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The Parliament of the Commonwealth of Australia

# Inquiry into Business Utilisation of Australia's Free Trade Agreements

Joint Select Committee on Trade and Investment Growth

September 2015  
Canberra

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## Chair's Foreword

Globalisation has spurred the emerging international trend towards free trade agreements (FTAs). In an effort to secure unimpeded trade, the FTA trend has seen Australia enter into such agreements with New Zealand, Singapore, Thailand, the United States of America, Chile, the Association of Southeast Asian Nations (jointly with New Zealand), Malaysia, and more recently the Republic of Korea, Japan and China, which is likely to enter into force by the end of 2015.

This inquiry investigated the experience of Australian businesses using these FTAs. While the business community strongly supports the policy of pursuing FTAs, this inquiry has also identified potential reforms which could increase the ability of business to realise the benefits of FTAs.

Current Government processes have clearly been very successful in conducting and finalising FTA negotiations with partner countries. There is potential, however, to make these processes more transparent and open to involvement from business.

Transparency could be increased by prospective FTAs being evaluated by an independent and respected agency such as the Productivity Commission. This evaluation would assist government decision making during the negotiation process, increase public confidence, and facilitate business planning based on likely benefits and opportunities.

Australia could benefit from allowing greater involvement of peak industry groups in the negotiation process. This would assist negotiators target the most beneficial outcomes for Australian business as well as provide industry groups with the opportunity to prepare practical advice for their members on how to benefit from the FTA.

While FTAs create a framework for bilateral or multilateral trade, they do not necessarily guarantee immediate market access. Standards that countries use to ensure the safety of products and the qualifications of service providers can, unintentionally, become impediments to trade. Perhaps the most pressing of the market access barriers highlighted by this inquiry is the impediments that sanitary and phytosanitary (SPS) regulations place on horticultural exporters.

Countries, including Australia, are obliged to protect their population, agricultural industries, and natural environments from introduced pests and diseases and so there is a recognised need to impose SPS requirements on imported produce. Assessing the SPS risks of importing new products is a necessarily time and resource intensive task and the Committee welcomes the provision of additional funding to the Department of Agriculture to address market access issues. The Committee has also identified a number of other measures that could expedite progress on these issues.

Achieving recognition in partner markets that Australia's mainland Pest-Free Zones are free from fruit fly should be a high priority for negotiators. Providing capacity building assistance, where appropriate, to FTA partner countries will promote the creation of science-based SPS protocols and accelerate the process of Australian producers gaining access to these markets.

Some SPS protocols, however, are not scientifically arrived at and these cases highlight the importance of having the best possible team engaged in market access negotiations. The Department of Foreign Affairs and Trade (DFAT) has Australia's most experienced trade negotiators who have established relationships with negotiators in FTA partner countries. The Committee believes Australia's position would be strengthened by the formal involvement of DFAT negotiators in market access negotiations.

While Australian negotiators aim for consistency in the rules and conditions used in FTAs, the reality is that FTAs are negotiated agreements and this is not always possible. Therefore an unintended consequence of Australia's recent success in signing FTAs is the increased regulatory complexity encountered by Australian exporters. Given this, it is imperative the Government provides clear, accessible information that explains how business can benefit from the opportunities provided by FTAs.

A high priority is to provide exporters with a means of easily accessing the rules and conditions that Australia's FTA partners use to regulate imports. The online FTA Dashboard being developed by DFAT is an important step in this direction. Ultimately the aim should be to develop a tool which provides information on all FTA partner countries that is detailed and up-to-date yet also intuitive and easy to use.

The Government's North Asia FTA Advocacy Program, and in particular the seminar series, has been well received by business. There is, however, some concern about the time it is taking to deliver the series across the country. Greater involvement of peak industry groups could speed up the roll-out of the seminars and also enable the information to be tailored for particular industries.

The creation of a recognisable 'Brand Australia' logo and marketing campaign would assist business capture the premium generated by Australia's reputation

for producing high-quality, clean, green products. The Government should also support businesses develop anti-counterfeit technologies that protect them from the damage that counterfeit goods can cause to their brand, and Australia's reputation.

I would like to thank those businesses, organisations and government agencies who provided submissions and appeared at public hearings during this inquiry. I would also like to thank my fellow Committee members for their participation and contribution during this inquiry.

Mr Ken O'Dowd MP  
Chair





## Membership of the Committee

**Chair** Mr Kenneth (Ken) O'Dowd MP

**Deputy Chair** Dr James (Jim) Chalmers MP (Until 14.10.15)

**Members**

Senator Joseph (Joe) Bullock	Mr Antony (Tony) Pasin MP
Mr Patrick (Pat) Conroy MP	Senator Dean Smith
Senator Glenn Lazarus (Until 27.11.14)	Mr Angus Taylor MP
Senator the Hon Ian Macdonald	Senator Zhenya Wang (From 27.11.14)
Mr Clive Palmer MP	

### Participating Members

Senator Christopher (Chris) Back	Senator Jenny McAllister (From 14.05.15)
Senator Cory Bernadi	Senator Anne McEwen (From 14.05.15)
Senator Catryna Bilyk (From 14.05.15)	Senator James McGrath
Senator Carol Brown (From 14.05.15)	Senator Bridget McKenzie
Senator David Bushby	Senator Claire Moore (From 14.05.15)
Senator the Hon Doug Cameron (From 14.05.15)	Senator Ricky Muir
Senator Matthew Canavan	Senator Barry O'Sullivan
Senator the Hon Kim Carr (From 14.05.15)	Senator Nova Peris (From 14.05.15)
Senator the Hon Jacinta Collins (From 14.05.15)	Senator Helen Polley (From 14.05.15)
Senator the Hon Stephen Conroy	Senator Linda Reynolds
	Senator Anne Ruston
	Senator Zed Seselja

(From 14.05.15)	Senator the Hon Lisa Singh (From 14.05.15)
Senator Sam Dastyari (From 14.05.15)	Senator Glenn Sterle (From 14.05.15)
Senator Sean Edwards	Senator Anne Urquhart (From 14.05.15)
Senator David Fawcett	Senator John Williams
Senator Katy Gallagher (From 14.05.15)	Senator the Hon Penny Wong (From 14.05.15)
Senator the Hon Bill Heffernan	
Senator Sue Lines (From 14.05.15)	
Senator the Hon Joseph Ludwig (From 14.05.15)	
Senator Gavin Marshall (From 14.05.15)	

## Committee Secretariat

Secretary	Ms Stephanie Mikac
Inquiry Secretary	Dr John Carter
A/g Inquiry Secretary	Mr Shane Armstrong
Senior Research Officer	Mr Tim Brennan
Administrative Officers	Mrs Alex Fabbo Ms Carissa Skinner



## **Terms of reference**

The Joint Select Committee on Trade and Investment Growth was established to inquire into and report on any measures to further boost Australia's trade and investment performance, including, but not limited to, barriers to trade; reduction of red tape and structural challenges and opportunities for the Australian community.

As part of its remit, and taking into consideration efforts to promote utilisation of Australia's North Asia Free Trade Agreements (FTAs), as well as future FTAs, the Committee will focus its inquiry on the experience of business in utilising Australia's existing FTAs including: New Zealand, Singapore, Thailand, the United States, Chile, the Association of South East Asian Nations (along with New Zealand) and Malaysia.





## **Abbreviations**

AANZFTA	ASEAN-Australia-New Zealand Free Trade Agreement
ACCI	Australian Chamber of Commerce and Industry
ACIFTA	Australia-Chile Free Trade Agreement
AFGC	Australian Food and Grocery Council
AHEA	Australian Horticultural Exporters Association
Ai Group	Australian Industry Group
AMIC	Australian Meat Industry Council
ANZ	ANZ Banking Group
ANZCERTA	Australia-New Zealand Closer Economic Relations Trade Agreement
APAL	Apple and Pear Australia Ltd
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATEC	Australian Tourism Export Council
AUSFTA	Australia-United States Free Trade Agreement
BCA	Business Council of Australia
CGA	Cherry Growers Australia
ChAFTA	China-Australia Free Trade Agreement
CTC	Change of Tariff Classification

DFAT	Department of Foreign Affairs and Trade
DIS	Department of Industry and Science
DoA	Department of Agriculture
ECA	Export Council of Australia
EMDG	Export Market Development Grants
EU	European Union
FDI	Foreign Direct Investment
FSANZ	Food Standards Australia New Zealand
FSC	Financial Services Council
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
HS	Harmonised Commodity Description and Coding System
ISDS	Investor-State Dispute Settlement
IPA	Institute of Public Accountants
JSCOT	Joint Standing Committee on Treaties
KAFTA	Korea-Australia Free Trade Agreement
MAFTA	Malaysia-Australia Free Trade Agreement
MCA	Minerals Council of Australia
MICoR	Manual of Importing Country Requirements
MoU	Memorandum of Understanding
NAFTA	North American Free Trade Agreement
RVC	Regional Value Content
SAFTA	Singapore-Australia Free Trade Agreement

SME	Small and Medium Enterprise
SPS	Sanitary and Phytosanitary
TAFTA	Thailand-Australia Free Trade Agreement
TPPA	Trans-Pacific Partnership Agreement
US	United States of America
WFA	Winemakers' Federation of Australia
WTO	World Trade Organisation





# Recommendations

## 2 Australia's Free Trade Agreements

### Recommendation 1

The Committee recommends that the Department of Foreign Affairs and Trade should include financial services regulators in free trade negotiations to boost the opportunities for Australia's financial services sector.

### Recommendation 2

The Committee recommends that the Department of Agriculture should continue negotiating with trading partners to gain acceptance of the fruit fly-free status of particular regions of mainland Australia in free trade agreements where this is an issue.

### Recommendation 3

The Committee recommends that proposed changes to the Tasmanian Freight Equalisation Scheme include all exported goods whether destined for export via air or sea.

## 3 Business Experience of Free Trade Agreements

### Recommendation 4

The Committee recommends that the Department of Foreign Affairs and Trade:

- review the roll out schedule of the North Asia FTA Advocacy Program seminars with a view to providing quicker and more effective outreach to its target audience; and
- engage peak industry bodies to deliver seminars under the North Asia FTA Advocacy Program.

#### Recommendation 5

The Committee recommends that the Department of Foreign Affairs and Trade ensure the FTA Dashboard is designed to enable easy access to country-based information and enable end-users to easily switch between the FTA Dashboard and the MICO database.

#### Recommendation 6

The Committee recommends that the Department of Agriculture:

- review the demand for 24 hour/7 day access to the export document hub; and
- assess the feasibility of developing technology to meet the demand for 24 hour/7 day access to the export document hub.

#### Recommendation 7

The Committee recommends that the Export Market Development Grant scheme be broadened to recognise anti-counterfeiting measures as an expense.

#### Recommendation 8

The Committee recommends that the Department of Foreign Affairs and Trade provide assistance to free trade agreement partner countries, where appropriate, to build their capacity to assess sanitary and phytosanitary risks.

### 4 Informing Future Free Trade Agreements

#### Recommendation 9

The Committee recommends that when the Government signals an intention to begin free trade agreement negotiations with a trading partner, industry assistance should be targeted towards exporters who may wish to achieve a presence in the intended trading partner's market before completion of the free trade agreement negotiations.

#### Recommendation 10

The Committee recommends that at the commencement of free trade negotiations, the Department of Employment should undertake modelling of the human capital and workforce needs arising from the agreement, particularly for the services sector. Based on the modelling outcomes, the department should develop a workforce strategy to take advantage of the agreement.

**Recommendation 11**

The Committee recommends that Austrade, in consultation with Australian business, facilitate:

- the development of a recognisable Australia brand logo and signage for exported Australian goods and services; and
- the development of anti-counterfeiting measures for exported Australian goods.

**Recommendation 12**

The Committee recommends that the Department of Foreign Affairs and Trade commission independent modelling of the potential benefits of free trade agreements. Modelling should be undertaken before negotiations begin and be compared to the outcomes of a second modelling exercise undertaken after negotiations have been completed, but before signing. The modelling results together with an explanation of variances should be made publicly available.

**Recommendation 13**

The Committee recommends that the Department of Foreign Affairs and Trade formally involve representatives from Australia's peak industry bodies, both employer and employee, in free trade agreement negotiations, reflecting the US model.

**Recommendation 14**

The Committee recommends that the Government should be taking all possible means to ensure that market access is enabled and that negotiators from the Department of Foreign Affairs and Trade remain involved in market access negotiations after a free trade agreement enters into force.



## Introduction

### Background

- 1.1 Previous Australian Governments have promoted multilateral trade liberalisation through the General Agreement on Tariffs and Trade (GATT) and its successor the World Trade Organisation (WTO). The Australian Government remains a 'strong supporter'<sup>1</sup> of the multilateral trade liberalisation process. The lack of progress in the Doha Round of GATT has, however, seen bilateral and regional free trade agreements (FTAs) come to the forefront of international trade policy.
- 1.2 The GATT was the key instrument used in efforts to liberalise international trade in the post-World War II period. The GATT began in Geneva in 1947 with the participation of 23 countries (including Australia). The initial agreement resulted in the reduction of tariffs on products covering approximately one-fifth of global trade.<sup>2</sup>
- 1.3 Further progress in the GATT took place during a series of multilateral negotiations known as trade rounds. These trade rounds were negotiated as a 'single undertaking', that is – all of the agreements and commitments were considered jointly where 'nothing is agreed until everything is agreed'.<sup>3</sup>
- 1.4 The sole focus of early GATT rounds was tariff reductions between member countries. During this time average global tariff rates declined, from approximately forty per cent at GATT's formation to five per cent by

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1 Department of Foreign Affairs (DFAT), Submission 28, p. 4.

2 World Trade Organization (WTO), 'The GATT years: from Havana to Marrakesh', [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact4\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm), viewed 7 September 2015.

3 WTO, 'The Doha Round', [https://www.wto.org/english/tratop\\_e/dda\\_e/dda\\_e.htm](https://www.wto.org/english/tratop_e/dda_e/dda_e.htm), viewed 7 September 2015; Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, November 2010, Canberra, p. 38.

the mid-1990s.<sup>4</sup> By the 1970s, however, non-tariff measures such as subsidies were increasingly being used to protect domestic industries. The later GATT rounds reflected these changes by broadening the scope of the negotiations to include non-tariff barriers. This occurred for the first time in the Tokyo Round (1973-1979).<sup>5</sup>

- 1.5 The Uruguay Round (1986-1994) broadened the scope of GATT negotiations further and led to the creation of the WTO in 1995. The structure and rules of the WTO were established in the Uruguay Round through agreements on goods trade (the GATT); trade in services (the General Agreement on Trade in Services); intellectual property (the Trade-Related Aspects of Intellectual Property); and procedures on dispute settlement and transparency in government trade policies.<sup>6</sup>
- 1.6 The Uruguay Round also established a set of rules for bilateral and regional free trade agreements. These rules were designed to ensure that agreements reduce trade barriers between partner countries.<sup>7</sup>
- 1.7 As the scope of the GATT and the number of participating countries grew (up to 123 by the time of the Uruguay Round) so did the time needed to reach a 'single undertaking' agreement. The eight-year long negotiations of the Uruguay Round were followed by the establishment of the Doha Round in 2001, which has stalled.<sup>8</sup>
- 1.8 Despite the lack of progress in the Doha Round, the WTO completed its first multilateral agreement, the Trade Facilitation Agreement (TFA), in November 2014.<sup>9</sup> The TFA is focussed on measures to expedite the movement of goods through customs procedures and includes assistance for developing nations to implement the measures.<sup>10</sup> The TFA will enter into force once it is ratified by two-thirds of WTO members. To date sixteen countries (including Australia) have ratified the TFA.<sup>11</sup>

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4 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, November 2010, Canberra, p. 39.

5 World Trade Organization (WTO), 'The GATT years: from Havana to Marrakesh', [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact4\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm), viewed 7 September 2015.

6 WTO, 'Overview: a navigational guide', [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm1\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm1_e.htm), viewed 7 September 2015.

7 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, p. 44.

8 Department of Foreign Affairs and Trade (DFAT), *Submission 28*, p. 4.

9 Neufeld, N., 'The Long and Winding Road: How WTO Members finally reached a Trade Facilitation Agreement', World Trade Organization Economic Research and Statistics Division, April 2014, p. 3.

10 WTO, 'Trade Facilitation', [https://www.wto.org/english/tratop\\_e/tradfa\\_e/tradfa\\_e.htm](https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm), viewed 7 September 2015.

11 WTO, 'China ratifies Trade Facilitation Agreement', [https://www.wto.org/english/tratop\\_e/tradfa\\_e/tradfa\\_e.htm](https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm), viewed 7 September 2015.

- 1.9 As the progress in multilateral trade liberalisation has slowed, countries have increasingly turned to bilateral and regional FTAs to advance trade liberalisation.<sup>12</sup>
- 1.10 This international trend towards free trade agreements (FTAs) has seen Australia enter into such bilateral and multilateral agreements with: New Zealand, Singapore, Thailand, the United States of America, Chile, the Association of Southeast Asian Nations (jointly with New Zealand), Malaysia, and more recently the Republic of Korea, and Japan.
- 1.11 Following just under a decade of negotiation,<sup>13</sup> Australia has also recently signed a FTA with China (ChAFTA) which may enter into force by the end of the year.<sup>14</sup>
- 1.12 In addition to ChAFTA, Australia is currently negotiating six additional FTAs: India, Indonesia, the Trans-Pacific Partnership Agreement (TPPA),<sup>15</sup> the Gulf Cooperation Council, the Pacific Agreement on Closer Economic Relations Plus, and the Regional Comprehensive Economic Partnership.<sup>16</sup>
- 1.13 The FTAs that Australia is signatory to are ‘trade-generating’ and contribute to economic growth because they ‘achieve legally guaranteed elimination or reduction of market access barriers in goods and services, and support transparency and predictability in two-way investment.’<sup>17</sup>
- 1.14 Consequently, FTAs ‘provide new opportunities for exporters and investors and result in more competitively priced imports for Australian consumers and businesses.’<sup>18</sup>
- 1.15 As a result ‘Australia retains a competitive environment that drives productivity and the efficient utilisation of resources within the Australian economy.’<sup>19</sup>
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12 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, p. 52.

13 DFAT, ‘China-Australia Free Trade Agreement: News’, <http://dfat.gov.au/trade/agreements/chafta/news/Pages/news.aspx>, viewed 1 September 2015.

14 The ChAFTA will ‘enter into force after completion of domestic legal and parliamentary processes in China and Australia, including review by the Joint Standing Committee on Treaties and the Senate Foreign Affairs, Defence and Trade References Committee’. See: Hon Tony Abbott MP, Prime Minister and Hon Andrew Robb AO MP, Minister for Trade and Investment, ‘Australia signs landmark trade agreement with China’, Media Release, 17 June 2015.

15 The TPPA is a multilateral FTA which includes 12 negotiating countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States of America, and Vietnam. DFAT, See: DFAT, ‘Trans-Pacific Partnership Agreement’, <http://dfat.gov.au/trade/agreements/tpp/Pages/trans-pacific-partnership-agreement-tpp.aspx>, viewed 1 September 2015.

16 DFAT, *Submission 28*, p. 6.

17 DFAT, *Submission 28*, p. 5.

18 DFAT, *Submission 28*, p. 5.

19 DFAT, *Submission 28*, p. 4.

## About the Inquiry

### Objectives and Scope

- 1.16 The Joint Select Committee on Trade and Investment Growth (the Committee) was appointed<sup>20</sup> to:
- ... inquire into and report on any measures to further boost Australia's trade and investment performance, including, but not limited to, barriers to trade; reduction of red tape and structural challenges and opportunities for the Australian community.
- 1.17 In mid-March 2015, in order to narrow the scope of its terms of reference (provided to it through its resolution of appointment) the Committee wrote to the Minister for Trade and Investment to request to inquire into: the practical opportunities and challenges for Australia's agricultural and services sectors, in regard to the non trade barriers arising from Australia's recent free trade agreements with China, Japan and South Korea.
- 1.18 Taking into consideration that the Productivity Commission had been tasked with undertaking a review of barriers to growth in Australian services exports and the wide scope of the Committee's resolution of appointment, the Minister wrote to the Committee in mid-April 2015 and referred to it:
- ... the inquiry into business experience in utilising Australia's existing FTAs including those with New Zealand, Singapore, Thailand, the United States [of America], Chile, the Association of Southeast Asian Nations (along with New Zealand) and Malaysia.
- 1.19 The inquiry would inform the Government's efforts to promote utilisation of Australia's North Asia FTAs and future use of FTAs currently under negotiation.
- 1.20 As part of its inquiry, the Committee sought views from a wide range of peak bodies representing the various sectors of the economy including the: agriculture, business, education, manufacturing, resources, services, and tourism sectors.
- 1.21 Evidence received during the inquiry has included comment about business experience of the FTA with the United States of America (US),

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20 The Joint Select Committee on Trade and Investment Growth was appointed by the Senate on 4 September 2014 and the House of Representatives on 23 September 2014. Commonwealth of the Parliament of Australia, *Senate Journal No. 52*, 4 September 2014, p. 1429; Commonwealth of the Parliament of Australia, *House of Representatives Votes and Proceedings No. 67*, 23 September 2014, p. 840.

