



Asia-Pacific
Economic Cooperation

2007/SOM1/008
Agenda Item: III

Report of the Individual Action Plan (IAP) Peer Review of Australia

Purpose: Consideration
Submitted by: APEC Secretariat



**First Senior Officials' Meeting
Canberra, Australia
18 January 2007**

REPORT OF THE INDIVIDUAL ACTION PLAN (IAP) PEER REVIEW OF AUSTRALIA

The IAP Peer Review Session of Australia was held on 16 January 2007 in Canberra, Australia. Delegates from Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; Philippines; Singapore; Chinese Taipei; Thailand; United States and Viet Nam were present. The APEC Secretariat, ABAC and PIF were also present.

The Review Team for Australia comprised:

Moderator: Mr Peter Ong
APEC Senior Official for Singapore

Experts: Professor Akira Kohsaka
Professor of Economics, Osaka School of International
Public Policy, Osaka University, Japan

Mr Daniel Schwanen,
Director of Research, Center for International Governance
Innovation, Canada

APEC Secretariat: Mr Geoffrey Woodhead
Director (Finance)

The meeting agreed, in view of the late delivery of the Experts' Report, that Members could provide written questions for reply and inclusion within the final Report by **Tuesday 30 January 2007**. Australia undertook to provide replies as soon as possible thereafter. Such questions should be sent to the APEC Secretariat by the due date: e-mail gw@apec.org.

This report contains the following annexes.

- Annex 1 - Concluding Remarks by the Moderator
- Annex 2 - Study Report on Australia's 2006 IAP
- Annex 3 - Presentation by Australia
- Annex 4 - Written Questions Received at the Session.



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2007/SOM1/008anx1
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Concluding Remarks by the Moderator of the Individual Action Plan (IAP) Peer Review of Australia

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Moderator's Closing Remarks
Australia IAP Peer Review
16 January 2007, Canberra, Australia

1. Ladies and Gentlemen, we had a good discussion today. I would like to thank the experts, the Australian team and all present today for contributing to our discussion today. In summary, I would like to make three brief points:

2. First, the review today and the experts have verified that Australia is on its way towards achieving the Bogor Goals in 2010. Its commitment to trade and investment liberalization is clear, as seen from its efforts in areas like tariffs, customs procedures, business mobility, services and investment. For that, we want to congratulate our Australian colleagues.

3. Of course, Australia also has areas for further reflection and improvement, as we can see from the questions and comments today. I can for example list at least three such areas. Firstly, several economies have raised concerns about the high tariffs for TCF and PMV products. Secondly, the different measures adopted by the states and territories from that of the federal government need to be clarified and made transparent. This is especially in the area of food standards. The third area is in import risk analysis, namely whether these standards are onerous and how Australia can help exporting economies satisfy them. Many questions raised pertain to quarantine measures. I also note the discussion on the various export promotion and grant schemes. In time, we hope to receive more information on these schemes, so as to better consider their possible impact on trade.

4. The Australians gave us their perspectives on these various issues, which I think has helped us appreciate their considerations behind their current policies. Nonetheless, we would like to urge Australia to reconsider, and find ways to move towards a more liberalized, less onerous and more transparent regime in these areas.

5. Secondly, going forward, today's session should help give Australia some focus while it makes its plans for the next four years. Like our ABAC representative asked, what's next? The review highlights clearly areas where efforts need to be strengthened or accelerated, and others where perhaps Australia could take a different approach. Experts from the different departments are here today, seeing firsthand how the other economies view your policies, and I am confident and hopeful for you to have benefited from the experience.

6. The same goes for the economies that are not under review today. Australia is unique in many ways, but many of our problems are also very

similar to Australia's. The session today can help us give ideas on some possible solutions to these trade issues.

7. Lastly, as I have emphasised in the beginning of the session today, the IAP Peer Review process is an important instrument we have in place to guide economies towards achieving the Bogor Goals. Especially for developed economies like Australia, this is the last check-point before the deadline. We have used this instrument to the best extent today. We have also put in the facility for further written questions to be submitted within two weeks from today. Australia has committed to providing comprehensive and succinct replies to such written questions. Let me remind you, to convey your written questions to Mr. Geoffry Woodhead from the APEC Secretariat, if you'd like them to be included in the report.

8. Economies today offered their honest feedback to Australia, and in return the Australian team was candid in its answers, and demonstrated generous openness in their comments. Congratulations on a job well done. I hope this set a good standard for the rest of the IAP Peer Reviews.

9. Thank you very much. I look forward to the other IAP sessions this afternoon.



Asia-Pacific
Economic Cooperation

2007/SOM1/008anx2
Agenda Item: III

Study Report on Australia's 2006 Individual Action Plans (IAP)

Purpose: Consideration
Submitted by: APEC Secretariat



**First Senior Officials' Meeting
Canberra, Australia
18 January 2007**

Study Report
on
APEC Australia's IAP 2006

Akira Kohsaka, Japan

and

Daniel Schwanen, Canada

January 10, 2007

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EXECUTIVE SUMMARY

2006 was Australia's 15th consecutive year of uninterrupted economic expansion, the longest period since it became a federation in 1901. A cooling housing market in 2004 was alternated by the record-high terms of trade due to the recent global commodity price boom, which stimulated commodity exports and domestic investment.

