvakinou MP	

Committee Secretariat

Secretary	Jerome Brown
Inquiry Secretary	Kevin Bodel
Research Officer	Geoff Wells
Administrative Officers	Heidi Luschtinetz
	Dorota Cooley



Resolution of Appointment

The Resolution of Appointment of the Joint Standing Committee on Treaties allows it to inquire into and report on:

- a) matters arising from treaties and related National Interest Analyses and proposed treaty actions and related Explanatory Statements presented or deemed to be presented to the Parliament;
- b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
 - (i) either House of the Parliament, or
 - (ii) a Minister; and

such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.



List of abbreviations

AANZFTA	Agreement Establishing the ASEAN – Australia – New Zealand Free Trade Area
ASEAN	Association of South East Asian Nations
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
FTA	Free Trade Agreement
HMAC	Horticulture Market Access Committee
IoM	Isle of Man
NIA	National Interest Analysis
OECD	Organisation for Economic Co-operation and Development
TIEA	Taxation Information Exchange Agreement



List of recommendations

2 Agreement Establishing the ASEAN – Australia – New Zealand Free Trade Area

Recommendation 1

The Committee recommends that the Australian Government pursue all possible bilateral and multilateral avenues to secure improved tariff outcomes for the horticulture industry.

Recommendation 2

The Committee recommends that, in the absence of other measures designed to improve free trade, a free trade agreement negotiated by Australia should not include a tariff outcome on a tariff line that is worse than the existing tariff on that tariff line.

Recommendation 3

The Committee recommends that in future free trade agreements, Australia should negotiate for the binding tariff rate to be the lower of either the rate at the time of binding, or the Most Favoured Nation tariff rate at the time the free trade agreement comes into force.

Recommendation 4

The Committee recommends that the Department of Foreign Affairs and Trade prepare a report for the Committee examining mechanisms to allow negotiators to directly consult with industry representatives during the negotiation process.

Recommendation 5

The Committee recommends that the Australian Government include consideration of environment protection, protection of human rights and labour standards in all future negotiation mandates for free trade agreements.

Recommendation 6

The Committee supports the *Agreement Establishing the ASEAN – Australia – New Zealand Free Trade Area* and recommends that binding treaty action be taken.

3 Two taxation Agreements with the Isle of Man

Recommendation 7

The Committee supports the *Agreement between the Government of Australia and the Government of the Isle of Man on the Exchange of Information with Respect to Taxes* and recommends that binding treaty action be taken.

Recommendation 8

The Committee supports the *Agreement between the Government of Australia and the Government of the Isle of Man for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments* and recommends that binding treaty action be taken.