- and the more recent agreements with Korea, and Japan, including the opportunities provided by ChAFTA.
- 1.22 As a result, the Committee has included a discussion about the North Asian FTAs in regard to the opportunities and challenges provided by FTAs, with the purpose of informing strategies for negotiating future FTAs and subsequent market access.
- 1.23 In addition to this inquiry, the Joint Standing Committee on Treaties (JSCOT) and the Trade Subcommittee of the Joint Standing Committee on Foreign Affairs Defence and Trade are undertaking inquiries relating to FTAs.
- 1.24 The JSCOT is currently reviewing the ChAFTA and is due to report to the Parliament in mid October 2015.<sup>21</sup>
- 1.25 The Trade Subcommittee of the Joint Standing Committee on Foreign Affairs Defence and Trade is currently reviewing opportunities to expand trade with the countries of the Middle East, several of which comprise the Gulf Cooperation Council (GCC). In March 2014, the GCC Ministerial Council approved resumption of FTA negotiations with Australia.<sup>22</sup>
- 1.26 As the JSCOT inquiry will shortly report, comments and discussion about the specifics of ChAFTA rest with that committee.
- 1.27 Under its resolution of appointment, the Committee was required to deliver its final report and recommendations on or before 31 August 2015. On 10 August 2015, the Committee's reporting date was extended to 15 October 2015 to take into account the timing of its new inquiry.

## Inquiry Conduct

- 1.28 On 14 May 2015, the Committee adopted the inquiry into the business experience in utilising Australia's current FTAs and advertised via media release for submissions to be received by 31 July 2015. The Committee also invited submissions from a wide range of organisations, including peak bodies in the agriculture, business, education, manufacturing, resources, services, and tourism sectors.
- 1.29 The Committee subsequently received 45 submissions and 4 exhibits, which are listed at Appendixes A and B respectively. The Committee held three public hearings in Canberra, Melbourne, and Sydney. Witnesses

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21 Joint Standing Committee on Treaties, 'Current Inquiries', [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Treaties](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties) viewed 3 September 2015.

22 DFAT, 'Australia Gulf Cooperation Council Free Trade Agreement', <http://dfat.gov.au/trade/agreements/agccfta/Pages/australia-gulf-cooperation-council-gcc-fta.aspx>, viewed 3 September 2015.

who appeared before the Committee at these public hearings are listed at Appendix C.

- 1.30 Submissions and transcripts of evidence are available at:  
[www.aph.gov.au/fta](http://www.aph.gov.au/fta)

## Report Structure

- 1.31 Chapter 2 considers the features and major outcomes of Australia's seven existing FTAs (entered into between 1983 and 2012). The chapter also examines the broad entry to market terms of existing FTAs including barriers to entry.
- 1.32 Chapter 3 discusses opportunities for Australian businesses arising from Australia's FTAs, business experience in navigating the requirements of FTAs, and the promotion of the opportunities presented by FTAs for Australian businesses.
- 1.33 Chapter 4 examines Australia's framework for negotiating FTAs including the use of new technology for future modelling and suggests possible improvements to post-FTA market access negotiations.

## Australia's Free Trade Agreements

### Background

- 2.1 Australia currently has nine free trade agreements (FTAs) with trading partners. In addition, Australia recently signed a FTA with China (ChAFTA) which is yet to enter into force.<sup>1</sup>
- 2.2 The FTAs address issues such as:
- tariff rates and quotas for goods;
  - rules of origin;
  - trade in services and investments;
  - intellectual property;
  - government procurement; and
  - frameworks to settle issues arising post-agreement.<sup>2</sup>
- 2.3 After a FTA enters into force, exporters and importers are required to fulfil regulatory and biosecurity requirements if goods and services may legally move across borders. Where these requirements impede or prevent trade they act as non-tariff barriers to trade.
- 2.4 Non-tariff barriers are varied and can include<sup>3</sup>:
- adherence to particular standards;
  - technical mandated requirements such as those affecting packaging, marketing, labelling, process or production method;

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1 Department of Foreign Affairs and Trade (DFAT), *Submission 28*, p. 5.

2 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, p. 56.

3 The World Trade Organisation (WTO) state that 'there is no official definition [of non-tariff barriers] but, in general terms, it refers to any measure other than a tariff which protects domestic industry'. See: WTO, 'A simple guide – NAMA Negotiations', [https://www.wto.org/english/tratop\\_e/markacc\\_e/nama\\_negotiations\\_e.htm](https://www.wto.org/english/tratop_e/markacc_e/nama_negotiations_e.htm), viewed 3 September 2015.

- sanitary and phytosanitary<sup>4</sup> (SPS) requirements to prevent the spread of pests and diseases; and
  - recognition and accreditation of qualifications.<sup>5</sup>
- 2.5 There may also be economic circumstances and cultural differences that make goods and services uncompetitive in the final market destination, and therefore impede market access.

## Australia's Free Trade Agreements

- 2.6 Australia's current FTAs are:
- Australia–New Zealand Closer Economic Relations Trade Agreement;
  - Singapore–Australia Free Trade Agreement;
  - Thailand–Australia Free Trade Agreement;
  - Australia–United States Free Trade Agreement;
  - Australia–Chile Free Trade Agreement;
  - ASEAN–Australia–New Zealand Free Trade Agreement; and
  - Malaysia–Australia Free Trade Agreement.<sup>6</sup>
- 2.7 The Australian Government has also recently signed FTAs with Korea (signed 8 April 2014, entered into force 12 December 2014<sup>7</sup>), Japan (signed 8 July 2014, entered into force 15 January 2015<sup>8</sup>), and China (signed 17 June 2015, not yet entered into force<sup>9</sup>). These FTAs are not covered in this section as they are not a primary focus of this Inquiry.

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4 Sanitary and Phytosanitary requirements are measures to protect human, animal or plant health from the spread of pests, diseases, contaminants and toxins. Examples of these measures include: quarantine procedures; regulations on production methods; testing, inspection, and approval procedures; and packaging requirements related to food safety. See: WTO, 'The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)', [https://www.wto.org/english/tratop\\_e/sps\\_e/spsagr\\_e.htm](https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm), viewed 3 September 2015.

5 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, p. 71; WTO, 'Annex 1: Terms and their Definitions for the Purpose of this Agreement' in *Agreement on Technical Barriers to Trade*, n.d., pp 15–16.

6 DFAT, *Submission 28*, p. 6.

7 DFAT, 'Korea–Australia Free Trade Agreement', <http://dfat.gov.au/trade/agreements/kafta/news/Pages/default.aspx>, viewed 3 September 2015.

8 DFAT, 'Japan–Australia Economic Partnership Agreement', <http://dfat.gov.au/trade/agreements/jaepa/Pages/japan-australia-economic-partnership-agreement.aspx>, viewed 3 September 2015.

9 DFAT, China–Australia Free Trade Agreement, <http://dfat.gov.au/trade/agreements/chafta/news/Pages/news.aspx>, viewed 3 September 2015.

## Australia-New Zealand Closer Economic Relations Trade Agreement

Date signed	23 March 1983
Date of entry into force	1 January 1983 <sup>10</sup>
Impacts on goods trade	All tariffs on goods were phased out by 1 July 1990.
Impacts on services and investment	Free trade in services with the exception of some services subject to government regulation prior to the agreement. A person registered to practice an occupation in one country can legally practice that occupation in the other country.
Other key features	A common market for government tendering. Freedom of travel between two countries for citizens. Harmonisation of food standards.

Source Department of Foreign Affairs and Trade<sup>11</sup>

- 2.8 Australia and New Zealand first signed a trade agreement in 1922 and then strengthened the agreement in 1933 and 1966.<sup>12</sup>
- 2.9 The Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA), signed in 1983, was Australia's first comprehensive free trade agreement.<sup>13</sup> The Department of Foreign Affairs and Trade (DFAT) reported that the World Trade Organisation (WTO) has described ANZCERTA as 'among the world's most comprehensive, effective and multilaterally compatible free trade agreements'.<sup>14</sup>
- 2.10 The ANZCERTA was strengthened with the inclusion of the Services Protocol in 1989 and the Investment Protocol in 2013.<sup>15</sup> The DFAT noted that the Services Protocol allowed 'most services to be traded free of restrictions across the Tasman'.<sup>16</sup>
- 2.11 New Zealand is Australia's top export market in terms of the number of businesses exporting and the number of transactions taking place, but is only Australia's sixth largest export destination in terms of total value. This suggests that a disproportionate number of smaller businesses export to New Zealand,<sup>17</sup> which may in part be due to the regulatory

10 A Heads of Government Agreement enabled the agreement to enter into force before the treaty was officially signed.

11 DFAT, *Closer Economic Relations: Background Guide to the Australia New Zealand Economic Relationship*, Canberra, February 1997.

12 DFAT, 'ANZCERTA - its genesis and the present', <http://dfat.gov.au/trade/agreements/anzcerta/pages/anzcerta-its-genesis-and-the-present.aspx>, viewed 4 August 2015.

13 Joint Standing Committee on Foreign Affairs Defence and Trade, *Review of Australia-New Zealand Trade and Investment Relations*, p. 1.

14 DFAT, 'ANZCERTA - its genesis and the present', <http://dfat.gov.au/trade/agreements/anzcerta/pages/anzcerta-its-genesis-and-the-present.aspx>, viewed 4 August 2015.

15 DFAT, *Submission 28*, July 2015, p. 6.

16 DFAT, 'ANZCERTA - its genesis and the present', <http://dfat.gov.au/trade/agreements/anzcerta/pages/anzcerta-its-genesis-and-the-present.aspx>, viewed 3 September 2015.

17 Business Council of Australia (BCA), *Submission 31*, p. 8.

harmonisation and integration between Australia and New Zealand. An example is the regulation by Food Standards Australia New Zealand (FSANZ) of food standards across both nations effectively creating a single regulatory environment.<sup>18</sup>

## Singapore-Australia Free Trade Agreement

Date signed	17 February 2003
Date of entry into force	28 July 2003
Impacts on goods trade	All tariffs on goods removed.
Impacts on services and investment	National treatment for education services. Easing of restrictions in the financial services and banking sectors. Greater recognition of qualifications in legal services, architecture and engineering.
Other key features	Relaxation of visa restrictions for long term business residents and their spouses.

Source Department of Foreign Affairs and Trade<sup>19</sup>

- 2.12 The Singapore-Australia Free Trade Agreement (SAFTA) removed all tariffs on the trade of goods. Most Australian exporters, however, were able to access Singapore's markets, tariff free, prior to the agreement.<sup>20</sup>
- 2.13 The Productivity Commission identified the key outcomes of SAFTA as the easing of residency requirements for professionals, the removal of quantitative restrictions (such as on the number of wholesale bank licenses), and the development of a framework for mutual recognition of professional qualifications.<sup>21</sup>
- 2.14 Restrictions on market access were removed on some service industries. The treatment of education services allowed Australian universities to establish campuses in Singapore.<sup>22</sup>

18 BCA, *Submission 31*, p. 8.

19 DFAT, 'Singapore-Australia Free Trade Agreement: Summary of key outcomes for Australia', <http://dfat.gov.au/trade/agreements/safta/Pages/singapore-australia-free-trade-agreement.aspx>, viewed 4 August 2015.

20 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, Canberra, November 2010, p. 66.

21 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, p. 74.

22 DFAT, 'Singapore-Australia Free Trade Agreement: Summary of key outcomes for Australia', <http://dfat.gov.au/trade/agreements/safta/Pages/singapore-australia-free-trade-agreement.aspx>, viewed 4 August 2015.

## Thailand-Australia Free Trade Agreement

Date signed	5 July 2004 <sup>23</sup>
Date of entry into force	1 January 2005
Impacts on goods trade	94 per cent of tariffs removed by 2010.
Impacts on services and investment	Full Australian ownership of construction and management consulting services, and majority Australian ownership of mining operations, education institutions and hotels and restaurants permitted. Business visas extended from one year to three years for new positions and five years for people transferring within the same business
Other key features	Removal or reduction of agricultural quotas.

Source Department of Foreign Affairs and Trade<sup>24</sup>

- 2.15 Prior to the introduction of the Thailand-Australia Free Trade Agreement (TAFTA) almost 80 per cent of Australian exports to Thailand were subject to high tariffs.<sup>25</sup>
- 2.16 The TAFTA has comprehensive coverage of the trade in goods between the two countries. For Australian exports to Thailand a phased in approach was taken with 94 per cent of tariffs removed by 2010 and the remainder (apart from milk) expected to be removed by 2020.<sup>26</sup>
- 2.17 On entry into force TAFTA reduced the tariffs for Australian automotive exports to Thailand. Soon after TAFTA entered into force, however, Thailand restructured their motor vehicles excise tax so that the tax rate escalated with engine size. This change consequently reduced the potential benefits of TAFTA for Australian vehicle exporters.<sup>27</sup>

23 Parliament of Australia, Customs Tariff Agreement Amendment (Thailand-Australia Free Trade Agreement Implementation) Bill 2004 (Cth), Canberra, November 2014.

24 DFAT, 'Key outcomes of the Thailand-Australia Free Trade Agreement', <http://dfat.gov.au/trade/agreements/tafta/Pages/key-outcomes-of-the-thailand-australia-free-trade-agreement.aspx>, viewed 4 August 2015.

25 Priestley, M., 'Australia's Free Trade Agreements', Parliamentary Library, <http://www.aph.gov.au/Library/pubs/BN/2008-09/AustFreeTradeAgreements.htm>, viewed 4 August 2015.

26 DFAT, 'Key outcomes of the Thailand-Australia Free Trade Agreement', <http://dfat.gov.au/trade/agreements/tafta/Pages/key-outcomes-of-the-thailand-australia-free-trade-agreement.aspx>, viewed 4 August 2015.

27 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, p. 81.

## Australia-United States Free Trade Agreement

Date signed	18 May 2004 <sup>28</sup>
Date of entry into force	1 January 2005
Impacts on goods trade	97 per cent of manufacturing tariffs removed on entry into force with the remaining tariffs phased out by 2015. Two-thirds of agricultural lines became tariff free. Quotas for Australian dairy increased and in-quota tariffs removed.
Impacts on services and investment	National treatment for service industries ensures service exporters receive the same treatment as domestic service industries. Minimum threshold for review by the Foreign Investment Review Board for United States of America (US) investment into Australia raised to \$1.078 billion.
Other key features	Extension of IP rights in Australia to 70 years after death of author. Australian business gains access to US Government procurement market valued at US\$535 billion per annum (2011). Australia 'carves out' majority of broadcasting and audio-visual industries and maintains right to use Pharmaceutical Benefits Scheme to regulate access to medicine.

Source Department of Foreign Affairs and Trade<sup>29</sup>

- 2.18 At the time of signing, the Australia-United States Free Trade Agreement (AUSFTA) was Australia's largest and most significant FTA. The US is Australia's third largest two-way trading partner.<sup>30</sup>
- 2.19 The percentage of Australian exports that enter into the United States of America (US) duty free has increased from 44.8 per cent in the three calendar years prior to AUSFTA (2002-04) to 88.8 per cent in 2012-14.<sup>31</sup>
- 2.20 The AUSFTA provided the Australian meat industry significantly increased duty free access to the US market. In 2004, 84 per cent of Australian beef and over 90 per cent of Australian sheep and goat meat entering the US incurred a tariff. In 2014, less than one per cent of these products were subject to tariffs.<sup>32</sup>
- 2.21 Historically the US has set the global floor price for grinding beef. The US places a quota on the amount of beef it imports and this 'US beef quota distorted the whole Australian beef industry'. The increased Australian

28 The Hon. Mark Vaile, MP, 'Speech: Signing of the Australia-United States Free Trade Agreement', 18 May 2004, [http://trademinister.gov.au/speeches/2004/040518\\_usfta.html](http://trademinister.gov.au/speeches/2004/040518_usfta.html), viewed 6 August 2015.

29 DFAT, 'Australia-United States FTA', <http://dfat.gov.au/trade/agreements/ausfta/Pages/australia-united-states-fta.aspx>, viewed 6 August 2015.

30 DFAT, 'United States of America Country Brief', <http://dfat.gov.au/geo/united-states-of-america/Pages/united-states-of-america-country-brief.aspx>, viewed 6 August 2015.

31 DFAT, *Submission 28*, p. 34.

32 DFAT, *Submission 28*, p. 10.

beef quota through AUSFTA (70 000 tonnes over 18 years) has had the effect of removing quota controls and opened the US market.<sup>33</sup>

- 2.22 The quota for Australian sugar was not increased as a result of AUSFTA. Australia has been seeking increased access to the US sugar market for 'the last 40 to 50 years' but that was not achieved through AUSFTA.<sup>34</sup>

## Australia-Chile Free Trade Agreement

Date signed	30 July 2008
Date of entry into force	6 March 2009
Impacts on goods trade	Over 90 per cent of goods traded (in both directions) became tariff free on entry into force. All remaining tariffs (excluding sugar) removed by 2015.
Impacts on services and investment	Most services industries provided national treatment and most-favoured-nation treatment. Investment liberalised but companies must have minimum numbers of local board members and Chile requires companies with over twenty staff members to have at least 85 per cent Chilean employees.
Other key features	Access to long-term extendable business visas and right to work visas for spouses. Each country provides access to government procurement and tendering processes.

Source Department of Foreign Affairs and Trade<sup>35</sup>

- 2.23 The Australia-Chile Free Trade Agreement (ACIFTA) is Australia's only FTA with a South American nation. Anecdotally, ACIFTA appears to have increased Australian business interest in South America with many Australian companies establishing business hubs for their broader South American operations.<sup>36</sup>
- 2.24 The ACIFTA included national treatment and dispute settlement provisions that have encouraged greater investment by Australian mining companies in Chile. There are currently 25 Australian mining companies operating in Chile.<sup>37</sup>

33 Australian Meat Industry Council (AMIC), *Submission 27*, p. 14.

34 Joint Standing Committee on Treaties, *Report 61: Australia-United States Free Trade Agreement*, p. 102

35 DFAT, 'Australia-Chile FTA', <http://dfat.gov.au/trade/agreements/acifta/Pages/australia-chile-fta.aspx>, viewed 6 August 2015.

36 DFAT, *Submission 28*, p. 33.

37 Minerals Council of Australia (MCA), *Submission 20*, p. 11.

## ASEAN-Australia-New Zealand Free Trade Agreement

Date signed	27 February 2009
Date of entry into force	1 January 2010 <sup>38</sup>
Impacts on goods trade	96 per cent of Australian goods exports to the region to be tariff free by 2020.
Impacts on services and investment	Binding of existing levels of access for service industries. Some increased protections for investments.
Other key features	Regional Rules of Origin allow greater integration in manufacturing supply chains.

Source Department of Foreign Affairs and Trade<sup>39</sup>

- 2.25 The ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) is Australia's only multi-lateral FTA. The agreement covers a population of over 650 million people with a combined country GDP in 2013 of over US\$4 trillion.<sup>40</sup>
- 2.26 The Association of Southeast Asian Nations (ASEAN) consists of ten countries and under AANZFTA each country has different timeframes for reducing tariffs. Developing countries are provided more time to implement tariff removals with many tariffs not required to be removed until 2020.<sup>41</sup>
- 2.27 The commitments in the services sector were much more modest than in the goods sector reflecting the lack of internal integration in the services sector within ASEAN.<sup>42</sup>
- 2.28 Systems for administering copyright regulations are relatively undeveloped in a number of ASEAN nations. As a result, AANZFTA has

38 AANZFTA entered into force later for Thailand (March 2010), Laos (January 2011), Cambodia (January 2011), and Indonesia (January 2012).

39 DFAT, 'ASEAN-Australia-New Zealand Free Trade Agreement', <http://dfat.gov.au/trade/agreements/aanzfta/Pages/asean-australia-new-zealand-free-trade-agreement.aspx>, viewed 6 August 2015.

40 DFAT, 'ASEAN-Australia-New Zealand Free Trade Agreement', <http://dfat.gov.au/trade/agreements/aanzfta/Pages/asean-australia-new-zealand-free-trade-agreement.aspx>, viewed 6 August 2015.

41 DFAT, 'ASEAN-Australia-New Zealand Free Trade Agreement', <http://dfat.gov.au/trade/agreements/aanzfta/Pages/asean-australia-new-zealand-free-trade-agreement.aspx>, viewed 6 August 2015.

42 DFAT, 'Overview and key outcomes of the ASEAN-Australia-New Zealand Free Trade Agreement', <http://dfat.gov.au/trade/agreements/aanzfta/Pages/overview-and-key-outcomes-of-the-asean-australia-new-zealand-free-trade-agreement.aspx>, viewed 3 September 2015.

encouraged greater regional cooperation on copyright issues with the aim of enhancing and harmonising copyright regulations across the region.<sup>43</sup>

## Malaysia-Australia Free Trade Agreement

Date signed	22 May 2012
Date of entry into force	1 January 2013
Impacts on goods trade	99 per cent of Australian goods exported into Malaysia will be duty free by 2017. Rice excluded from the agreement until 2023.
Impacts on services and investment	Ownership restrictions on a range of service industries operating in Malaysia removed or reduced.
Other key features	Australian exporters can use 'Declaration of Origin' system to avoid need for third-party certification of a good's origin.

Source Department of Foreign Affairs and Trade<sup>44</sup>

- 2.29 When the Malaysia-Australia Free Trade Agreement (MAFTA) was signed, Malaysia and Australia were already FTA partners through membership of AANZFTA. The MAFTA, however, 'built on the commitments made by both countries in the [AANZFTA]'.<sup>45</sup>
- 2.30 The introduction of MAFTA significantly relaxed ownership restrictions on service providers working in Malaysia. From 2015, Australian companies were permitted 100 per cent ownership of higher education, accounting and auditing, and management consultancy service providers operating in Malaysia. Under MAFTA, financial and telecommunication services could be 70 per cent Australian owned.<sup>46</sup>

## Negotiating Free Trade Agreements

### Agency Responsibilities During and After Negotiations

- 2.31 The DFAT is the responsible agency for negotiating FTAs on behalf of the Australian Government. In undertaking negotiations DFAT consults widely with other government agencies to ensure a whole-of-government approach to trade negotiations. For example, The Department of Industry

43 Mr Scot Morris, Director International, Australasian Performing Rights Association Ltd and Australasian Mechanical Copyright Owners Society, *Committee Hansard*, Sydney, 28 July 2015, pp 2, 5.

44 DFAT, 'Malaysia-Australia Free Trade Agreement', <http://dfat.gov.au/trade/agreements/mafta/Pages/malaysia-australia-fta.aspx>, viewed 6 August 2015.

45 DFAT, 'MAFTA Outcomes at a Glance', <http://dfat.gov.au/trade/agreements/mafta/Pages/mafta-outcomes-at-a-glance.aspx>, viewed 3 September 2015.

46 DFAT, 'MAFTA Outcomes at a Glance', <http://dfat.gov.au/trade/agreements/mafta/Pages/mafta-outcomes-at-a-glance.aspx>, viewed 6 August 2015.

- and Science (DIS) provides technical advice to DFAT on issues such as tariff reduction transition arrangements, market access issues and rules of origin.<sup>47</sup>
- 2.32 During FTA negotiations, Government agencies consult with industry groups to identify key market opportunities, potential or actual trade barriers, and possible negotiating positions.<sup>48</sup>
- 2.33 Free trade agreement negotiations will often establish institutional arrangements for ongoing dialogue after an agreement has entered into force. These arrangements assist with the implementation of the FTA and seek to resolve any issues that may arise. For example, AANZFTA established a FTA committee that meets annually and a series of subcommittees that consider specific sectors covered by AANZFTA.<sup>49</sup>
- 2.34 The Department of Agriculture (DoA) undertakes negotiations with all of Australia's trading partners on market access issues such as biosecurity and phytosanitary (SPS) protocols. Negotiations are prioritised based on the sectors and markets that could provide the most potential benefit to Australian exporters.<sup>50</sup>
- 2.35 On 4 July 2015 additional funding of \$30.8 million over four years was provided for DoA to address technical barriers in overseas markets. This included the addition of five additional agricultural counsellors, who would be based in key overseas markets, tasked to address access to market issues.<sup>51</sup>

### Consistency Between Agreements and World Trade Organisation Regulations

- 2.36 Bilateral agreements, in comparison to multilateral agreements, can lead to a divergence of regulations for issues such as market access and also in determining the origin of goods. As the number of FTAs grows so does the difficulty business faces in understanding the differing regulatory settings in each agreement.<sup>52</sup>

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47 Mr Paul Trotman, General Manager, Trade and International Branch, Department of Industry and Science (DIS), *Committee Hansard*, Canberra, 21 July 2015, p. 9.

48 Mr Paul Trotman, DIS, *Committee Hansard*, Canberra, 21 July 2015, p. 9.

49 Mr Michael Mugliston, Special Negotiator, Free Trade Agreement Division, DFAT, *Committee Hansard*, Canberra, 21 July 2015, p. 5.

50 Ms Jo Evans, Deputy Secretary, Department of Agriculture (DoA), *Committee Hansard*, Canberra, 21 July 2015, p. 15.

51 Ms Jo Evans, DoA, *Committee Hansard*, Canberra, 21 July 2015, p. 15; Commonwealth of Australia, *Agricultural Competitiveness White Paper*, Canberra, 2015, p.122.

52 Mr Bryan Clark, Chief Executive Officer, Australian Chamber of Commerce and Industry (ACCI), *Committee Hansard*, Canberra, 21 July 2015, p. 21.

- 2.37 The DFAT advised that whilst it aimed to develop the 'simplest and most business-friendly'<sup>53</sup> rules possible, consistency across agreements was not always possible. The DFAT stated:
- ... Australia is negotiating with different trading partners who themselves have different systems and processes. Compromise positions must be reached. A one size fits all approach to FTAs is not practical.<sup>54</sup>
- 2.38 The Australian Chamber of Commerce and Industry (ACCI) was concerned with regulatory inconsistency across Australia's FTAs. The ACCI recommended that the terms of the WTO Trade Facilitation Agreement should be applied to all Australian FTAs.<sup>55</sup>
- 2.39 Conversely, the DFAT stated that the WTO Trade Facilitation Agreement:
- ... provides for developing countries essentially to opt in or out of different parts of the agreement. To that extent [the WTO Trade Facilitation Agreement has] a lower level of ambition than many of the FTAs we have with developing country partners.<sup>56</sup>

## Features of Free Trade Agreements

### Rules of Origin and Certificates of Origin

- 2.40 The establishment of rules determining the origin of goods and services is a requirement of any FTA. The rules prevent companies from importing products from a third country and then exporting them under the preferential conditions of a FTA.
- 2.41 Certificates of Origin are documents issued by government authorised bodies to certify the origin of a product. The Certificate of Origin also includes information on the 'implementation of anti-dumping procedures, tariff concessions, trade finance outcomes and assessing the value of the goods'. In Australia Certificates of Origin are issued by ACCI (and its state chambers) and the Australian Industry Group (Ai Group).<sup>57</sup> Certificates of Origin are considered in more detail in section 2.98–2.102.

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53 Ms Frances Lisson, First Assistant Secretary, Free Trade Agreement Division, DFAT, *Committee Hansard*, Canberra, 21 July 2015, p. 2.

54 DFAT, *Submission 28*, p. 13.

55 ACCI, *Submission 21*, p. 8.

56 Mr Justin Brown, First Assistant Secretary, Office of Trade Negotiations, DFAT, *Committee Hansard*, Canberra, 21 July 2015, p. 7.

57 ACCI, *Submission 21.1*, pp 1-2.

## Rules of Origin for Goods

- 2.42 In Australia's FTAs the most commonly used approach to designate the origin of a product is a change of tariff classification (CTC) test. This test is based on the classification of a product under the Harmonized Commodity Description and Coding System (HS).<sup>58</sup> If processes undertaken in a country transform a product to the extent that the HS code used to classify the product changes then the product is deemed to have originated in that country.<sup>59</sup>
- 2.43 All products can be described with HS Codes at 2-digit, 4-digit, 6-digit or 8-digit level. Additional digits represent greater specificity in the description of the product.<sup>60</sup>
- 2.44 An alternative approach to determining the origin of a good is the regional value content (RVC) test. In this test a good is deemed to have originated in a country if it contains a specific proportion of locally produced inputs.<sup>61</sup>
- 2.45 The SAFTA is Australia's only FTA that uses a consistent method of determining the origin of a good. In this case a RVC test is applied to all products.<sup>62</sup>
- 2.46 In Australia's other FTAs, a mix of CTC and RVC tests is used and HS codes are applied at different digit levels for different products. The Productivity Commission stated that, 'the application of approaches varies between products within agreements and, for individual products, between agreements'.<sup>63</sup>
- 2.47 The complexity and diversity of regulations can make it difficult for exporting businesses to classify their products. The Ai Group stated that

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58 The World Customs Organisation Harmonized Commodity Description and Coding System is a multipurpose international product classification system whereby about 5000 commodity groups are each identified by six digit codes. World Customs Organisation, *What is the Harmonized System (HS)?* [www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx](http://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx) viewed 5 August 2015.

59 Productivity Commission, *Exhibit 3: Trade & Assistance Review 2013-14'*, Canberra, June 2015, p. 64.

60 For example, the 2-digit code 08 refers to 'Edible fruit and nuts; peel of citrus fruit or melons'; 0808 refers to 'Apples, pears and quinces, fresh'; 0808:10 refers to 'Fresh Apples'; 0808:10.04 refers to 'Fresh Granny Smith'. See: Australian Bureau of Statistics, '5489.0 - International Merchandise Trade, Australia, Concepts, Sources and Methods', <http://www.abs.gov.au/ausstats/abs@.nsf/0/8DF2F05EE6BCF565CA256A5B001BD78A>, Canberra, May 2001, viewed 21 August 2015.

61 Productivity Commission, *Exhibit 3: Trade & Assistance Review 2013-14'*, p. 64.

62 Productivity Commission, *Exhibit 3: Trade & Assistance Review 2013-14'*, p. 65.

63 Productivity Commission, *Exhibit 3: Trade & Assistance Review 2013-14'*, p. 63.

'very few exporters know what the HS code for their product is, or where to find it'.<sup>64</sup>

- 2.48 The Australian Border Force assists importing businesses by providing 'advance rulings' on the appropriate HS code to use when importing a product. The DIS suggested that consideration be given to extending this service to exporters.<sup>65</sup>
- 2.49 The Export Council of Australia (ECA) favoured liberalisation in the area of rules of origin. The ECA advocated adopting a consistent approach to technical issues that avoided specific provisions for particular countries.<sup>66</sup>

### Rules of Origin for Services and Investment

- 2.50 Rules of Origin for the service industry and for investments (often referred to as 'denial of benefits') are used to deny companies from non-partner countries access to the preferential trade benefits in the FTA.
- 2.51 Australia's FTAs have used a relatively consistent rule requiring companies to have 'substantial business operations' within a partner country if they are to benefit from the FTA.<sup>67</sup>

### Investor-State Dispute Settlement

- 2.52 Investor-State Dispute Settlement (ISDS) provisions are designed to provide a mechanism for resolving disputes between an investor in one FTA party and the government of another FTA party. This would usually involve the dispute being taken to a third-party tribunal.<sup>68</sup> Six of Australia's signed FTAs include an ISDS provision, these being the FTAs with Singapore, Thailand, Chile, ASEAN and New Zealand, Korea, and China. The FTAs with Malaysia, New Zealand, Japan and the US do not include an ISDS provision.<sup>69</sup>
- 2.53 The ISDS provisions were initially included in trade agreements as a means of protecting companies from expropriation of their assets when they invested in countries without well-established legal systems. Over time, however, ISDS clauses have been included in agreements between countries with mature legal systems.<sup>70</sup>

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64 Australian Industry Group (Ai Group), *Submission 17*, p. 3.

65 Mr Paul Trotman, DIS, *Committee Hansard*, Canberra, 21 July 2015, p. 13.

66 Export Council of Australia (ECA), *Submission 15*, p. 10.

67 Productivity Commission, *Exhibit 3: Trade & Assistance Review 2013-14'*, p. 67.

68 Productivity Commission, *Exhibit 3: Trade & Assistance Review 2013-14'*, p. 77.

69 Productivity Commission, *Exhibit 3: Trade & Assistance Review 2013-14'*, p. 80.

70 Mr Paul Gretton, Assistant Commissioner, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, p. 35.

- 2.54 The number of ISDS cases worldwide has been gradually rising with 42 new cases initiated in 2014. To date Australia has been subject to one claim from Phillip Morris in relation to Australia's plain packaging tobacco laws.<sup>71</sup>

## Entry Barriers to Overseas Markets

- 2.55 A FTA is just one step in liberalising trade between signatory countries. The DFAT stated that besides focusing on tariff elimination and addressing some non-tariff barriers:
- ... there will always be a range of other factors that impact on market access and trade. These can include quarantine or standards issues, labelling or other product requirements or customs arrangements as well as currency fluctuations. FTAs cannot in themselves remove all these impediments.<sup>72</sup>
- 2.56 The Australian Meat Industry Council (AMIC) suggested that as tariffs fall following the introduction of a FTA, 'developing countries turn increasingly to non-tariff trade barriers as the last resort mechanism for controlling imports.'<sup>73</sup>
- 2.57 The DIS, however, did not consider that Australia's FTA partners were increasing non-tariff barriers to stifle the intent of the FTA. The DIS suggested that the focus has shifted towards non-tariff measures due to the relative decline in global tariffs resulting from WTO and unilateral tariff reduction.<sup>74</sup>
- 2.58 A country's economic situation can also be a factor. The Ai Group drew attention to a G20 leaders meeting in 2008 concerning the Global Financial Crisis where a statement had been made in support of maintaining the principles of free trade. A World Bank study had found, however, that within three months, '17 of the 20 economies had implemented behind-the-border non-tariff measures to inhibit access to their markets.'<sup>75</sup>

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71 Productivity Commission, *Exhibit 3: Trade & Assistance Review 2013-14*, p. 77.

72 DFAT, *Submission 28*, p. 14.

73 AMIC, *Submission 27*, p. 11.

74 DIS, *Submission 22.1*, p. 2.

75 Mr Innis Willox, Chief Executive, Australian Industry Group (Ai Group), *Committee Hansard*, Canberra, 21 July 2015, p. 28.

## Non-Tariff Barriers

### Standards

- 2.59 The DIS stated that a principle adopted by the Australian Government was that 'where appropriate, international standards should always be adopted.'<sup>76</sup> Where possible, FTA chapters which dealt with non-tariff barriers and non-tariff measures would be 'WTO plus or, at a minimum ... WTO consistent.'<sup>77</sup> The DIS also commented that generally Australia would always use the latest version of the World Customs Organisation harmonised system codes, and expected trading partners to use the same codes when they entered into FTAs with Australia.<sup>78</sup>
- 2.60 The DIS cautioned, however, that an international standard was not always 'the best way forward for Australian industry.' Standards Australia and its counterpart in New Zealand developed standards for use within Australia and New Zealand, and there were:
- ... a wide number of standards that are very much unique to Australia and New Zealand, whether it be because of climatic conditions or the particular industries that we have a natural competitive market advantage in.<sup>79</sup>
- 2.61 The DIS emphasised that Australia would 'never implement standards that are used or designed as a non-tariff barrier.'<sup>80</sup>
- 2.62 Some Australian standards are not accepted by overseas countries. For example, FSANZ has approved irradiation treatment for a number of fruits and vegetables destined for human consumption,<sup>81</sup> but only, Malaysia,<sup>82</sup> Indonesia, Thailand and the US<sup>83</sup> have accepted this as a possible SPS treatment.
- 2.63 The AMIC observed, however, that developing countries were seeking a greater level of independence and moving away from a reliance on other countries' standards. The AMIC stated:

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76 Mr Paul Trotman, DIS, *Committee Hansard*, Canberra, 21 July 2015, p. 11.

77 Mr Paul Trotman, DIS, *Committee Hansard*, Canberra, 21 July 2015, p. 14.

78 Mr Paul Trotman, DIS, *Committee Hansard*, Canberra, 21 July 2015, p. 13.

79 Mr Paul Trotman, DIS, *Committee Hansard*, Canberra, 21 July 2015, p. 11.

80 Mr Paul Trotman, DIS, *Committee Hansard*, Canberra, 21 July 2015, p. 12.

81 Mr Tim Reid, Managing Director, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 24.

82 Mr David Minnis, Chairman, Australian Horticultural Exporters Association (AHEA), *Committee Hansard*, Melbourne, 27 July 2015, p. 4.

83 Mr Simon Boughey, Chief Executive Officer, Cherry Growers Australia (CGA), *Committee Hansard*, Melbourne, 27 July 2015, p. 18.

Where in the past they would have accepted a US standard, today they issue their own individual requirements in response to tariff liberalisation requiring individual negotiations and agreements.<sup>84</sup>

- 2.64 The AMIC further stated that ACIFTA had provided the opportunity to develop a memorandum of understanding with Chile on beef grading and that the 'the removal of the six per cent import tariff would have had little impact without the removal of such a technical trade barrier.'<sup>85</sup>
- 2.65 Reid Fruits provided a second example of an internal overseas standard affecting Australian imports. Japan had not accepted data showing the absence of fruit fly<sup>86</sup> in Tasmania because the data did not meet Japan's testing standards. This had delayed the importation of cherries to Japan by two years while additional data was been gathered. The successful entry of cherries into the Japanese market, which Reid Fruits considered the 'most difficult to deal with in terms of quarantine market access', however, paved the way for entry into other countries.<sup>87</sup>
- 2.66 The Winemakers' Federation of Australia (WFA) advised that Australia was currently engaged on its behalf with the Codex Committee on Food Additives. At issue was an argument concerning food additives with the European Union (EU) concerning the setting of 'numerical limits based on quality'. While the wine industry could accommodate such limits, as a matter of principle, it was arguing that limits should be based on food safety rather than quality. This had resulted in a delay of two years for Codex approval. The WFA's view was that the EU was attempting to 'export European regulation.'<sup>88</sup>
- 2.67 Grain Growers expressed concern regarding recent announcements by Korea and Japan that they intended 'to operate positive lists for chemical maximum residue levels rather than [use] the internationally recognised Codex.'<sup>89</sup>
- 2.68 Australia has for some time adopted a strategic approach to standards. The DIS stated that the Australian Government was aware of WTO

84 Mr David Larkin, Chairman, AMIC, *Committee Hansard*, Sydney, 28 July 2015, p. 36.

85 Mr David Larkin, AMIC, *Committee Hansard*, Sydney, 28 July 2015, p. 36.

86 Australia has two types of fruit fly; the Mediterranean Fruit Fly which is located in south-west Western Australia and the Queensland Fruit Fly which is located in parts of the Northern Territory, Queensland, New South Wales and Victoria. There are three horticultural regions of mainland Australia which are considered Pest Free Areas; these are Riverina (NSW), Riverland (SA) and Sunraysia (Vic). All of Tasmania is a Pest Free Zone for fruit fly. CGA, *Submission 6.1*, pp 5-6.

87 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, pp 23-24.

88 Mr Anthony Battaglione, General Manager, Strategy and International Affairs, Winemakers' Federation of Australia (WFA), *Committee Hansard*, Melbourne, 27 July 2015, p. 28.

89 Grain Growers, *Submission 25*, p. 3.

commentary that standards and conformity assessment procedures may be behind the increase in non-tariff barriers. The Government's response was to support Standards Australia and the National Association of Testing Authorities in representing Australia in the International Organisation for Standardisation and the WTO and its various committees. The aim was 'to ensure that countries [were] not introducing these non-tariff barriers under the radar.'<sup>90</sup>

- 2.69 The Minerals Council of Australia (MCA) stated that Australia has adopted this strategic approach to standards since the early 1990s through the work of the Asia-Pacific Economic Cooperation (APEC) organisation. The MCA stated:

APEC has done a lot of work on standards and conformance issues. ... No one wanted an APEC standard; people wanted one that promoted countries' adoption of international standards where that was appropriate ... For a long time this was dominated by Europe and we as a region were takers. As the economic importance of the Pacific and Asia has grown ... so has the ability of the Asia-Pacific, probably helped along by the fact that these accreditation and standards bodies have been meeting three, four or five times a year for nearly 25 years.<sup>91</sup>

- 2.70 An example was provided by WFA which drew attention to FSANZ leading work in APEC on maximum residue levels in wine grapes and mangoes. The aim was to 'develop systems among all the APEC economies so that they can approve import tolerances.' The value of this work was that these systems would apply to all foods.<sup>92</sup>

## Sanitary and Phytosanitary Issues

- 2.71 The SPS requirements of importing jurisdictions were identified as potential barriers preventing Australian exporters from fully utilising the opportunities provided by FTAs.
- 2.72 The basic rights of WTO members to protect themselves from pests and diseases is set out in *The WTO Agreement on the Application of Sanitary and Phytosanitary Measures*. The agreement states that these SPS measures should be based on scientific principles and only applied to protect human, animal or plant life or health. The agreement states that:

Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant

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90 Mr Paul Trotman, DIS, *Committee Hansard*, Canberra, 21 July 2015, pp 13–14.

91 Mr Brendan Pearson, Chief Executive, MCA, *Committee Hansard*, Canberra, 21 July 2015, p. 42.

92 Mr Anthony Battaglione, WFA, *Committee Hansard*, Melbourne, 27 July 2015, p. 24.

life or health, provided that such measures are not inconsistent with the provisions of this Agreement.

Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence ...<sup>93</sup>

### The Import Risk Assessment Process

- 2.73 Apple and Pear Australia Ltd (APAL) acknowledged the WTO agreement,<sup>94</sup> but emphasised the importance of evaluations being conducted 'on a transparent basis, using import risk assessments that are backed by science'.<sup>95</sup> The APAL also stated that FTAs were 'worth little if market access is denied or compromised by uncommercial or unworkable phytosanitary methods'; that these restrictions constituted trade inhibitors; and that FTAs were 'irrelevant where access is denied'.<sup>96</sup>
- 2.74 The APAL described the import risk assessment process for Australian exports entering foreign markets. The Australian Government approaches an overseas jurisdiction, seeking to export a product. The overseas jurisdiction then initiates an import risk assessment and determines the appropriate level of SPS protection. The overseas jurisdiction then devises a protocol that outlines how the SPS concerns will be addressed. The DoA then works with Australian industry to ensure that products prepared for export meet the protocol.<sup>97</sup>
- 2.75 The DoA stated that Australia undertook similar processes to ensure that SPS concerns were addressed before allowing a product to be imported into Australia.<sup>98</sup>
- 2.76 Several witnesses expressed concern about the timeliness of import risk assessments.
- 2.77 The APAL stated that mainland Australian apples were currently going through the Chinese import risk assessment process. The APAL stated that the applications to approve market entry for mainland Australian apples and nectarines were both lodged in 2006. While the process for

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93 WTO, *The WTO Agreement on the Application of Sanitary and Phytosanitary Measures*, Article 2: Basic Rights and Obligations, [https://www.wto.org/english/tratop\\_e/sps\\_e/spsagr\\_e.htm](https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm), viewed 6 August 2015.

94 Apple and Pear Australia Limited (APAL), *Submission 1*, p. 1.

95 Ms Annie Farrow, Industry Services Manager, Apple and Pear Australia Limited (APAL), *Committee Hansard*, Melbourne, 27 July 2015, p. 8.

96 APAL, *Submission 1*, p. 2.

97 Ms Annie Farrow, APAL, *Committee Hansard*, Melbourne, 27 July 2015, pp 8-9.

98 Ms Jo Evans, DoA, *Committee Hansard*, Canberra, 21 July 2015, p. 17.

approving nectarines was now being finalised, apples were only just entering the information gathering stage after nine years.<sup>99</sup>

- 2.78 The process currently being undertaken to seek access for mainland Australian cherries into South Korea, was outlined by Cherry Growers Australia (CGA) The company stated that the current pest risk analysis had been underway for 16 months, and was at stage three of a nine stage process.<sup>100</sup>
- 2.79 AUSVEG stated there was a lack of market access for Australian vegetable growers into South Korea, observing that there were 'no (or unworkable) phytosanitary protocols for Australian cauliflower, broccoli, beans, lettuce, pumpkins, celery and capsicum', and that there was also a 'near-blanket lack of access for vegetables to the Chinese market'. AUSVEG commented that 'market access to China should not offer substantial bureaucratic or regulatory hurdles' and that 'products which do not require any further work by organisations to meet phytosanitary protocols, such as carrots, should be prioritised for market access negotiations as they are fast and simple to negotiate.'<sup>101</sup>

#### Recognition of Mainland Australian Pest Free Areas

- 2.80 Australia is home to two fruit fly species with pest significance – the Mediterranean fruit fly in the west and the Queensland fruit fly which is in the eastern States. Tasmania and South Australia do not have these fruit flies.<sup>102</sup>
- 2.81 The Australian Horticultural Exporters Association (AHEA) stated that Malaysia, Indonesia and Hong Kong were the only jurisdictions that permitted airfreight of mainland Australian fresh fruit and vegetables<sup>103</sup> and that China did not accept mainland Australian fruit as free of fruit fly.<sup>104</sup>
- 2.82 Citrus Australia reported that China's non-recognition of South Australia's fruit fly pest free area was a 'stringent quarantine [barrier] ... adding costs and prohibiting ... trade'. This had led to South Australian fruit being sent to Melbourne via Shepparton for cold treatment, adding a cost of 'several thousand dollars to each container' before exportation.<sup>105</sup>

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99 Ms Annie Farrow, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 9.

100 Mr Andrew Smith, President, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 16.

101 AUSVEG, *Submission 4*, p. 4.

102 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 1.

103 Ms Michelle Christoe, Executive Director, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 1.

104 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 1.

105 Citrus Australia, *Submission 19*, p. 9.

- 2.83 Reid Fruits drew attention to the delay in gaining approval from the Japanese authorities for its cherries to enter the Japanese market.<sup>106</sup> Reid Fruits and the CGA also stated that mainland cherry growers were placed at a disadvantage by the quarantine protocols of importing countries. These protocols required the use of cold storage to remove the risk of the fruit containing live fruit fly larvae. Cold storage, which required cherries to be stored for 'up to 20 days at temperatures below two degrees', constituted a 'quality destroying' protocol.<sup>107</sup>
- 2.84 The AHEA added that while these treatments reduced the quality of the fresh commodities, they were also costly in terms of supervision, and the involvement of the Australian Quarantine and Inspection Service. Further, the time-consuming nature of cold treatment removed Australia's geographic competitive advantage. The AHEA stated:
- ... cold treatment ... by and large ... is by sea freight. As soon as we are pushed into sea freight, we are taking three weeks to get to the market. We are no earlier than Chile. We have lost our marketing advantage.<sup>108</sup>
- 2.85 The requirement for cold storage as an SPS treatment negates a clear competitive advantage enjoyed by Australia because it restricts the use of airfreight. The AHEA stated:
- It is our proximity to Asia. It is the ability to achieve overnight deliveries to meet market demand or fill market gaps. However, we need to negotiate agreements to support this. This means airfreight access.<sup>109</sup>
- 2.86 The absence of cherry import regulations into Hong Kong, contrasts with the SPS requirements of the Chinese market. The CGA stated that 'over many years, many commodities had gone through Hong Kong and they have obviously found their way through to mainland China. So, if they were going to have the problems [with fruit fly], then you would think that they would be evident now.'<sup>110</sup>

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106 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 23.

107 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 19; Mr Andrew Smith, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 20-21.

108 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 2.

109 AHEA, *Submission 7*, p. 5.

110 Mr Andrew Smith, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 21.

### Addressing Sanitary and Phytosanitary Concerns

- 2.87 The APAL suggested that joint initiatives between Australian industries and the Australian Government would be required to speed up the import risk assessment process.<sup>111</sup>
- 2.88 The AFGC supported this view, observing that there were 'signs of increasing sophistication and complexity of barriers' and that a 'coordinated, resourced and focussed effort by the Australian government and industry' would be required to address non-tariff barriers.<sup>112</sup>
- 2.89 The APAL commented that the 'four by four' process, in which Australia and China would trade off assessments of commodities to import:
- ... would let their apples in – we did that in 2010 – and they let our table grapes in. Tick. We are now looking at their peaches; they did our cherries. Tick. They are now looking at our nectarines. That was the only way you could manage it; because a whole lot of the Australian horticultural industries also want to get into China, our government needs to manage that process.<sup>113</sup>
- 2.90 The DoA stated that all jurisdictions, including Australia, had a finite amount of resources to devote to requests for access, and that jurisdictions had to prioritise products to go through the assessment process.<sup>114</sup>
- 2.91 The APAL stated that the Government could consider providing capacity building assistance to a number of Asian countries. This would build links and capacity in biosecurity and protocol development which could speed up biosecurity assessments.<sup>115</sup>
- 2.92 Addressing the issue of cold treatment to prevent the transfer of fruit fly larvae, Reid Fruits stated that irradiation of fresh fruit would achieve the same objective as cold treatment without harming the fruit. Reid Fruits stated:
- Irradiation can be conducted without reducing the temperature of the fruit, and it can be done over a period of about 12 or 20 hours. You can put a semitrailer load of fruit through an irradiation plant and keep it cold all the way through. ... it is far better in terms of any residue or risk of residue that may have come from fumigation with methyl bromide, and it does not destroy the quality like cold treatment.<sup>116</sup>

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111 APAL, *Submission 1*, p. 2.

112 AFGC, *Submission 8*, p. 5.

113 Ms Annie Farrow, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 9.

114 Ms Jo Evans, DoA, *Committee Hansard*, Canberra, 21 July 2015, p. 17.

115 APAL, *Submission 1*, p. 4.

116 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 24.

- 2.93 The CGA also expressed support for the introduction of irradiation to prevent the transfer of fruit fly larvae.<sup>117</sup>

## Other Non-Tariff Barriers

### Product Labelling and Packaging Dates

- 2.94 The AFGC reported that labelling was a wide-ranging issue, encompassing: nutrition labelling, halal certification, origin labelling, and nutrition panels, and that these constituted regulatory costs, which 'feed into the overall cost competitiveness of our sector'.<sup>118</sup> The industry often dealt with this issue by using an 'over sticker' to meet the requirements of the importing jurisdiction.<sup>119</sup>
- 2.95 The AHEA observed that after TAFTA was ratified, Thailand required packing dates to be included with all fresh produce.<sup>120</sup> As a result, 'exporters can fail transfer certificates in moving goods from the farm to inspection, as they often do not have matching packing dates.' The Thai Department of Agriculture would not inspect goods with dates that did not match.<sup>121</sup>
- 2.96 The AHEA also stated that Malaysia had introduced 'archaic' labelling requirements, particularly around citrus. The requirement that labelling needed to be in two languages (English and Malaysian), added an additional cost to the exporter.<sup>122</sup>
- 2.97 The AMIC also identified similar bilingual labelling requirements in South Korea which would not accept a product labelled with any languages other than English and Korean.<sup>123</sup> The AMIC suggested the rationale was to prevent product entering from a third market.<sup>124</sup>

### Country of Origin Requirements

- 2.98 The AHEA stated that while self-certification of country of origin was permitted under the Japanese and Korean FTAs, it should be negotiated across all countries with self-certification adopted as a norm.<sup>125</sup>

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117 Mr Andrew Smith, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 19.

118 Mr Gary Dawson, Chief Executive Officer, AFGC, *Committee Hansard*, Canberra, 21 July 2015, p. 46.

119 Mr Michael Rogers, Manager, Agribusiness Forum, AFGC, *Committee Hansard*, Canberra 21 July 2015, p. 47.

120 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 6.

121 AHEA, *Submission 7*, p. 3.

122 AHEA, *Submission 7*, p. 2.

123 Mr David Larkin, AMIC, *Committee Hansard*, Sydney, 28 July 2015, p. 41.

124 Mr David Larkin, AMIC, *Committee Hansard*, Sydney, 28 July 2015, p. 41.

125 AHEA, *Submission 7*, p. 4.

- 2.99 The AHEA stated that certificates of origin for fruit and vegetables were:
- ...of no use whatsoever, because it is signed by a person who does not see the product, who has no idea what I am shipping but who signs a bit of paper that I have to have to get into a country. An AQIS Inspector ... also signs a phytosanitary certificate which verifies the goods and where they came from; so what we have got in that instance is paperwork duplication.<sup>126</sup>
- 2.100 The Ai Group and ACCI are the two organisations authorised to issue Certificates of Origin to exporters (the ACCI delegates this function to state chambers). The Ai Group and ACCI differed over whether it should be mandatory for Certificates of Origin to be provided by third parties. The Ai Group stated:
- AI Group has long been in favour of providing companies with the option of self-declaration to determine origin, not mandate Certificates of Origin certified by a third party. As an organisation authorised to issue Certificates of Origin for preferential agreements Ai Group is able to witness firsthand the administrative stress and time pressures that the mandatory regime puts on companies, particularly SMEs.<sup>127</sup>
- 2.101 In contrast, ACCI recommended that the current regime be preserved. The ACCI commented that the globally established certificate of origin system facilitated trade, because it was accepted, trusted, reduced costs for exporters, and provided exporters with legal defences when difficulties arose at borders.<sup>128</sup>
- 2.102 The Victorian Employers Chamber of Commerce and Industry (VECCI) also supported the continuation of the current Certificate of Origin scheme. The VECCI stated:
- A self-certification system would rely on a robust capacity for verification by the customs or revenue authorities of the importing countries. Therefore, if there is no or only a low likelihood that origin certificates will be verified, there is little incentive for business to comply with the origin requirements. False certificates would be common and the original purpose of the rules of origin would be undermined ... Complex language within the free trade agreements makes it difficult for businesses to understand their

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126 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 3.

127 Ai Group, *Submission 17*, p. 4.

128 ACCI, *Submission 21.1*, p. 2.

obligations, which could lead to non-compliance and false certifications under a self-certification system.<sup>129</sup>

### Recognition of Qualifications and Accreditation

2.103 Universities Australia identified recognition of qualifications and accreditation as a potential barrier to trade, stating that 'increased recognition by government and professional accreditation bodies of Australian qualifications' could improve Australia's competitiveness in education, training and research.<sup>130</sup>

2.104 The recognition of qualifications and accreditation in overseas jurisdictions, however, has been identified as a non-tariff barrier, especially in the areas of accounting, financial services and law.

### *Accounting Services*

2.105 The Institute of Public Accountants (IPA) stated that it had been active in Malaysia, increasing its presence and building its membership base. The IPA had been unsuccessful in seeking to have the Malaysian Institute of Accountants (Malaysia's accounting accreditation body) accredit IPA-accredited accountants for work in Malaysia. The passage of the Malaysia-Australia FTA had prompted the IPA to seek advice from DFAT as to whether the FTA could be enforced to progress the accreditation issue, and it was now expected that accreditation would be agreed to.<sup>131</sup>

2.106 In contrast, the IPA noted that Malaysian accountants did not have trouble being accredited in Australia provided they met educational requirements such as in the areas of commercial law and the tax law. In addition, there was, in fact, no legislative requirement for an accountant operating in Australia to be a member of an accounting body.<sup>132</sup>

### *Financial Services*

2.107 The Financial Services Council (FSC) stated that the financial services industry was 'neither a major source of export income nor is Australia recognised as a major financial centre with export capability.' This was despite the financial services industry's 'scale, sophistication and record of innovation and delivery of quality outcomes to clients'.<sup>133</sup>

2.108 The FSC stated that the FTA process in Australia had not focussed on 'implementation to ensure market access commitments are actually made

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129 Victorian Employers Chamber of Commerce and Industry, *Submission 34*, p. 2.

130 Universities Australia, *Submission 5*, p. 1.

131 Ms Vicki Stylianou, Executive General Manager, Advocacy and Technical, Institute of Public Accountants (IPA), *Committee Hansard*, Melbourne, 27 July 2015, p. 41.

132 Ms Vicki Stylianou, IPA, *Committee Hansard*, Melbourne, 27 July 2015, p. 43.

133 Financial Services Council (FSC), *Submission 9*, p. 3.

available to Australian firms'.<sup>134</sup> The FSC added that involving regulators in FTA negotiations would 'enable implementation and consequently the development of mutual recognition agreements'.<sup>135</sup>

2.109 The FSC drew attention to the Hong Kong-Australia 2008 Declaration and stated that 'while at first glance the Declaration seemed to remove barriers, the finer detail created considerable barriers to entry.'<sup>136</sup> The FSC considered an ideal mutual recognition framework would be one:

... where a fund is approved and fully compliant in its local jurisdiction, it should be fully recognised in the corresponding jurisdiction. In other words, if it's good enough for the [Australian Securities and Investment Commission], it should be good enough for the [Securities and Futures Commission of Hong Kong].<sup>137</sup>

2.110 The FSC praised the financial services sections of the Korean and Japanese FTAs, but stated 'many of the previous commitments in financial services have never been implemented or established within Australia so they can actually be used'. The FSC stated that this was because there was no agency responsible for implementation of the agreements.<sup>138</sup>

2.111 The FSC also provided evidence of other barriers affecting the Australian wealth management industry in Japan and Thailand, two markets it considered representative of the region. These barriers included:

- Limits on foreign investment – caps on foreign equity participation, [Foreign Direct Investment] approvals.
- Nationality requirements – limits on foreign participation for boards of directors and voting shares;
- Local presence requirements – local establishment and incorporation requirements;
- Minimum capital requirements;
- Licensing and approval procedures – compliance with domestic licensing criteria and conditions;
- Restrictions on scope of service – controls on the type of service or investment permitted, form of delivery and marketing activities in the local market;
- Controls on outsourcing of core and support functions;
- Lack of transparency in procedural decision making for licensing and approvals, and;
- Advantages to government entities competing in the market.<sup>139</sup>

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134 FSC, *Submission 9*, p. 4.

135 FSC, *Submission 9*, p. 6.

136 FSC, *Submission 9*, p. 8.

137 FSC, *Submission 9*, p. 9.

138 FSC, *Submission 9*, p. 7.

139 FSC, *Submission 9*, p. 11.

### *Legal Services*

- 2.112 The ECA advised that, historically, it had been difficult for Australian lawyers to work in other jurisdictions. The ECA stated, however, that SAFTA had led to an 'increased recognition of Australian educational qualifications and professional standards'. There were also 'improvements with respect to services' under the Japan-Australia FTA and the Korea-Australia FTA. Further, the ECA stated that services were 'at the forefront of a lot of negotiators' attention' in negotiations with China.<sup>140</sup>

## Economic Factors

### Currency Exchange Rates

- 2.113 The Ai Group reported that its members had indicated that an Australian dollar exchange rate against the US dollar of between 78c and 82c was the point at which Australian goods became 'competitive particularly against imports but also in accessing various markets.' Exchange rate stability was also important.<sup>141</sup> The Ai Group added that a low Australian dollar was encouraging the move to onshore component production and stated:

What we have seen is that a lot of businesses, if they are not wholly offshored, are bringing in inputs or component parts to manufacture here. That swing in the dollar has also made it harder ... to bring in imported product ...

From the perspective of a lower dollar ... they will then go sourcing locally because it is a more competitive proposition ...

When the dollar was high, they shifted away. They now have to swing back, and that takes time. That is why you do not get that immediate upturn.<sup>142</sup>

- 2.114 The AHEA commented that the drop in the Australian dollar was worth between four and five dollars per box of citrus.<sup>143</sup>
- 2.115 Exchange rate changes are not isolated to Australia. The APAL drew attention to the impact on the exchange rates of Australia's competitors and stated:

Whilst the Australian dollar has come down against the US dollar, so have the 18 currencies of the countries that we trade with. So are we any cheaper against South Africa? No. Are we any cheaper against Chile? No. Yes, it is helpful, but you have to put it in the

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140 Mr Andrew Hudson, ECA, *Committee Hansard*, Sydney, 28 July 2015, p. 14.

141 Mr Innis Willox, Ai Group, *Committee Hansard*, Canberra, 21 July 2015, pp 27-28.

142 Mr Innis Willox, Ai Group, *Committee Hansard*, Canberra, 21 July 2015, p. 28.

143 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 7.

broader perspective. Everyone has dropped, so it is really not that helpful.<sup>144</sup>

- 2.116 The ANZ Banking Group (ANZ) did not emphasise the effect of exchange rates as a driver for regional trade. The ANZ commented that more important factors affecting trade were; a growing middle class in the region and the nature of products they bought; trade and investment flows; and natural linkages.<sup>145</sup>

### Cost of Production

- 2.117 The AFGC suggested that production costs in Australia are amongst the highest in the world.<sup>146</sup> The AFGC advocated that the FTAs with Malaysia and Thailand reduced tariffs and have allowed Australian product to move from the high price point end of the market to the mid-price point.<sup>147</sup>
- 2.118 Exporting industries will always be under pressure to become more productive. The APAL stated that the productivity of apple production in Australia was increasing significantly with a proportional reduction in the labour cost component. The APAL stated:
- We were 25 tonnes a hectare of apple production 12 years ago; today we are 40 tonnes a hectare, but my exporters are 100 tonnes a hectare. ... At the moment [labour cost] is probably close to 33 per cent of our costs of production at the farm gate. When you get to 100 tonnes it is down to 20 percent ...<sup>148</sup>
- 2.119 The introduction of improved orchard management would enable apples to be harvested robotically in about 5 to 10 years.<sup>149</sup>

### Cost of Transport

- 2.120 The cost of transporting goods to overseas markets can have a significant impact on trade competitiveness. The AHEA stated that Australia enjoyed air freight rates to Asia of less than one dollar a kilogram. This was because airlines were repositioning to Asia to pick up high yielding exports destined for Europe and North America.<sup>150</sup>

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144 Mr John Dollisson, Chief Executive Officer, Apple and Pear Australia Ltd (APAL), *Committee Hansard*, Melbourne, 27 July 2015, p. 8.

145 Mr Graham Hodges, Deputy Chief Executive Officer, ANZ Banking Group, *Committee Hansard*, Sydney, 28 July 2015, p. 35.

146 Mr Gary Dawson, AFGC, *Committee Hansard*, Canberra, 21 July 2015, p. 44.

147 Mr Michael Rogers, AFGC, *Committee Hansard*, Canberra, 21 July 2015, p. 46.

148 Mr John Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 13.

149 Mr John Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 13.

150 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 5.

- 2.121 The AHEA also commented that sea freight rates to the US for horticultural produce were quite expensive because they were determined by the rates for meat. In response, citrus growers had collectively negotiated a discount rate with the shipping company ANL.<sup>151</sup>
- 2.122 The APAL also drew attention to the high cost of sea freight across Bass Strait commenting that this was a source of frustration for Tasmanian growers. The APAL stated that it was more expensive to ship cargo from Tasmania to Melbourne than from Melbourne to China.<sup>152</sup> Reid Fruits indicated there may be some relief forthcoming because from 2016, the Tasmanian Freight Equalisation Scheme was going to apply to goods exported as sea freight. The company added, however, that during consultation with the Department of Infrastructure and Regional Development it had appeared that the department had not considered the possibility that goods might leave Australia as air freight rather than by sea.<sup>153</sup>
- 2.123 The AMIC also raised the high cost for transporting cattle to processing plants across State borders. Efficiency of operations was affected by the different loading rules for the road transport of cattle in Queensland and New South Wales.<sup>154</sup>

### Supply Chain Infrastructure

- 2.124 The infrastructure in overseas markets can be critical to successfully exporting fresh fruit and vegetables. The CGA commented on the lack of cold storage in India:
- ... you do not want your containers of cherries left on the tarmac at Mumbai airport for three or four hours in the heat, because that will just destroy them. It is the cold supply chain that is the big issue.<sup>155</sup>
- 2.125 AUSVEG agreed, stating that once fresh product entered a foreign market control could be lost and that it 'does not take much of a temperature shift in a container for a perishable product to go bad before it lands at its final destination.'<sup>156</sup>

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151 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 4.

152 Mr John Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 13.

153 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 26.

154 Mr David Larkin, AMIC, *Committee Hansard*, Sydney, 28 July 2015, pp 38-39.

155 Mr Simon Boughey, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 20.

156 Mr Michael Coote, National Manager, Export Development, AUSVEG, *Committee Hansard*, Melbourne, 27 July 2015, p. 33.

## Cultural Factors

- 2.126 The APAL advised that relationship building was important in Asia.<sup>157</sup> Reid Fruits agreed,<sup>158</sup> and added that the company had been a very small player in the Korean market before the Korea-Australia FTA, but this market presence had enabled it to expand into the market after the FTA was signed. Reid Fruits was now turning its attention to countries where Australia was contemplating negotiating a FTA.<sup>159</sup>
- 2.127 The ANZBG stated it was important to be active in visiting the region and in understanding the activities which needed to be undertaken and the way business was conducted.<sup>160</sup> The Australian Tourism Export Council also commented that an understanding of the local social media was important.<sup>161</sup>
- 2.128 The APAL advised that it was working with growers from the Punjab, India to explore opportunities for trade with India. Connections through cricket could also provide leverage.<sup>162</sup>
- 2.129 Different cultures have different tastes. The APAL noted that sugar levels and firmness were important for the acceptance of citrus in Asian markets and it was encouraging growers to measure and monitor sugar levels and to not pick fruit too early.<sup>163</sup> The AMIC drew attention to the premium price paid for offal in Asia, and Chinese demand for lamb flap and lamb breast.<sup>164</sup>
- 2.130 AUSVEG stated there was 'an increasingly high demand for Australian organic produce' in China, and that in Hong Kong produce with an Australian organic certification sold at a 40 per cent higher price than produce without a certification. Organic growers were only a small proportion of the Australian industry, but a number were becoming active exporters.<sup>165</sup> The AMIC observed that in North America organic product was regarded as safer and healthier and that the market was becoming

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157 Mr John Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 9.

158 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 20.

159 Ms Lucy Gregg, Marketing and Business Development Manager, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 21.

160 Mr Graham Hodges, ANZ Banking Group, *Committee Hansard*, Sydney, 28 July 2015, p. 31.

161 Ms Anna Taylor, National Manager, Membership and Policy, Australian Tourism Export Council, *Committee Hansard*, Sydney, 28 July 2015, p. 51.

162 Mr John Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 14.

163 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 7.

164 Mr David Larkin, AMIC, *Committee Hansard*, Sydney, 28 July 2015, p. 43.

165 Mr Michael Coote, AUSVEG, *Committee Hansard*, Melbourne, 27 July 2015, p. 33.

crowded 'with organic, natural, hormone-free and antibiotic residue free.'<sup>166</sup>

- 2.131 Regarding imports to Australia, APAL commented that fresh Chinese apples were not 'to the taste profile of Australian consumers.' The amount of Chinese apples imported into Australia, however, in the form of juice concentrate was in fact almost equivalent to Australia's production of fresh apples.<sup>167</sup>

## Concluding Comment

- 2.132 In view of the impasse over the WTO Doha Round, there will continue to be an emphasis on bilateral FTAs. As a trading nation Australia must continue to develop FTAs with its trading partners to reduce tariffs and increase quotas for Australian goods, and open up opportunities for the export sector of the Australian economy.
- 2.133 The Committee supports the framework Australia has adopted for negotiating FTAs. The DFAT, with support from other Commonwealth agencies, is best placed to take the lead role in negotiating these agreements. The Committee provides further comment on the FTA negotiating process in Chapter 4.
- 2.134 The increasing number of FTAs Australia has signed introduces complexity for Australian businesses, especially those that export to a number of Australia's FTA partners. The Committee supports Australian Government efforts to harmonise Australia's FTAs when appropriate. Australian engagement with international standards bodies is a sound strategy for harmonising standards used in FTAs, and also assisting in ensuring that international standards are compatible with Australian standards.
- 2.135 The Committee has received contrasting evidence concerning the certification of the origin of goods exported from Australia. Self-certification by exporters is allowed in the FTAs with Malaysia, Korea, and Japan and in 'certain specified circumstances' in the ChAFTA.<sup>168</sup> Some witnesses argued that self-certification should be included in future FTAs, while others argued for the retention of third party certification. The Committee has not come to a view as to the merits of self-certification

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166 Mr David Larkin, AMIC, *Committee Hansard*, Sydney, 28 July 2015, p. 42.

167 Ms Annie Farrow, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 12.

168 DFAT, 'ChAFTA Summary of Chapters and Annexes' <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/chafta-summary-of-chapters-and-annexes.aspx#chapter-3>, accessed 2 September 2015.

versus third-party certification. It is a business decision and the risk of non-compliance and its consequence must be balanced against the savings and timeliness achieved through self-certification.

- 2.136 Australia has a well developed financial services industry, yet the sector has received limited direct benefit from FTAs. The Committee agrees with the FSC that Australian regulators should be involved in FTA negotiations to facilitate Australian companies benefiting from the FTA and subsequent development of mutual recognition agreements.
- 2.137 Australia's FTAs do not necessarily guarantee market access to the partner country. Overcoming hurdles to market access is an ongoing issue. All countries have a duty to protect their environment and population from the introduction of pests and diseases; to maintain the quality and integrity of businesses and professionals seeking to operate in their country; and to regulate sensitive areas of their economy.
- 2.138 The Committee commends the ongoing efforts of DoA to negotiate SPS protocols with Australia's trading partners. The Committee notes that negotiators are addressing a wide range of issues for a wide range of products. Progress can be slow which concerns some exporters. Recent additional funding to DoA should in part address their concerns.
- 2.139 Unfortunately, some overseas SPS protocols requirements appear not to be based on science. An important issue is the lack of recognition by some countries of the fruit fly-free status of particular regions of mainland Australia. The Committee believes Australia should continue to seek acceptance of the fruit fly free status of parts of mainland Australia where this is an issue in current and future FTAs.
- 2.140 Successful businesses seek productivity gains, but some costs, however, are beyond a business' control. Tasmania has a natural advantage in being fruit fly free, but is geographically disadvantaged with limited air and sea freight services. The Committee supports the proposed inclusion of exported goods in the Tasmanian Freight Equalisation Scheme, but considers all exported goods should benefit from the change irrespective of whether they are destined for export markets via air or sea.

## Recommendations

### Recommendation 1

- 2.141 The Committee recommends that the Department of Foreign Affairs and Trade should include financial services regulators in free trade negotiations to boost the opportunities for Australia's financial services sector.

### Recommendation 2

- 2.142 The Committee recommends that the Department of Agriculture should continue negotiating with trading partners to gain acceptance of the fruit fly-free status of particular regions of mainland Australia in free trade agreements where this is an issue.

### Recommendation 3

- 2.143 The Committee recommends that proposed changes to the Tasmanian Freight Equalisation Scheme include all exported goods whether destined for export via air or sea.

## **Business Experience of Free Trade Agreements**

### **Business Opportunities Arising from Agreements**

- 3.1 While Governments negotiate free trade agreements (FTAs), it is business which can benefit most from them.
- 3.2 In quantifying the total benefits to Australian business arising from Australia's FTAs, the Minerals Council of Australia (MCA) stated:
- Measuring the success or failure of FTAs by shifts in bilateral trade flows between signatories to an agreement is crude and simplistic. ... In Australia's case, it is wrong to consider the impact of trade agreements in isolation from broader trade factors.<sup>1</sup>
- 3.3 The MCA pointed to factors such as the emergence of China as having 'driven a profound reorientation of trade both in Asia and beyond' and the appreciation of Australia's exchange rate of almost 80 per cent between 2003 and early 2013.<sup>2</sup>
- 3.4 The Export Council of Australia (ECA) added that for services there was no 'clear indicator of the value of services being exported' because they did not appear in GST figures and were not well captured in Australian Bureau of Statistics data.<sup>3</sup> The Department of Foreign Affairs and Trade (DFAT) stated that while 'a goods import receiving special FTA treatment generates documentation ... services suppliers and investors are not required to fill in a particular form in order to benefit under the FTA.'<sup>4</sup>

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1 Minerals Council of Australia (MCA), *Submission 20*, p. 2.

2 MCA, *Submission 20*, p. 2.

3 Mr Andrew Hudson, Director, Export Council of Australia (ECA), *Committee Hansard*, Sydney, 28 July 2015, p. 14.

4 Department of Foreign Affairs and Trade (DFAT), *Submission 28*, p. 8.

3.5 The 2015 Australian International Business Activity survey<sup>5</sup> found that from 1237 Australian companies who have used FTAs that:

From 43 to 52 per cent of respondents across the FTAs did not know whether the relevant FTA applied to them, and from 9 to 13 per cent did not know the FTA existed. Seventeen to 20 per cent knew of the FTA but chose not to use it.

... Knowledge of FTAs was higher in product-based industries than in service industries.<sup>6</sup>

3.6 Austrade also stated that Australian exporters may be unaware that they are taking advantage of a particular FTA:

Businesses may be benefiting from their products being sold under lower tariffs overseas but leave the management of exporting to customs brokers, freight forwarders or the importers themselves. Australian business people may benefit also from improved mobility provisions or from the recognition of qualifications without necessarily realising that this was the result of a FTA.<sup>7</sup>

3.7 This view was supported by the Australian Industry Group (Ai Group),<sup>8</sup> and by MCA which commented that 'business utilisation of FTAs is almost certainly higher than suggested in some business surveys.'<sup>9</sup>

3.8 For example, DFAT stated that despite these uncertainties, some specific benefits can be identified:

Simple trade and investment flows can provide useful indicators. This shows that growth in total two-way trade ... and two-way investment between Australia and our FTA partners has generally increased strongly following implementation of FTAs.<sup>10</sup>

3.9 The DFAT added that Customs data on the Australia-United States FTA (AUSFTA) demonstrated 'business has used the FTA to dramatically reduce the amount of Australian imports entering the United States that pay tariffs.' Also, a new visa category and an annual quota of 10 500 visas had allowed Australian business people and professionals to take advantage of the opportunities offered under the FTA by making it easier

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5 The Australian International Business Activity survey is the 'largest survey of Australian international business activity' and is jointly produced by the Australian Export Council, Austrade, Efic and the University of Sydney. ECA, *Submission 15*, p. 4.

6 ECA, *Submission 15*, pp 4-5.

7 Ms Philippa Dawson, General Manager, Trade, Austrade, *Committee Hansard*, Canberra, 21 July 2015, p. 3.

8 Mr Innis Willox, Chief Executive, Australian Industry Group (Ai Group), *Committee Hansard*, Canberra, 21 July 2015, p. 28.

9 MCA, *Submission 20*, p. 2.

10 DFAT, *Submission 28*, p. 7.

for them to work in the US.<sup>11</sup> It should be noted that Australian exports to the US in real terms have been relatively flat over the last ten years<sup>12</sup> due to a number of reasons. The Department of Foreign Affairs and Trade stated that ‘many factors influence trade flows’ and highlighted that since the AUSFTA’s entry into force there has been:

... the mining boom, the 2008-09 Global Financial Crisis with important effects such as the sustained period of a high Australian dollar and a long period of subdued economic growth in the US.<sup>13</sup>

## Benefits to Particular Sectors of the Economy

### Minerals Sector

3.10 The MCA stated that ‘in the case of the minerals sector, the FTAs have delivered real, meaningful and practical gains.’ Besides the FTAs with North Asian countries:

Our deal with Thailand resulted in a number of gains for metal exporters, with the elimination of tariffs of 10 per cent on unwrought lead and zinc. In the case of investment, higher thresholds for [Foreign Investment Review Board] scrutiny in Australia for the United States, Japan and Korea, as well as New Zealand, have provided easier opportunities for investment from those economies into the Australian mining industry. ... these FTAs have improved the operating environment for Australian firms operating abroad. The minerals sector alone has invested more than \$160 billion in operations abroad over recent decades.<sup>14</sup>

3.11 The advantage also extended to the mining services sector. For example, many mining equipment, technology and services companies had a base in Chile and were, MCA suggested, using the FTA with Chile. The evidence was anecdotal but there was a correlation, with more activity in Chile ‘which is then fanning out through South America.’<sup>15</sup> The DFAT supported this view and advised that 120 Australian companies had an investment office in Chile and that this had ‘increased dramatically ‘since the FTA had entered into force. The companies ‘included BHP Billiton, Rio Tinto, Origin Energy, Orica and Pacific Hydro.’<sup>16</sup>

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11 DFAT, *Submission 28*, pp 7-8.

12 DFAT, *Submission 28*, p. 36.

13 DFAT, *Submission 28*, p. 42.

14 Mr Brendan Pearson, Chief Executive, MCA, *Committee Hansard*, Canberra, 21 July 2015, p. 39.

15 Mr Sid Marris, Director, Industry Policy, MCA, *Committee Hansard*, Canberra, 21 July 2015, p. 40.

16 DFAT, *Submission 28*, p. 11.

### Grains Sector

- 3.12 Grain Growers advised that since the AANZFTA came into effect in 2010, grain exports to the Association of Southeast Asian Nations (ASEAN) countries had grown from \$1.3 billion in 2009 to \$2.6 billion in 2014 which represented a compounded average growth rate of 14 per cent. Grain Growers acknowledged that the figures suggested that this increase was more than just the effect of growing populations and increasing demand for Western bread and pasta-based diets.<sup>17</sup>

### Beef Sector

- 3.13 The Australian Meat Industry Council (AMIC) identified the FTA with Chile as Australia's most successful FTA for the beef sector. Under the FTA the industry had successfully sought a memorandum of understanding (MoU) on beef grading which had liberalised access. Shipments to Chile in 2012 reached a peak of 15 000 tonnes – 'the vast majority of this product in chilled form, an outcome unachievable without the MoU and the FTA it was bound to.'<sup>18</sup>
- 3.14 The FTA with the US built on the country-specific import beef quota which had been negotiated through the 1995 Uruguay Round. Under the FTA Australia gained an additional beef quota of 70 000 tonnes over 18 years. The AMIC stated that this 'allowed the removal of quota controls and has allowed the US market since 2003 to operate in an open and free trading environment.'<sup>19</sup>
- 3.15 The AMIC described the beef market in Thailand as a 'highly disruptive and distorted marketplace'. Although the tariff on Australian beef in Thailand was being phased out under the Thailand-Australia FTA (TAFTA), the volume imported had an upper limit which, when exceeded, attracted a tariff of 50 per cent. The demand for Australian beef had far outstripped the phase-out arrangements which caused 'business to be sporadic and unreliable. This led to out-of-stock situations which also led to end users losing confidence in the brand and Australian product in general.'<sup>20</sup>

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17 Grain Growers, *Submission 25*, p. 2.

18 Australian Meat Industry Council (AMIC), *Submission 27*, p. 5.

19 AMIC, *Submission 27*, p. 15.

20 AMIC, *Submission 27*, pp 15-16.

## Horticulture Sector

- 3.16 AUSVEG highlighted the benefits of Australia's FTAs for the horticulture sector. The TAFTA eliminated tariffs on most fresh Australian vegetable exports by 2010 and exports had increased 'by over 110 per cent from \$4.3 million in 2004–05 to \$9.1 million in 2013–14.'<sup>21</sup> This indicated that increasing numbers of Australia growers were becoming interested in exporting.<sup>22</sup>
- 3.17 In contrast, the Australian Horticultural Exporters Association (AHEA) advised that the TAFTA as well as the AUSFTA had provided little benefit to the horticultural industry.<sup>23</sup>
- 3.18 AUSVEG advised that Australian exports to Korea and Japan were also increasing:
- The 2015 Korea–Australia FTA has seen tariff reductions on a range of vegetables. In the first half of this year, exports have already increased by 78 per cent ... Japan is the largest market for vegetable exports and was valued at over \$46 million for our industry last year. Since the FTA came into force in January this year, exports for a number of vegetable commodities started increasing.<sup>24</sup>
- 3.19 Potatoes make up 86 per cent of Australia's vegetable exports to Korea, but tariff reduction only applied to chipping potatoes imported from 1 December to 30 April each year.<sup>25</sup>
- 3.20 Cherry Growers Australia (CGA) reported that the cherry industry was:
- ... growing quite markedly mainly because of access into the Asian markets. In our industry, last season about 13 000 tonnes were levied. But the potential for our industry is to probably go to 20 000 or 25 000 tonnes over the next four to five years.<sup>26</sup>
- 3.21 The CGA noted that Australian produce was regarded as 'some of the highest quality in the world' and was sought after by consumers. In 2014, Australia exported some 3 500 tonnes to the value of almost \$50 million,

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21 Mr Michael Coote, National Manager, Export Development, AUSVEG, *Committee Hansard*, Melbourne, 27 July 2015, p. 30.

22 Mr Michael Coote, AUSVEG, *Committee Hansard*, Melbourne, 27 July 2015, p. 32.

23 Mr David Minnis, Chairman, Australian Horticultural Exporters Association (AHEA), *Committee Hansard*, Melbourne, 27 July 2015, pp 2-3.

24 Mr Michael Coote, AUSVEG, *Committee Hansard*, Melbourne, 27 July 2015, p. 30.

25 AUSVEG, *Submission*, pp 3–4.

26 Mr Simon Boughey, Chief Executive Officer, Cherry Growers Australia (CGA), *Committee Hansard*, Melbourne, 27 July 2015, p. 15.

and there was potential to double the value of exports 'over the next five to seven years.'<sup>27</sup>

- 3.22 The CGA added that the cherry market was highly competitive with Chile, New Zealand, South Africa and Argentina all competing for the 'counter seasonal market, particularly in the northern hemisphere ... and into the Asian markets'. Chile was the major producer with an annual production of 120 000 tonnes and New Zealand was about to double its annual production to 10 000 tonnes.<sup>28</sup>

### Financial Services Sector

- 3.23 As noted above, it is difficult to quantify the benefit of FTAs to the services sector. The Financial Services Council (FSC) commented that 'Australia's FTAs have delivered little benefit to growing trade in financial services.'<sup>29</sup>
- 3.24 Banking service provider, ANZ Banking Group also advised that it expected little direct benefit from the FTA with China because it was already well-established in the Chinese market.<sup>30</sup> Important benefits, however, derived from its ability to support its customers.<sup>31</sup>

### Foreign Direct Investment

- 3.25 The Business Council of Australia (BCA) drew attention to the value of foreign direct investment (FDI) to Australia. FDI exposed local businesses to international standards and best practices and encouraged competition and innovation, driving productivity growth. Bringing new businesses into Australia which had connections in different markets provided additional export opportunities and boosted overall export performance. It was also more difficult to divest FDI as companies generally did not wish to discount or abandon physical assets in Australia. The BCA stated:

One of the greatest benefits flowing from ... AUSFTA has been the dramatic increase in US capital flowing to Australia since the agreement's completion. US direct investment in Australia more than doubled from the 2006 AUSFTA signing till 2013 – from US\$67 billion to US\$149.5 billion.<sup>32</sup>

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27 Mr Simon Boughey, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 15.

28 Mr Simon Boughey, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 15.

29 Financial Services Council (FSC), *Submission 9*, p. 12.

30 Mr Graham Hodges Deputy Chief Executive Officer, ANZ Banking Group, *Committee Hansard*, Sydney, 28 July 2015, p. 33.

31 ANZ Banking Group, *Submission 11*, p. 5.

32 Business Council of Australia (BCA), *Submission 31*, p. 12.

## Reduction in the Cost of Inputs

- 3.26 A further tangible benefit to Australian businesses from FTAs is the reduction of the cost of inputs for Australian business. The DFAT stated that businesses were making use of the agreements 'to significantly reduce the amount of goods imported into Australia that face the full [most-favoured-nation] tariff.'<sup>33</sup> The percentage of imports by value which enter tariff free from Australia's FTA partner countries is over 96 per cent in comparison to the US for which it is 84 per cent.<sup>34</sup>
- 3.27 The MCA pointed to the FTA with Japan as delivering lower cost capital equipment to the minerals sector as well as lower costs for a wide range of consumer products. Other FTAs also delivered lower input costs which 'would not have been enjoyed if Australia simply sat on the trade policy sidelines patiently waiting for a resumption in global trade talks.'<sup>35</sup>

## Intangible Benefits

- 3.28 The DFAT stated that 'FTAs can have a "head-turning" effect and trigger new business interest and corresponding trade and investment flows.' For example, the Australia-Chile FTA 'changed perceptions about doing business with Chile' which had become a hub for Australian business in Latin America.<sup>36</sup> Austrade also commented that FTAs 'raise the profile of, and generate interest in, particular markets', and used China and Japan as examples.<sup>37</sup>
- 3.29 The Australian Tourism Export Council (ATEC) commented that potential Chinese investors had shown increased interest in the Australian tourism sector.<sup>38</sup> The MCA,<sup>39</sup> and the ANZ Banking Group<sup>40</sup> also noted heightened interest from potential Chinese investors arising from the China-Australia FTA (ChAFTA).
- 3.30 Citrus Australia commented that it was 'really hard to quantify the benefit of a free trade agreement with a country, particularly an Asian country.' Regarding the ChAFTA, Citrus Australia stated:

It will take us to a higher level, for sure. There is the interest that is generating already, and not just for trade; it is also for investment.

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33 DFAT, *Submission 28*, p. 8.

34 DFAT, *Submission 28*, p. 11.

35 MCA, *Submission 20*, p. 3.

36 DFAT, *Submission 28*, p. 11.

37 Ms Philippa Dawson, Austrade, *Committee Hansard*, Canberra, 21 July 2015, p. 3.

38 Ms Anna Taylor, National Manager, Memberships and Policy, Australian Tourism Export Council (ATEC), *Committee Hansard*, Sydney, 28 July 2015, p. 51.

39 Mr Brendan Pearson, MCA, *Committee Hansard*, Canberra, 21 July 2015, p. 40.

40 Mr Graham Hodges, ANZ Banking Group, *Committee Hansard*, Sydney, 28 July 2015, p. 31.

It gives people more confidence on both sides to either trade or invest.<sup>41</sup>

- 3.31 Australia's trading competitors are also negotiating FTAs with partner countries and obtaining access and tariff reductions. The DFAT commented that Australia's FTAs restored a level playing field by allowing Australian business to:
- ... receive the same access and other regulatory treatment that competitors had secured through their bilateral agreements, such as New Zealand and Chile with their agreements with China, and the EU and US with their agreements with [Korea].<sup>42</sup>
- 3.32 The AMIC drew attention to the value of levelling the playing field regarding tariffs. While the FTA with Korea had resulted in the phasing out of the 40 per cent tariff on Australian beef, the delay in signing the agreement meant that Australian beef had a 5.3 per cent tariff disadvantage compared with US beef. This was because the US had signed a FTA with Korea two years before Australia. This discrepancy would remain in place for 15 years because of the phase-out period. On the other hand, beef from Canada and New Zealand had a 2.7 per cent tariff disadvantage compared to Australian beef because these countries negotiated their FTAs after Australia.<sup>43</sup>
- 3.33 The MCA stated that FTAs provided certainty of access by binding tariffs to zero or minimal levels. Such moves might not provide substantial new market openings, but they did provide reassurance in the stability of the trade policy environment.<sup>44</sup> The removal of distortions in the global beef market resulting from the increased Australian beef quota in AUSFTA has previously been discussed.
- 3.34 Domestically, MCA noted, FTAs maintained the momentum of domestic reform 'by focusing the trade debate on liberalisation rather than attempts to wind back tariff reform.'<sup>45</sup>
- 3.35 The AMIC also identified economies of scale resulting from increased production to meet export markets as an intangible benefit. Economies of scale have offset high domestic production costs, and resulted in the meat

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41 Ms Judith Damiani, Chief Executive Officer, Citrus Australia, *Committee Hansard*, Melbourne, 27 July 2015, p. 47.

42 DFAT, *Submission 28*, p. 9.

43 AMIC, *Submission 27*, p. 17.

44 MCA, *Submission 20*, p. 3.

45 MCA, *Submission 20*, p. 3.

sector becoming trade focused thereby making FTAs integral to the industry's sustainability.<sup>46</sup>

## Using Free Trade Agreements

3.36 The Ai Group commented that the number of FTAs Australia had signed or was in the process of signing, provided Australian businesses with 'choices around which trade agreement they can use. Those choices are often confusing and often daunting.'<sup>47</sup> This was supported by the Australian Chamber of Commerce and Industry (ACCI) which stated:

... by the time we finish the Trans-Pacific Partnership and RCEP – the Regional Comprehensive Economic Partnership – we will have five separate market entry arrangements into Malaysia, three into the United States, three into Japan, three into China and four into Thailand. This is a nightmare for companies to try to understand their compliance. 'Which one of these am I using? Which one of these has got the specific terms which I need?' In the end, they end up halting or just doing what is familiar.<sup>48</sup>

3.37 The Productivity Commission supported this view stating the proliferation of agreements was:

... adding to the complexity and business transaction costs of trade. Complexity stems in substantial part from the diverse rules of origin for goods and services and from the variable coverage of service sector liberalisation across many agreements. ... It adds to the compliance costs of businesses as they evaluate and attempt to use preferences; also, it adds to the administrative costs to governments, customs authorities and the like.<sup>49</sup>

3.38 The Institute of Public Accountants observed that untangling the complexities of the network of agreements to take advantage of them was 'more difficult and more prohibitive for smaller enterprises.'<sup>50</sup>

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46 Mr David Larkin, AMIC, *Committee Hansard*, Sydney, 28 July 2015, p. 36.

47 Mr Innes Willox, Chief Executive, Ai Group, *Committee Hansard*, Canberra, 21 July 2015, p. 26.

48 Mr Brian Clark, Chief Executive Officer, Australian Chamber of Commerce and Industry (ACCI), *Committee Hansard*, Canberra, 21 July 2015, pp 23–4.

49 Mr Peter Harris, Chairman, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, pp 30–31.

50 Ms Vicki Stylianou, Executive General Manager, Advocacy and Technical, Institute of Public Accountants (IPA), *Committee Hansard*, Melbourne, 27 July 2015, p. 41.

## Supporting Business and Promoting Free Trade Agreements

- 3.39 Austrade undertakes the majority of government activities to assist business to take advantage of export market opportunities. Many industry representatives commented positively on Austrade's activities which assisted them in developing their export markets.
- 3.40 The ECA, referring to Austrade, stated that 'within the parameters of the resources and the funding and the facilities and the other resources which are made available to them, they do a terrific job'.<sup>51</sup>
- 3.41 Reid Fruits commented on the assistance from Austrade's overseas representatives and stated:
- The great thing about Austrade ... is that they have the local knowledge. The team on the ground there can give you the facts and figures and you can meet with importers, but they are also very good at giving you the cultural understanding of how the markets work.<sup>52</sup>
- 3.42 Apple and Pear Australia Ltd (APAL), however, believed that the Australian Government's trade promotion activities compared poorly to the standard of Australia's competitors. Referring to Chile, APAL stated:
- There is much more government support for export. When you go to a trade fair, it is the government organising the trade fair on behalf of the whole country. There is much more government support in the New Zealand industry. It is probably fair to say that across most of the Latin American countries they are way ahead of us in terms of the government leading the way.<sup>53</sup>
- 3.43 Several organisations were also critical of the Australian Government's capability to negotiate market access protocols. This issue is discussed in Chapter 4.

## Government Assistance Programs to Exporters

- 3.44 Many businesses do not understand how to benefit from Australia's FTAs. The Australian Food and Grocery Council (AFGC) observed that 'the lack of knowledge of trade agreements and the opportunities available provides an opening for government to assist industry'.<sup>54</sup>
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51 Mr Andrew Hudson, ECA, *Committee Hansard*, Sydney, 28 July 2015, p. 17.

52 Ms Lucy Gregg, Reid Fruits, *Committee Hansard*, Sydney, July 28 2015, p. 21.

53 Mr John Dollisson, Chief Executive Officer, Apple and Pear Australia Ltd, *Committee Hansard*, Melbourne, July 27 2015, p. 11.

54 Australian Food and Grocery Council, *Submission 8*, p. 7.

- 3.45 The ECA emphasised the importance of providing business with practical, user-friendly information. Specifically ECA recommended providing information to assist business in:
- Understanding how to correctly classify products
  - Understanding how to use Certificates of Origin; including country specific information
  - Understanding how and when to talk to freight forwarders/custom brokers about FTAs and taking advantage of the opportunities.<sup>55</sup>

### North Asia Free Trade Agreement Advocacy Program

- 3.46 In the May 2015 Budget, the Australian Government announced that additional funding of \$24.6 million over two years would be provided to DFAT and Austrade. The funding would be used to promote business understanding of the benefits arising from the recently signed North Asia FTAs.<sup>56</sup>
- 3.47 The two major components of the North Asia FTA Advocacy Program are a series of seminars taking place across Australia and an online FTA Dashboard being developed to assist exporters.

### Seminar Series

- 3.48 The seminar series began in March 2015 and is on-going. Between March and June 2015 ten seminars took place and were attended by a total of 493 people. The seminars are organised by Austrade and DFAT with input from a number of other agencies.<sup>57</sup>
- 3.49 Austrade monitors responses to the seminars through a post-seminar survey. The DFAT reported that the response to the seminars had been very positive with 'almost all business respondents indicating that they would recommend the seminar to others'.<sup>58</sup>
- 3.50 The Ai Group, whilst welcoming the seminars, considered that 'they still lack the granular level of information that companies require to adequately utilise an FTA.' The Ai Group referred to the difficulties that Australian companies encounter when attempting to classify their products using the Harmonised Commodity Description and Coding System (HS) codes. For this reason the Ai Group recommended that customs officials be available during the seminar series to clarify issues

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55 ECA, *Submission 15*, p. 11.

56 DFAT, *Submission 28*, p. 25.

57 DFAT, *Submission 28*, pp 26–27.

58 Ms Philippa Dawson, Austrade, *Committee Hansard*, Canberra, 21 July 2015, p. 3.

relating to classification and Rules of Origin.<sup>59</sup> The ECA also welcomed the involvement of staff from the Department of Immigration and Border Protection stating their involvement made industry 'more inclined to engage'.<sup>60</sup>

### Role of Peak Organisations in Educational Activities

- 3.51 A number of groups referred to the potential for third parties such as industry associations, business chambers and professional service firms to have a greater role in educating business in how to take advantage of FTAs.
- 3.52 The ACCI was of the view that the current seminar system being run by DFAT and Austrade would make slow progress in covering all parts of the country. The ACCI suggested that making greater use of industry associations would be more time and cost effective.<sup>61</sup>
- 3.53 The AFGC highlighted the role that professional service firms such as companies that provide legal, logistics, customs and regulatory advice to exporters could have in educating exporters. Government education and outreach programs directed at professional service firms could be an efficient means of reaching a large number of exporters. The AFGC recognised the tension that arose from Government 'providing information to service firms who might charge for the advice', but suggested the focus should be on 'maximising outcomes for Australian industry'.<sup>62</sup>
- 3.54 Austrade is implementing the *Free Trade Agreement Business Engagement and Utilisation* grant scheme and advised the grant scheme was expected to commence in July 2015 and will be:
- ... a discretionary, merit-based program available to Australian member-based business organisations who are interested in delivering FTA projects focussed on Korea, Japan and China. The grants will deliver projects aimed at helping their members and stakeholders understand and utilise the FTAs.<sup>63</sup>
- 3.55 The DFAT and Austrade are also working on other methods to partner with industry associations and professional service firms to deliver information to businesses on the benefits of FTAs. The DFAT stated:

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59 Ai Group, *Submission 17*, p. 3.

60 Mr Andrew Hudson, ECA, *Committee Hansard*, Sydney, 28 July 2015, p. 17.

61 Mr Bryan Clark, Chief Executive Officer, ACCI, *Committee Hansard*, Canberra, 21 July 2015, pp 23, 25.

62 Australian Food and Grocery Council (AFGC), *Submission 8*, p. 7.

63 DFAT, *Submission 28*, p. 28.

DFAT and Austrade are making available a wide variety of information and materials that allow partners and allies to create their own material and promote the FTAs and the opportunities within FTA markets. The participation by business organisations in educating Australian firms and assisting them to use FTAs is designed to help strengthen the involvement and long term engagement of a broader cross-section of [small to medium enterprises], active in the Korea, Japan and China markets.<sup>64</sup>

- 3.56 A further example was provided by Austrade which commented that the financial services sector had 'significant opportunities' in the Japanese and Korean markets. To identify such opportunities, Austrade had partnered with the Financial Services Council and led a delegation of Australian financial services companies to Japan and Korea to meet with their Japanese and Korean counterparts.<sup>65</sup>

#### Online Industry Assistance

- 3.57 The DFAT is developing an online system tool – the FTA Dashboard – to assist businesses to readily access exporting and importing information related to the North Asia FTAs. The FTA Dashboard will include a tariff finder and comprehensive Rules of Origin guidance and is expected to be released later this year.<sup>66</sup>
- 3.58 Other organisations are undertaking work to complement the FTA Dashboard. For example, the AHEA is developing seasonal and product specific horticulture information to complement the information contained in the FTA Dashboard.<sup>67</sup>
- 3.59 The ECA and the ANZ Banking Group have partnered to develop a FTA Tool designed to help businesses understand how to classify their products under Rules of Origin requirements. The ECA is currently working with DFAT to ensure that the FTA Tool complements the FTA Dashboard. The ECA is also planning to use a roadshow to promote its FTA Tool.<sup>68</sup>
- 3.60 The BCA recommended that the FTA Dashboard should be country-centred, as opposed to agreement-centred. A country-centred FTA Dashboard would be able to compare the rules and tariffs across multiple

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64 DFAT, *Submission 28*, p. 28.

65 Ms Philippa Dawson, Austrade, *Committee Hansard*, Canberra, July 21 2015, p. 7.

66 DFAT, *Submission 28*, p. 27.

67 Ms Michelle Christoe, Executive Director, AHEA, *Committee Hansard*, Melbourne, July 27 2015, p. 4.

68 Mr Andrew Hudson, ECA, *Committee Hansard*, Sydney, 28 July 2015, p. 16; ECA, *Submission 15*, p. 11.

agreements in a single country and assist business to identify the most beneficial FTA for its product.<sup>69</sup>

- 3.61 AUSVEG raised concerns about the FTA Dashboard, noting that vegetable producers rely more on fax machines than the internet for business communication. Further, AUSVEG was concerned that requiring producers to learn to use a new online system could potentially lead to increased confusion.<sup>70</sup>
- 3.62 The Department of Agriculture (DoA) maintains the *Manual of Importing Country Requirements* (MICoR) which AUSVEG and individual vegetable producers rely on for information on market access rules. AUSVEG supported the concept of a single interface with tariff and sanitary and phytosanitary (SPS) rules, but was 'concerned with the accuracy of this database as well as delays in updating its content, which can cause commercial detriment to exporting vegetable growers.'<sup>71</sup>
- 3.63 Reid Fruits referred to the difficulties caused by being unable to access DoA's export document hub outside of business hours. Reid Fruits stated:
- When you are dealing with a perishable product, it is imperative that the documentation hub is open 24/7. During cherry season, we literally operate 16 or 18 hours a day for six to eight weeks ... During the season, all sorts of things change. Market conditions will change in Taipei in Taiwan and they will say, 'Can you send it to Shanghai?' I will go, 'it happens over the weekend – no, sorry; can't do it because I need the export documentation'.<sup>72</sup>
- 3.64 The DoA stated that:
- The reality is that we still have systems that involve human intervention, and so to have a 24-hour service we would need to have 24-hour staff ... I do not think it is quite practical, necessarily.<sup>73</sup>
- 3.65 The DoA added that it would examine its future plans to see if improvements could be made.<sup>74</sup>

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69 BCA, *Submission 31*, p. 6.

70 Mr Michael Coote, AUSVEG, *Committee Hansard*, Melbourne, 27 July 2015, p. 32.

71 Mr Michael Coote, AUSVEG, *Committee Hansard*, Melbourne, 27 July 2015, pp 30, 32.

72 Ms Lucy Gregg, Marketing and Development Manager, Reid Fruits, *Committee Hansard*, Sydney, July 28 2015, p. 24.

73 Ms Jo Evans, Deputy Secretary, Department of Agriculture (DoA), *Committee Hansard*, Canberra, 21 July 2015, p. 18.

74 Ms Jo Evans, Deputy Secretary, Department of Agriculture (DoA), *Committee Hansard*, Canberra, 21 July 2015, p. 18.

## Export Market Development Grants

- 3.66 The Export Market Development Grants (EMDG) scheme is a financial assistance program administered by Austrade. The EMDG scheme is targeted at small to medium sized enterprises (SMEs) engaged in export activities. The EMDG reimburses up to 50 per cent of eligible marketing and promotion expenses above \$5 000 as long as total expenses exceed \$15 000.<sup>75</sup> Payments are made in two tranches annually. The payment ceiling for the first tranche in 2014–15 was \$40 000.<sup>76</sup>
- 3.67 The Institute of Public Accountants, the Australian Cotton Shippers Association, Reid Fruits, and ATEC all referred to the valuable support EMDGs provide industry in accessing export markets.<sup>77</sup> The ATEC emphasised that small tourism operators, particularly in regional areas, relied on EMDGs to access export markets. In relation to SMEs investing in China, ATEC stated:
- Without EMDG, I know that a lot of operators would struggle. It would probably mean the difference between investing in that market and not.<sup>78</sup>
- 3.68 The EMDGs enabled Reid Fruits to send staff to key emerging markets to engage in market development work. Reid Fruits also stated that Australia's key competitors in the cherry industry (Chile and New Zealand) provided export incentives to their producers. In this context EMDGs were important in ensuring Australian producers remained competitive in developing market opportunities.<sup>79</sup>
- 3.69 The ATEC commented on the complementarity of EMDGs and FTAs describing them as a 'marriage made in heaven'. The FTAs created the framework and EMDG funding provided the ability to penetrate the market.<sup>80</sup>
- 3.70 Reid Fruits suggested that consideration should be given to whether anti-counterfeiting work could be included within the EMDG. Describing its work on developing counterfeit-proof technology Reid Fruits stated:

75 Austrade, 'Export Market Development Grants', <http://www.austrade.gov.au/Export/Export-Grants/What-is-EMDG>, viewed 10 August 2015.

76 Austrade, 'EMDG Initial Payment Ceiling Amount for the 2014-15 Grant Year', <http://www.austrade.gov.au/export/export-grants/what-is-emd/emd-initial-payment-ceiling-amount-for-the-2014-15-grant-year>, viewed 17 August 2015.

77 Ms Vicky Stylianou, IPA, *Committee Hansard*, Melbourne, July 27, p. 43; Mr Arthur Spellson, Australian Cotton Shippers Association, *Committee Hansard*, Sydney, July 28, p. 44; Mr Tim Reid, Managing Director, Reid Fruits, *Committee Hansard*, Sydney, July 28, p. 20; Ms Anna Taylor, ATEC, *Committee Hansard*, Sydney, July 28, p. 52.

78 Ms Anna Taylor, ATEC, *Committee Hansard*, Sydney, July 28, p. 52.

79 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, July 28, p. 20.

80 Ms Anna Taylor, ATEC, *Committee Hansard*, Sydney, July 28, p. 53.

... we have been doing some work on some innovations which will make it a lot more difficult to copy the [cherry] box. We are trying to use some authentication software which will help the end consumer identify that they have actually got an authentic box of Reid cherries. I did ask EMDG whether the cost of this intellectual property and all the work that we have been doing to make our product counterfeit-proof in overseas countries was claimable in EMDG and it actually is not. That would be something that would be helpful for exporters, if they were able to claim those expenses.<sup>81</sup>

- 3.71 The ECA suggested that trade training, including on using FTAs, for businesses should be an eligible expense under EMDG.<sup>82</sup>

### Market Access Programs

- 3.72 Access to export markets is a key issue for Australian business. Without market access business is unable to benefit from any tariff reductions achieved in FTAs. As outlined in Chapter 2, SPS market access barriers can have a significant impact on horticultural exporters.
- 3.73 The DoA has responsibility for negotiating access to export markets for horticulture produce. A number of organisations in the horticulture sector were concerned by the slow progress of negotiations over SPS market access issues.
- 3.74 Negotiations over market access are often negotiated on a commodity by commodity basis and can be delayed by either nation. The CGA commented that Australia's FTA partners could often be very slow in resolving market access issues, but observed that Australia could also be very slow. For example, it took twelve years for irradiated Vietnamese lychees to gain access to the Australian market.<sup>83</sup>
- 3.75 The progress surrounding SPS issues may be addressed by additional funding announced in the *Agricultural Competitiveness White Paper*. The DoA will receive additional funding of \$30.8 million over four years to address technical barriers to trade in agricultural industries. The funding will be used for activities including prioritising market access efforts, processing import requests and influencing international standards. This funding also included the appointment of five new agricultural

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81 Ms Lucy Gregg, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 25.

82 ECA, *Submission 15*, p. 12.

83 Mr Simon Boughey, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 19.

counsellors who would be placed in key trading markets overseas with the aim of reducing barriers to market entry.<sup>84</sup>

### Capacity Building Programs with Trade Partners

- 3.76 The DoA advised that Australia provided technical assistance to developing countries to enable them to implement science-based SPS measures. This assistance helped these countries to assess imports and also ensured their own exports complied with international SPS protocols. Assistance also helped to ensure that the SPS import protocols these countries developed were science-based and did not create unnecessary barriers to trade.<sup>85</sup>
- 3.77 Capacity building also has a role in building relationships between Australian and overseas industries. In the long term these relationships may result in more positive responses to Australian market access requests. The APAL stated that they had undertaken a number of programs with Chinese apple growers to improve productivity and pest management. The APAL believed that these programs led to the Chinese apple industry supporting the granting of access for Australian apples into the Chinese market.<sup>86</sup>

### Concluding Comment

- 3.78 Liberalisation of the rules for foreign investment provides a significant benefit for Australian businesses both for those companies wishing to invest overseas and for those seeking capital from foreign investors.
- 3.79 The increasing number of FTAs has multiplied the complexity facing Australian exporters. The Committee has heard this may result in confusion for business, increased compliance costs, potentially discouraging trade. The Committee finds it is important to maintain and increase the potential opportunities provided by existing and new FTAs. This includes educating business on how to successfully navigate the requirements of the various agreements.
- 3.80 The Government's seminar series under the North Asia FTA Advocacy Program has been well received by business. The seminar series has been criticised for the length of its delivery. The Committee notes the work by DFAT and Austrade in creating presentation kits and industry specific

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84 Commonwealth of Australia, *Agricultural Competitiveness White Paper*, Canberra, 2015, p. 122.

85 DoA, *Submission 33*, p. 1.

86 Mr Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 9.

information packs, but believes there should be a greater role for industry peak bodies in promoting Australia's FTAs. Engaging business bodies to take on this role will not only achieve national coverage more quickly, but also enable the information to be tailored to meet the needs of particular market sectors.

- 3.81 Advances in information and communication technology have allowed the creation of a number of internet-based tools to assist Australian agricultural exporters. The Committee supports the development of DFAT's FTA Dashboard and DoA's MICoR databases and advocates ease of access for the end-user.
- 3.82 The Committee considers there is no technical reason why the FTA Dashboard cannot be FTA-centred as well as being able to provide country-specific information. Further, it would be useful for end-users to be able to easily switch between the FTA Dashboard and the MICoR database.
- 3.83 Australian exporters increasingly export perishable product to overseas markets and often need timely information to meet tight transport schedules. The Committee acknowledges Reid Fruits' recommendation that there be 24 hour/7 day access to DoA's export document hub. The Committee also understands that it may be impractical and costly for such a service to be implemented and maintained.
- 3.84 The Committee has not received evidence indicating the demand from other exporters for such access, but considers that the need will increase as exporters take advantage of the demand for Australian fresh produce. The Committee believes there may be scope for information and communications technology to provide a solution to this issue.
- 3.85 Programs such as the EMDG scheme have clearly benefited exporters. The Committee notes that in March 2014 additional funding of \$50 million had been provided to the scheme.<sup>87</sup> The value of the scheme for 2015–16 is \$137.9 million,<sup>88</sup> and the Committee supports the continuation of the EMDG scheme.
- 3.86 As Australian premium goods penetrate overseas markets they become vulnerable to being counterfeited to the detriment of the exporting company as well as to the reputation of Australian products in general. The Committee considers the EMDG scheme should be broadened to
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87 Austrade, '50 million boost to help SMEs export', 10 March 2014, <https://www.austrade.gov.au/about-austrade/news/latest-from-austrade/2014/50-million-boost-to-help-smes-export>, viewed 18 August 2015.

88 Austrade, 'Austrade EMDG Update', July 2015, <http://www.austrade.gov.au/Export/Export-Grants/Publications/EMDG-Update>, viewed 18 August 2015.

allow anti-counterfeiting measures for exported goods to be recognised as an expense.

- 3.87 The Committee questions, however, whether training in the use of Australia's FTAs should qualify as an EMDG expense as training is preparatory to exporting.
- 3.88 Market access for Australian business is key to the success of a FTA. The increased number of FTA partner countries has resulted in increased demand to address access barriers for Australian agricultural exports. The Committee supports the additional funding provided to DoA to address technical barriers to trade faced by Australia's agricultural industry.
- 3.89 Increasing numbers of countries are recognising the obligation to protect their environment, population, and primary production sector from introduced pests and diseases. The Committee agrees with DoA that capacity building assistance to these countries will not only improve their ability to quickly assess the SPS risks posed by Australian imported produce, but also result in any imposed SPS protocols being based on science.

## Recommendations

### Recommendation 4

- 3.90 **The Committee recommends that the Department of Foreign Affairs and Trade:**
- **review the roll out schedule of the North Asia FTA Advocacy Program seminars with a view to providing quicker and more effective outreach to its target audience; and**
  - **engage peak industry bodies to deliver seminars under the North Asia FTA Advocacy Program.**

**Recommendation 5**

- 3.91 The Committee recommends that the Department of Foreign Affairs and Trade ensure the FTA Dashboard is designed to enable easy access to country-based information and enable end-users to easily switch between the FTA Dashboard and the MICoR database.

**Recommendation 6**

- 3.92 The Committee recommends that the Department of Agriculture:
- review the demand for 24 hour/7 day access to the export document hub; and
  - assess the feasibility of developing technology to meet the demand for 24 hour/7 day access to the export document hub.

**Recommendation 7**

- 3.93 The Committee recommends that the Export Market Development Grant scheme be broadened to recognise anti-counterfeiting measures as an expense.

**Recommendation 8**

- 3.94 The Committee recommends that the Department of Foreign Affairs and Trade provide assistance to free trade agreement partner countries, where appropriate, to build their capacity to assess sanitary and phytosanitary risks.

## Informing Future Free Trade Agreements

### Identifying and Accessing Priority Markets

- 4.1 Since 1983, Australia has signed FTAs with most of its major trading partners and is currently negotiating a further six FTAs. Two are bilateral agreements with India and Indonesia; and four are multilateral FTAs:
- the Trans-Pacific Partnership;
  - the Gulf Cooperation Council;
  - the Pacific Agreement on Closer Economic Relations Plus; and
  - the Regional Comprehensive Economic Partnership.<sup>1</sup>

#### India

- 4.2 Apple and Pear Australia Ltd (APAL) referred to the potential for enhancing the Australia–India trading relationship by building on a shared cricket culture. The APAL provided the example of the owner of a substantial Indian supermarket chain who had links to India’s cricket establishment and added there was potential to build on this connection. The APAL also stated India’s demographic advantage for Australia as a trading partner stating:

I think in the longer term India is a better market than China—for one, because of the age factor. China is very much an ageing population, like ours. India is a very young population.<sup>2</sup>

- 4.3 Reid Fruits described the Indian market as potentially ‘an absolute boom for the cherry industry in Australia’ but noted that high tariffs were

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1 Department of Foreign Affairs and Trade (DFAT), *Submission 28*, p. 6.

2 Mr John Dollisson, Chief Executive Officer, Apple and Pear Australia Ltd (APAL), *Committee Hansard*, Melbourne, 27 July 2015, p. 14.

currently making exporting to India difficult. Reid Fruits advised that the seasons for Australian and Indian cherries did not overlap and hoped that this lack of competition with local fruit would help the negotiations for tariff reductions in this area.<sup>3</sup>

- 4.4 The Australian Council of Wool Exporters and Processors stated that India is Australia's second largest export market for wool (after China). India's high wool tariffs were described as 'revenue driven' as India's sheep flock is not used for wool production.<sup>4</sup>

### The European Union

- 4.5 The Department of Agriculture (DoA) and the Australian Meat Industry Council (AMIC) nominated the European Union (EU) as a key market for a future FTA.<sup>5</sup>
- 4.6 The AMIC suggested that an Australia-EU FTA would provide the best short term benefit to Australian meat producers. The AMIC advised that access for beef into the EU had recently improved, but commented that there was still significant potential for further improvement for trade under a FTA. The AMIC added that New Zealand had negotiated a lamb meat quota with the EU of over 200 000 tonnes per year. This was in contrast to the Australian quota which was 19 000 tonnes.<sup>6</sup>

### Perspectives on Prioritising Agreement Partners

- 4.7 The DoA stated that if it had to prioritise future FTA targets, it would rank countries against their agricultural trade with Australia.<sup>7</sup>
- 4.8 The Australian Industry Group (Ai Group), however, questioned the policy of prioritising FTAs with major trading partners because trade with those countries was already relatively successful. The Ai Group instead suggested that:

If we want the investment of an FTA to pay off, we should be looking at markets with potential, but aren't strong trading partners yet, for example, emerging African or Latin American countries. These countries also have not undertaken the trade

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3 Mr Tim Reid, Managing Director, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 19.

4 Australian Council of Wool Exporters and Processors, *Submission 14*, p. 4.

5 Ms Jo Evans, Deputy Secretary, Department of Agriculture (DoA), *Committee Hansard*, Canberra, 21 July 2015, p. 20; Mr David Larkin, Council Chairman, Australian Meat Industry Council (AMIC), *Committee Hansard*, Sydney, 28 July 2015, p. 40.

6 Mr Stephen Martyn, National Director, Processing, AMIC, *Committee Hansard*, Sydney, 28 July 2015, p. 41.

7 Ms Jo Evans, DoA, *Committee Hansard*, Canberra, 21 July 2015, p. 20.

liberalisation measures that other markets have and have the potential for greater gains.<sup>8</sup>

## Positioning Business to Benefit from Agreements

- 4.9 While FTAs create new opportunities, Australian businesses that are best placed to benefit are those that have already established trading relationships and have had prior experience of the FTA partner's market.
- 4.10 The case of Reid Fruits illustrates the advantage of gaining experience of a market prior to a FTA entering into force. Tasmanian cherries gained access to the Korean market in 2010 and Reid Fruits began by exporting small quantities (5 to 10 tonnes) of cherries to Korea annually. In 2010, Reid Fruits positioned itself in preparation for the introduction of the FTA. Reid Fruits stated:
- We at least knew the protocol, we knew the processes, we knew how the system worked and we had those contacts. Then, as soon as the FTA was activated, we could just ramp everything up.<sup>9</sup>
- 4.11 In the first season following the introduction of the FTA in 2014, Reid Fruits was able to increase its exports of cherries to Korea to 180 tonnes.<sup>10</sup>
- 4.12 As noted in Chapter 3, the Export Market Development Grants (EMDG) scheme is available to exporters to assist them to develop their export markets.

## Workforce Skills

- 4.13 The ANZ Banking Group stated that 'to increase business utilisation of FTAs, it is important to reduce the knowledge related and cultural barriers to trade'.<sup>11</sup> The 2015 Australian International Business Survey found that the most common barrier to greater overseas trade is 'local language, culture and/or business practices'.<sup>12</sup> This barrier was cited by 29 per cent of Australian companies involved in international business, with companies focussing on Japan (50 per cent) and China (37 per cent) who are more likely to identify that language, culture and/or business practices as a barrier to exporting.<sup>13</sup>

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8 Australian Industry Group (Ai Group), *Submission 17*, p. 9.

9 Ms Lucy Gregg, Marketing and Business Development Manager, Reid Fruits, *Committee Hansard*, Sydney 28 July 2015, p. 21.

10 Reid Fruits, *Submission 2*, p. 2.

11 Mr Graham Hodges, Deputy Chief Executive Officer, ANZ Banking Group, *Committee Hansard*, Sydney, 28 July 2015.

12 Australian International Business Survey 2015, 'Summary Report', p. 22.

13 Australian International Business Survey 2015, 'Summary Report', p. 22.

- 4.14 The Australian Information Industry Association (AIIA) highlighted the importance of increasing the capacity of the Australian workforce in the skills that are most relevant to high growth industries. The AIIA stated that '75 per cent of the fastest growing occupations today require science, technology, engineering, math skills and knowledge' and that the 'ability of businesses ... to develop and sustain export ... is undermined fantastically by a deficit of STEM<sup>14</sup> and specifically [information and communications technology] skills.'<sup>15</sup>

### Brand Australia

- 4.15 Australia's reputation for strong health and safety standards and a clean environment is an advantage for Australian products, especially in the food sector. The APAL stated that in China, Australia's food safety reputation exceeded that of its competitors such as New Zealand.<sup>16</sup>
- 4.16 The APAL also stated that developing a strong national brand need not compromise developing local or regional brands. The APAL stated:
- ... it is Brand Australia, but it might be Tasmania or it might be the Huon Valley or the Goulburn Valley or the Yarra Valley, and you have your local story associated with that. But I think the mother brand still has to be Australia.<sup>17</sup>
- 4.17 Reid Fruits advised that it used multi-level branding on the cherry boxes it exported to China. The box included the words 'Tasmanian cherries' below the company logo. The box design was intended to communicate the company's product without using words. Reid Fruits stated:
- [They] can see from the photo on the box that they are cherries. They can see that there is a kangaroo down in the bottom corner of the box, a gold kangaroo, so they can see they are from Australia. And the whole image of the box, with the gold writing and the embossing on it, portrays quality.<sup>18</sup>
- 4.18 The Australasian Performing Rights Association Ltd and Australasian Mechanical Copyright Owners Society in conjunction with Sounds Australia have undertaken a number of initiatives aimed at increasing the awareness of Australian music overseas. Examples include co-writing opportunities which provide Australian music creators an entry into the lucrative Korean pop market, and assistance to Australian bands to tour
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14 Science, technology, engineering and mathematics.

15 Ms Suzanne Campbell, Chief Executive Officer, Australian Information Industry Association, *Committee Hansard*, Sydney, 28 July 2015, p. 27.

16 Mr John Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 13.

17 Mr John Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 13.

18 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 23.

Indian music festivals. These initiatives promoted Australian music and also helped promote 'Brand Australia' as a nation with a vibrant youth culture with spin off benefits for the tertiary education sector.<sup>19</sup>

## Counterfeiting

- 4.19 Counterfeiting can be both a symptom of, and a threat to, successful product branding. Where Australian producers have developed a reputation as providers of high quality products their brand can attract a premium price in the market. Counterfeiters have targeted these brands in an attempt to capture the price premium for the sale of what are, in reality, cheaper, inferior products. In turn, consumers may not recognise the product as counterfeit and associate the lesser quality of the counterfeit product with the Australian brand.
- 4.20 An example was provided by Reid Fruits which commented that its cherry box design had been copied and sold containing Chilean cherries.<sup>20</sup> Reid Fruits suggested that consideration should be given to including anti-counterfeiting measures as an eligible expense under the EMDG scheme.<sup>21</sup>
- 4.21 Another example was the counterfeiting of high-end Australian wines. The Winemakers' Federation of Australia (WFA) stated that counterfeiting 'is a huge issue and it is growing, particularly in China'.<sup>22</sup>
- 4.22 As a result Australian companies are now working with packaging companies to develop technologies to track and authenticate the origin of products.<sup>23</sup> The WFA believed that customer demand would soon lead to the use of tracking and authentication technologies becoming standard in the wine industry.<sup>24</sup>
- 4.23 The WFA stressed the importance of international cooperation in combating counterfeiting. The World Wine Trade Group will be meeting in Adelaide in November 2015 and the agenda includes an agreement to cooperate in combating counterfeiting.<sup>25</sup>

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19 Australasian Performing Right Association Ltd and Australasian Mechanical Copyright Owners Society, *Submission 23*, p. 3.

20 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 23.

21 Ms Lucy Gregg, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 20.

22 Mr Anthony Battaglione, General Manager, Strategy and International Affairs, Winemakers' Federation of Australia (WFA), *Committee Hansard*, Melbourne, 27 July 2015, p. 25.

23 Mr Simon Boughey, Chief Executive Officer, Cherry Growers Australia (CGA), *Committee Hansard*, Melbourne, 27 July 2015, p. 15.

24 Mr Anthony Battaglione, WFA, *Committee Hansard*, Melbourne, 27 July 2015, p. 26.

25 Mr Anthony Battaglione, WFA, *Committee Hansard*, Melbourne, 27 July 2015, p. 25.

## Pre-Negotiation Modelling

- 4.24 The Productivity Commission expressed concern over the lack of comprehensive analysis of the impacts of FTAs on the Australian economy. The Productivity Commission stated:
- The transactions involved in trade negotiations are complex. They mix short-term export improvement in goods trade with long-term cost exposures across the economy, and the net gains may well be positive. But in the current circumstances how would we know? Detailed analysis is simply not available.<sup>26</sup>
- 4.25 The Department of Foreign Affairs and Trade (DFAT) stated that public feasibility studies were undertaken for FTAs prior to Australia entering into FTA negotiations. These feasibility studies included economic modelling but, DFAT stated, it was difficult to model economic impacts of agreements that had yet to be negotiated.<sup>27</sup>
- 4.26 The Productivity Commission in its 2010 report, *Bilateral and Regional Trade Agreements*, expressed concern over the assumptions underpinning the economic modelling used in feasibility studies. The modelling was typically based on an assumption of comprehensive and instantaneous liberalisation rather than more realistic scenarios including the carving out or phasing in of certain sectors. The Commission, however, found that the India and Indonesia feasibility studies had introduced scenarios with phased in tariffs.<sup>28</sup>
- 4.27 The Productivity Commission also expressed concern that public statements tended to downplay the optimal assumptions used in feasibility studies. This led to 'unrealistic expectations about what [would] be obtained' from a FTA.<sup>29</sup>
- 4.28 The Australian Chamber of Commerce and Industry (ACCI) recommended that an independent assessment of a potential FTA should take place prior to negotiation. The ACCI stated:
- ... independent assessment of the national interest is also crucial when it comes to ensuring economic delivery of a trade deal. At present the Department of Foreign Affairs and Trade conducts the national interest analysis and the regulatory impact statement for a
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26 Mr Peter Harris, Chairman, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, p. 30.

27 Ms Frances Lisson, First Assistant Secretary, Free Trade Agreement Division, DFAT, *Committee Hansard*, Canberra, 21 July 2015, p. 4.

28 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, Canberra, November 2010, pp 292, 306.

29 Productivity Commission, *Exhibit 3a: Bilateral and Regional Trade Agreements*, p. 292.

given treaty on the basis of optimal assumptions, but we believe this task should instead be given to an independent government body at arms' length from the negotiations, such as the Productivity Commission, on the basis of expected optimal, likely and minimal outcomes.<sup>30</sup>

- 4.29 The Productivity Commission recommended a two stage analysis be undertaken prior to the signing of a FTA. The first stage of the analysis would take place prior to the commencement of negotiations. The second stage would analyse the completed text prior to the signing of the agreement. The Productivity Commission recommended that the pre-negotiation analysis should include a base-case representing a continuation of the status quo in trading relations between partner nations. Against this base-case, different scenarios would be assessed representing realistic possible agreements including possible carve-outs of sectors and phased tariff reductions.<sup>31</sup>
- 4.30 The Productivity Commission recommended that this analysis should be undertaken by an independent body, informed, but not commissioned by, Australia's trade negotiators.<sup>32</sup>
- 4.31 The Senate Foreign Affairs, Defence and Trade References Committee made a similar recommendation in its June 2015 report, *Blind Agreement: Reforming Australia's Treaty Making Process*:
- ... a cost-benefit analysis of trade agreements be undertaken by an independent body, such as the Productivity Commission, and tabled in parliament prior to the commencement of negotiations or as soon as is practicable afterwards.<sup>33</sup>

## Negotiating Free Trade Agreements

### Lead Agency

- 4.32 Throughout the Inquiry industry representatives consistently welcomed the work of DFAT in successfully negotiating FTAs. There were no suggestions that another agency should supplant DFAT as the lead agency in trade negotiations.

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30 Mr Bryan Clark, Director Trade and International Affairs, Australian Chamber of Commerce and Industry (ACCI), *Committee Hansard*, Canberra, 21 July 2015, p. 22.

31 Mr Peter Harris, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, p. 31.

32 Mr Peter Harris, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, pp 32, 36.

33 Senate Foreign Affairs, Defence and Trade References Committee, *Blind Agreement: Reforming Australia's Treaty Making Process*, p. 63.

## Involvement of Business

4.33 The DFAT stated that Australia approaches its FTA negotiations with 'clear, well-developed commercial objectives'. These objectives were developed through consultation with business prior to, and during FTA negotiations. The DFAT reported that it consulted with over 750 businesses and other groups as part of the China-Australia Free Trade Agreement negotiations. The DFAT described business input as central to the task of:

... compiling and understanding key impediments to trade in goods and services, and barriers to investment, along with other commercial-level factors that are relevant to determining negotiating priorities and approach.<sup>34</sup>

4.34 Several industry representatives, whilst welcoming DFAT's consultation efforts, called for a deeper role for business in the negotiation process. The Australian Services Roundtable stated that:

Industry would welcome and seeks closer involvement during trade negotiations and alongside this involvement, industry would welcome being privy to information, texts, papers and progress reports during negotiations.<sup>35</sup>

4.35 The ACCI, Ai Group and the Australian Services Roundtable drew attention to the involvement of US industry in the US Government's FTA negotiations.<sup>36</sup> The US Office of the Trade Representative disclosed draft treaty text to representative organisations which were bound by confidentiality agreements. These organisations then advised negotiators on the impact of the provisions which helped to develop negotiating positions. The Ai Group suggested that if industry groups were involved in Australia's FTA negotiations, it was important they represented all types of business – 'large and small; importers and exporters; companies at different stages of maturity'.<sup>37</sup>

## Investor State Dispute Settlement

4.36 The Productivity Commission questioned the rationale for including Investor-State Dispute Settlement (ISDS) clauses within FTAs noting that

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34 DFAT, *Submission 28*, p. 8-9.

35 Australian Services Roundtable, *Submission 30*, p. 7.

36 Mr Bryan Clark, ACCI, *Committee Hansard*, Canberra, 21 July 2015, p. 22; Mr Innes Willox, Chief Executive, Ai Group, *Committee Hansard*, Canberra, 21 July 2015, p. 27; Australian Services Roundtable, *Submission 30*, p. 2.

37 Mr Innes Willox, Ai Group, *Committee Hansard*, Canberra, 21 July 2015, p. 27.

they were not a 'driver for greater investment flows between countries'.<sup>38</sup> The Productivity Commission also stated:

There could be circumstances in which there is a good role for investor-state dispute resolution. It is just not self-evident at the moment what that might be, and we are not alone on this. Senior representatives of Australia's legal system equally questioned why rights should be made available to foreign parties that are not available to domestic parties.<sup>39</sup>

4.37 The Productivity Commission argued that pressure from other countries was not a sufficient reason to include ISDS clauses in an agreement, rather Australia should consider the past use of ISDS by businesses from potential partner countries. The Productivity Commission stated:

... look at the history around the world of cases that have been taken to such tribunals by the countries or the country you are about to enter into this agreement negotiation with. What is the history? How have they behaved? What has been the cost of another government in dealing with them?<sup>40</sup>

4.38 The Export Council of Australia (ECA), although unaware of any current ISDS cases involving Australian businesses, believed ISDS clauses could be useful for Australian businesses in the future. The ECA stated:

I anticipate that, over time, we will have Australian companies who will use them. They may take some comfort in the fact that, previously, their level of protection was not there, and now it has been enhanced.<sup>41</sup>

## Pre-signing Modelling

4.39 As outlined above, the Productivity Commission has recommended a two-stage process to model the potential outcomes of a FTA, the first stage being conducted before negotiations. The second stage would comprise an assessment of the text of the final agreement against benchmarks established during the first stage modelling. The assessment would consider the reasons for, and indicative costs of, any diversions from the

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38 Ms Karen Chester, Commissioner, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, p. 32.

39 Mr Peter Harris, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, p. 32.

40 Mr Peter Harris, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, p. 35.

41 Mr Andrew Hudson, Export Council of Australia (ECA), *Committee Hansard*, Sydney, 28 July 2015, p. 16.

benchmarks. The Productivity Commission commented that this would 'bring added discipline to negotiations'.<sup>42</sup>

4.40 The Productivity Commission suggested that the second stage analysis be undertaken at a high level and, provided that the first stage of analysis was comprehensive, could be completed in four months. The Productivity Commission considered that this timeframe was 'reasonable, based on other countries' practices'.<sup>43</sup>

4.41 The DFAT reported that it had commissioned the Centre for International Economics to undertake economic modelling of the negotiated outcomes of the three North Asia FTAs. The DFAT stated it had engaged expertise from outside of government in order to obtain independent modelling.<sup>44</sup>

4.42 The ACCI called for a greater role for the Productivity Commission (or a similar body) throughout the negotiation process, and stated:

This would involve draft treaty concessions being accessed and monitored in real time by the Productivity Commission, operating at arms' length from negotiators to provide optimal negotiation stances.<sup>45</sup>

## Post Free Trade Agreement

### Market Access Negotiations

4.43 Signing a FTA with another country does not automatically ensure that all Australian goods and services will have access to that country's market. Further negotiations are often required over issues such as sanitary and phytosanitary (SPS) barriers or mutual recognition of qualifications. Achieving positive outcomes in these market access negotiations was a priority issue for many industry representatives.

### Responsibility for SPS Negotiations

4.44 The DFAT is the lead agency for FTA negotiations. However negotiations over market access and SPS requirements are handled by DoA.

4.45 Reid Fruits, the Australian Horticultural Exporters Association (AHEA) and WFA stated that DoA appeared insufficiently resourced for dealing

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42 Mr Peter Harris, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, p. 31.

43 Mr Peter Harris, Productivity Commission, *Committee Hansard*, Canberra, 21 July 2015, pp 31-32.

44 Ms Frances Lisson, DFAT, *Committee Hansard*, Canberra, 21 July 2015, p. 5.

45 Mr Bryan Clark, ACCI, *Committee Hansard*, Canberra, 21 July 2015, p. 22.

with market access issues.<sup>46</sup> During the course of the inquiry the Government announced that DoA was to be allocated additional funding of \$30.8 million to undertake work on improving market access.<sup>47</sup> Sufficient time, however, has not elapsed for stakeholder groups to be able to comment on the value of this initiative.

- 4.46 The AHEA, referring to DoA, stated that ‘we are not impressed with their negotiation skills’.<sup>48</sup> Other horticultural representatives shared this view. The APAL stated that DoA’s Trade and Market Access Division needed ‘not only a boost in the resources there but a boost in the negotiation capability of that section.’<sup>49</sup>
- 4.47 Cherry Growers Australia (CGA) believed that Australia’s trading partners possessed better skilled negotiators and this was limiting the benefits Australia gained from negotiations. The CGA suggested that DoA consider examining what other countries who negotiate better do and how these principles could be applied in Australia. This could include seeking advice from overseas negotiators.<sup>50</sup>
- 4.48 The WFA stated that DoA has three staff dedicated to wine related issues and that it has ‘a really good relationship with them – very cooperative, very honest and an open partnership’.<sup>51</sup>
- 4.49 Reid Fruits and AHEA suggested that trade negotiators from DFAT may have a greater skill in trade negotiations than DoA staff. Reid Fruits stated:
- With the greatest respect to the people in the Department of Agriculture – they have a scientific background and you cannot negotiate quarantine market access without sound science – but I really do believe that the people who are most skilled in trade negotiation are within DFAT. From my point of view, it would be better to have DFAT negotiating the market access and then being supported by DoA with the science ... I think it is unfair to expect scientists to go out and be trade negotiators.<sup>52</sup>

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46 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 20; Mr David Minnis, Chairman, Australian Horticultural Exporters Association (AHEA), *Committee Hansard*, Melbourne, 27 July 2015, p. 5; Mr. Anthony Battaglione, WFA, *Committee Hansard*, Melbourne, 27 July 2015, p. 26.

47 Commonwealth of Australia, *Agricultural Competitiveness White Paper*, Canberra, 2015, p. 122.

48 Mr David Minnis, AHEA, *Committee Hansard*, Melbourne, 27 July 2015, p. 5.

49 Ms Annie Farrow, Industry Services Manager, Apple and Pear Ltd (APAL), *Committee Hansard*, Melbourne, 27 July 2015, p. 11.

50 Mr Andrew Smith, President, CGA, *Committee Hansard*, Melbourne, 27 July 2015, p. 17.

51 Mr Anthony Battaglione, WFA, *Committee Hansard*, Melbourne, 27 July 2015, p. 23.

52 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Sydney, 28 July 2015, p. 20.

4.50 The APAL highlighted the importance of building relationships with negotiators from partner countries, however, this created difficulties when the lead for the negotiations passed from DFAT to DoA. APAL stated:

... you want to hang off the back of the very effective work that has been done with a free trade agreement. You have built all those relationships and then suddenly you pass it on to someone else and you have to go back and rebuild the relationships.<sup>53</sup>

4.51 The Business Council of Australia (BCA) recommended greater collaboration between government agencies at the implementation stage of FTAs. The BCA suggested that this should include an ongoing role for members of the DFAT negotiation team.<sup>54</sup>

### Market Access for Service Industries

4.52 The BCA noted that 'mutual recognition of qualifications was fundamental to Australian businesses delivering services overseas'. The BCA noted that mutual recognition was often negotiated between non-government regulating bodies. Progress on mutual recognition was often slow as 'the incentives for mutual recognition are low, as regulating bodies are comfortable with the existing level of competition'.<sup>55</sup>

4.53 The Financial Services Council raised the issue of mutual recognition by overseas regulators and recommended that the Australian Securities and Investments Commission 'develop a roadmap for pursuing mutual recognition and subsequently negotiate mutual recognition with regulators in our region'.<sup>56</sup>

### The Role of Industry in Market Access Negotiations

4.54 The BCA recommended that an industry reference group should be set up to 'formalise mechanisms to receive feedback from industry ... on non-tariff barriers which inhibit market access.'<sup>57</sup>

4.55 The WFA reported it co-chaired a wine market access group featuring representatives from DFAT, Department of Industry and Science, DoA, Food Standards Australia New Zealand, the Australian Wine and Grape Authority and representatives from large and small wine businesses. This

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53 Mr John Dollisson, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 11.

54 Business Council of Australia (BCA), *Submission 31*, p. 13.

55 BCA, *Submission 31*, p. 10.

56 Financial Services Council, *Submission 9*, p. 10.

57 BCA, *Submission 31*, p. 13.

group enabled industry to receive regular updates on FTA and market access negotiations and to raise key market access issues.<sup>58</sup>

- 4.56 The CGA suggested that a market access group be created for the horticulture industry. The group would be led by Horticulture Innovation Australia Ltd and feature representation from DFAT, Austrade, DoA, and all exporting horticultural sectors. The group would assist government and industry work together to 'develop a more robust, proactive, and commercial approach to market access, market improvement and market maintenance negotiations across horticulture'.<sup>59</sup>
- 4.57 The WFA emphasised the importance of industry working with government to identify market access problems and develop solutions. The WFA suggested that Australian industry had a responsibility to work with equivalent industries in partner countries to overcome challenging access issues. The WFA stated 'it is not up to our negotiators necessarily to be able to trade something off. We have to do our part too.'<sup>60</sup>

### Role of Agricultural Counsellors

- 4.58 As stated in Chapter 3, five new agricultural counsellors have been appointed in the DoA who will be based in overseas markets where they will assist agricultural producers with export issues within that market. The DoA outlined the role of the agricultural counsellors:
- ... quickly solving trade-related incidents; getting produce off the dock and delivered to buyers; getting hold of practical market information; negotiating new access arrangements; and building good relationships with overseas governments.<sup>61</sup>
- 4.59 The APAL welcomed the appointment of the new counsellors and whilst it hoped that the counsellors could be solely dedicated to horticulture they acknowledged that this was unlikely.<sup>62</sup>

### Stability of Staffing in Trade Related Roles

- 4.60 Staff turnover in DoA's Trade and Market Access Division and of agricultural counsellors can adversely affect the development of relationships with overseas stakeholders.

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58 Mr Anthony Battaglione, WFA, *Committee Hansard*, Melbourne, 27 July 2015, pp 26-27.

59 CGA, *Submission 6*, pp 3, 6.

60 Mr Anthony Battaglione, WFA, *Committee Hansard*, Melbourne, 27 July 2015, p. 23.

61 Commonwealth of Australia, *Agricultural Competitiveness White Paper: Accessing Premium Agricultural Markets Factsheet*, Canberra, 2015, <http://agwhitepaper.agriculture.gov.au/white-paper/factsheets>, viewed 17 August 2015.

62 Ms Annie Farrow, APAL, *Committee Hansard*, Melbourne, 27 July 2015, p. 10.

- 4.61 Reid Fruits explained the value of consistency of representation and long-term relationship building for doing business in Asia and stated:

... you have to have the same people going in time and time again to win the confidence and trust of the people you are dealing with. You have to build a rapport with them. In the horticultural market access division, I think in the last two years we have probably had about four different managers heading up that team ... it is all about ensuring the stability of the staff and long-term relationship building, particularly in the Asian cultures. It is really, really important.<sup>63</sup>

- 4.62 The WFA highlighted the inefficiencies resulting from agricultural counsellors being limited to three-year terms in each market. In reference to China, WFA stated:

We have agricultural counsellors there. They are pretty good, but they are there for three years. It takes them two years to get up to speed and to understand what they are doing and who to talk to, and then they have one year where they are good, and then they are gone.<sup>64</sup>

## Post-Implementation Evaluation

- 4.63 The Productivity Commission stated that resource limitations may make it impractical for departments to evaluate the impacts of each FTA following implementation. Evaluating the real world impacts of FTAs could be of 'immense value' in selected circumstances. The Productivity Commission stated that it was important for Government to be able to learn from past experiences and to know when:

... we thought we were going to get that benefit but clearly that did not work. Let us put on the record so that our successors know our cost to this and ... the political leaders of the country know that what might once have been seen as a usable step is no longer usable step.<sup>65</sup>

- 4.64 The ACCI supported post-FTA evaluation by the Productivity Commission, suggesting that the Productivity Commission's role could 'extend to periodic monitoring of all trade agreements after entry into force to ensure that purported Australian economic benefits are being achieved.'<sup>66</sup>

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63 Mr Tim Reid, Reid Fruits, *Committee Hansard*, Melbourne, 27 July 2015, p. 20.

64 Mr Anthony Battaglene, WFA, *Committee Hansard*, Melbourne, 27 July 2015, p. 24.

65 Mr Harris, Productivity Commission, *Committee Hansard*, Canberra, 27 July 2015, p. 37.

66 Mr Clark, ACCI, *Committee Hansard*, Canberra, 27 July 2015, p. 22.

## Concluding Comment

- 4.65 The Committee believes that Australia should look to its natural advantages when seeking potential FTA partner countries. Such advantages include: Australia's natural resources and the skills of its workforce; its advantages in transport logistics; its reputation for 'clean and green' produce; its pest and disease-free status; and its existing trade and cultural links.
- 4.66 The Committee supports the bilateral FTA negotiations with India and Indonesia. These markets have great potential for future trade. Plurilateral agreements are also of value to Australia, especially if they involve neighbouring countries.
- 4.67 Exporting companies which take a strategic approach and establish in an overseas market prior to a FTA being signed are in a position to gain the most from the subsequent FTA. For example, Reid Fruits was able to quickly boost its exports to Korea after the Korea-Australia FTA entered into force because it already had a business presence in Korea. The Committee considers that from the time the Government signals its intention to begin negotiating with a potential FTA partner, for example with India, assistance should be provided to exporters to allow them to achieve a market presence before the FTA negotiating process is completed.
- 4.68 An Australian workforce equipped with the skills, knowledge and cultural understanding to engage with potential FTA partner countries is central to the ability of Australian business to benefit from FTAs. The Committee considers that developing Australia's science, technology, engineering and mathematics capabilities, as well as widening knowledge of the languages and culture of key trading partners is of particular importance in facilitating engagement with FTA partner economies.
- 4.69 The Committee considers that the Australian Government should undertake modelling of human capital and workforce needs, particularly for the services sector, with the aim of identifying the labour skills needed to take advantage of future FTAs. This modelling should inform the development of a workforce strategy in the early stages of individual FTA negotiations.
- 4.70 The adoption of a 'Brand Australia' approach by Australian exporters can build on Australia's reputation for quality. The Committee considers Austrade should facilitate the creation of recognisable Australian branding. The development of anti-counterfeiting measures would complement this initiative.

- 4.71 The Committee considers there is merit in the pre- and post-FTA negotiating model proposed by the Productivity Commission. The Committee agrees with the Productivity Commission that this will introduce accountability and transparency to the negotiations.
- 4.72 The Committee commends DFAT's performance in leading FTA negotiations, but considers there should be more formal consultation with Australian peak industry groups, both employer and employee. In addition to informing government negotiators this approach as well allows industry to prepare practical advice for its members on the opportunities created by the FTA. The US appears to have mechanisms to prevent premature disclosure of confidential negotiating information and the Committee believes similar conditions could be placed on Australia's industry advisers.
- 4.73 Sanitary and phytosanitary protocol requirements are of great concern to Australia's primary producers. With an increase in the number of Australia's FTAs, greater demand is being placed on DoA to address market access issues. The Committee welcomes the provision of additional funds to DoA which includes the funding of agricultural counsellors. Nevertheless, the Committee considers that skilled negotiators from DFAT should be included in DoA-led teams negotiating market access. These negotiators would bring to the table, expertise and background knowledge of the FTA and the complexity of the FTA partner country's market.

## Recommendations

### Recommendation 9

- 4.74 **The Committee recommends that when the Government signals an intention to begin free trade agreement negotiations with a trading partner, industry assistance should be targeted towards exporters who may wish to achieve a presence in the intended trading partner's market before completion of the free trade agreement negotiations.**

**Recommendation 10**

4.75 The Committee recommends that at the commencement of free trade negotiations, the Department of Employment should undertake modelling of the human capital and workforce needs arising from the agreement, particularly for the services sector. Based on the modelling outcomes, the department should develop a workforce strategy to take advantage of the agreement.

**Recommendation 11**

4.76 The Committee recommends that Austrade, in consultation with Australian business, facilitate:

- the development of a recognisable Australia brand logo and signage for exported Australian goods and services; and
- the development of anti-counterfeiting measures for exported Australian goods.

**Recommendation 12**

4.77 The Committee recommends that the Department of Foreign Affairs and Trade commission independent modelling of the potential benefits of free trade agreements. Modelling should be undertaken before negotiations begin and be compared to the outcomes of a second modelling exercise undertaken after negotiations have been completed, but before signing. The modelling results together with an explanation of variances should be made publicly available.

**Recommendation 13**

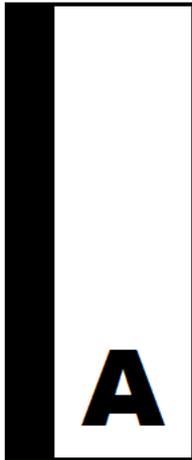
4.78 The Committee recommends that the Department of Foreign Affairs and Trade formally involve representatives from Australia's peak industry bodies, both employer and employee, in free trade agreement negotiations, reflecting the US model.

**Recommendation 14**

- 4.79     **The Committee recommends that the Government should be taking all possible means to ensure that market access is enabled and that negotiators from the Department of Foreign Affairs and Trade remain involved in market access negotiations after a free trade agreement enters into force.**

**Mr Ken O'Dowd MP  
Chair**

**17 September 2015**



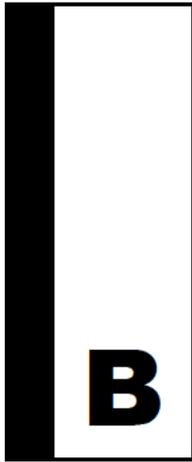
## **Appendix A - Submissions**

- 1 Apple & Pear Australia Limited
- 2 Reid Fruits
- 3 Civil Liberties Australia
- 3.1 Civil Liberties Australia
- 4 AUSVEG
- 4.1 AUSVEG
- 5 Universities Australia
- 6 Cherry Growers Australia Inc.
- 7 Australian Horticultural Exporter's Association (AHEA)
- 7.1 Australian Horticultural Exporter's Association (AHEA)
- 8 Australian Food and Grocery Council
- 8.1 Australian Food and Grocery Council
- 9 Financial Services Council
- 10 Ernst & Young
- 11 Australia and New Zealand Banking Group Limited (ANZ)
- 12 Asialink Business
- 13 Cr Dominic Wy Kanak

- 14 Australian Council of Wool Exporters and Processors Inc.
- 15 Export Council of Australia (ECA)
- 16 Insurance Council of Australia
- 17 The Australian Industry Group
- 17.1 The Australian Industry Group
- 18 Medicines Australia
- 19 Citrus Australia Ltd
- 20 Minerals Council of Australia
- 20.1 Minerals Council of Australia
- 21 Australian Chamber of Commerce and Industry
- 21.1 Australian Chamber of Commerce and Industry
- 21.2 Australian Chamber of Commerce and Industry
- 22 Department of Industry and Science
- 22.1 Department of Industry and Science
- 23 Australasian Performing Right Association (APRA)  
Australasian Mechanical Copyright Owners Society (AMCOS)
- 23.1 Australasian Performing Right Association (APRA)  
Australasian Mechanical Copyright Owners Society (AMCOS)
- 24 Winemakers' Federation of Australia
- 25 GrainGrowers
- 26 Australian Dental Industry Association
- 27 Australian Meat Industry Council
- 28 Department of Foreign Affairs and Trade and Austrade
- 28.1 Department of Foreign Affairs and Trade and Austrade
- 29 China Australia Millennial Project's - China-Australia Free Trade Agreement team

- 30 Australian Services Roundtable
- 31 Business Council of Australia
- 32 Productivity Commission
- 33 Department of Agriculture
- 34 Victorian Employers Chamber of Commerce and Industry

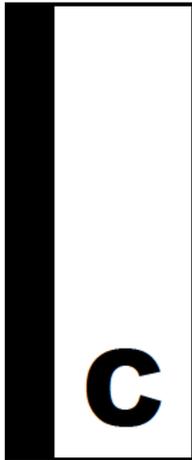




## **Appendix B - Exhibits**

1. Cherry Growers of Australia  
MT14006 – Export Market Intelligence, *Australian Cherry Exports Year Ending March 2015*, Prepared by Wayne Prowse Fresh intelligence Consulting
2. AusVeg  
*Exporting Australia's vegetables to the Middle East and Asia, Market Analysis and Overview*
3. Productivity Commission
  - a) Productivity Commission, *Trade and Assistance Review 2013-14*, Productivity Commission Annual Report Series, June 2015
  - b) Productivity Commission, *Bilateral and Regional Trade Agreements*, Productivity Commission Research Report, November 2010
4. Confidential





## **Appendix C – Hearings and Witnesses**

**Tuesday, 21 July 2015 – Canberra**

**Australian Chamber of Commerce and Industry**

Mr Bryan Clark, Director, Trade and International Affairs

Mr Andrew Willcocks, Senior Advisor, Trade Facilitation

**Australian Food and Grocery Council**

Mr Gary Dawson, Chief Executive Officer

Mr Michael Rogers, Manager, Agribusiness Forum

**Australian Industry Group**

Mr Innes Willox, Chief Executive Officer

Ms Louise McGrath, National Manager Business & International Advisory Services

**Civil Liberties Australia**

Dr Kristine Klugman OAM, President

Mr William Rowlings OAM, Chief Executive Officer

**Department of Agriculture**

Ms Jo Evans, Deputy Secretary

Mr Matthew Koval, A/g First Assistant Secretary, Trade and Market Access Division

**Department of Foreign Affairs and Trade and Austrade**

Ms Frances Lisson, First Assistant Secretary, Free Trade Agreement Division

Mr Justin Brown, First Assistant Secretary, Office of Trade Negotiations

Mr Peter Roberts, Assistant Secretary, North Asia Goods Branch

Mr Michael Mugliston, Special Negotiator, Free Trade Agreement Division

Mr Milton Church, Coordinator, South-East Asia Goods Branch

Ms Philippa Dawson, General Manager, Trade, Austrade

**Department of Industry and Science**

Mr Paul Trotman, General Manager, Trade and International Branch

Ms Sophia Vincent, A/g Manager, Trade Policy Section

Ms Courtney Edwards, Senior Trade Policy Officer

**Minerals Council of Australia**

Mr Brendan Pearson, Chief Executive

Mr Sid Marris, Director, Industry Policy

**Productivity Commission**

Mr Peter Harris, Chairman

Ms Karen Chester, Commissioner

Mr Paul Gretton, Assistant Commissioner

**Monday, 27 July 2015 – Melbourne****Apple and Pear Australia Ltd (APAL)**

Mr John Dollisson, Chief Executive Officer, APAL & Pink Lady Apples Ltd.

Ms Annie Farrow, Industry Services Manager

**Australian Council of Wool Exporters and Processors**

Dr Peter Morgan, Executive Director

Mr Christopher Kelly, President

**Australian Horticultural Exporters Association**

Mr David Minnis, Chairman

Ms Michelle Christoe, Executive Director

**Ausveg**

Mr Michael Coote, National Manager, Export Development

Mr Steve Razdan, Economist

**Cherry Growers of Australia**

Mr Andrew Smith, President

Mr Simon Boughey, Chief Executive Officer

**Citrus Australia**

Ms Judith Damiani, Chief Executive Officer

**Institute of Public Accountants**

Ms Vicki Stylianou, Executive General Manager, Advocacy and Technical

**Winemakers Federation of Australia**

Mr Anthony Battaglione, General Manager, Strategy and International Affairs

**Tuesday, 28 July 2015 – Sydney****ANZ Bank**

Mr Graham Hodges, Deputy Chief Executive Officer

**Australian Cotton Shippers Association**

Mr Arthur Spellson, Chairman

**Australian Information Industry Association**

Ms Suzanne Campbell, Chief Executive Officer

**Australian Meat Industry Council**

Mr Steve Martyn, National Director-Processing

Mr David Larkin, Processor Council Chairman

**Australasian Performing Right Association (APRA-AMCOS)**

Mr Scot Morris, Director International

**Australian Tourism Export Council**

Ms Anna Taylor, National Manager, Memberships and Policy

**Export Council of Australia**

Mr Andrew Hudson, Director

**EY**

Ms Linda Rowe, Partner, Asia Pacific, Global Immigration

Mr Peter Papadopoulos, Director, Global Immigration

**Reid Fruits**

Mr Tim Reid AM, Managing Director

Ms Lucy Gregg, Marketing and Business Development Manager