As in the past experience (in the 1970s), however, the present terms of trade boom will sooner or later be reversed. While Australia is successfully closing the productivity gap with other advanced economies thanks to its broad structural reforms in recent decades, the reform programs correctly continue to be implemented in export infrastructure, land transportation and electricity, and water.

As a resource-based open economy, Australian trade has performed superbly due to the recent commodity price boom. Its trade deficit narrowed through these price changes and its trade linkage with East Asia became evermore tighter, particularly with China. The Government not only directly supported exporters through various institutions and initiatives, but also indirectly through strengthening export infrastructure.

Australia has made a steady progress in trade liberalization and facilitation and it will be able to achieve the Bogor Goals. In such areas as Tariffs, NTMs, Services, and Investment, Australia has implemented autonomous liberalization beyond its Uruguay Round commitments so that it will reach the Bogor target by 2010 with continued efforts along the same lines. As regards facilitation areas, Australia has been taking a strong initiative in implementing collective action plans in Business Mobility and Customs Procedures. It has faithfully attained improvements in Standards and Conformance and Intellectual Property Rights. Australia has gone beyond many other APEC members in arranging and implementing competition policy and deregulation.

As often pointed out, Australia has maintained its unique domestic circumstances and remained very conservative in its approach to quarantine measures. In order to maintain its natural plant and animal endowments on an isolated continent, Australia has been implementing strict quarantine procedures, which tend to play a role of non-tariff barriers to foreign foodstuff exporters. Import Risk Analyses are meant to establish scientific rationales for these restrictive measures.

The previous Peer Review had wished to have more information on Australia's capacity building and technical assistance and cooperation in the chapters on Standard and Conformance, Customs Procedures, Intellectual Property Rights, and Competition Policy. Some significant efforts have been made since the previous review in provision of information as well as various initiatives themselves in capacity building and technical assistance and cooperation for those aspects.

APEC's wide-ranging agenda of trade and investment liberalization and facilitation and economic and technical cooperation is central to Australia's efforts to promote sustainable economic growth. APEC's key commitment is the Bogor Goals of achieving free and open trade and investment in the region by 2010 for developed economies and 2020 for developing economies. There are four years to go before the 2010 deadline and 14 years before the 2020 deadline. Australia is confident that APEC economies are capable of delivering in concert the Bogor Goals but that they must remain vigilant, show political leadership and work together to enable free and open trade to prevail across the APEC region. Australia believes that it has made considerable progress in achieving the Bogor Goals by implementing significant trade liberalization measures to open the economy.

The Australian Government supports APEC's role in becoming increasingly active on FTAs and Regional Trading Arrangements (RTAs) that liberalize economies to pursue their development ambitions. By developing high quality FTAs/RTAs that are WTO consistent, comprehensive, transparent and truly trade-liberalizing, Australia recognizes the necessity for such agreements in contributing the Bogor Goals and accelerating the WTO process. In addition, Australia seeks to promote high-quality FTAs to other APEC economies through targeted programs of technical assistance and capacity building.

Australia has remained strongly committed to APEC's Trade Facilitation Action Plan and its objective of reducing trade-related business costs across the APEC region. Australia has continued to implement a wide range of measures aimed at facilitating trade, increasing business mobility and reducing business costs in the region. Australia has continued to undertake research on different aspects of trade facilitation and issues which could impact upon trade in the region and regularly funds or manages capacity building projects for less-developed APEC economies regarding trade facilitation initiatives and benefits. This has included Provision of technical assistance within the region for standards harmonization and capacity building activities to enable economies to protect intellectual property. The entry into force of a number of FTAs, along with progress on a number of other economic agreements and partnerships, has seen the further liberalization of Australia's foreign investment regime and improved transparency and competition for government procurement processes.

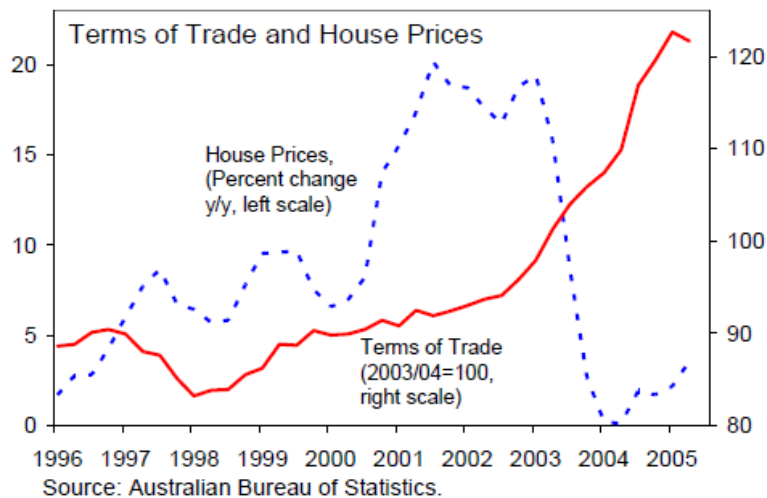
IAP Peer Review - Australia

I. INTRODUCTION

Macroeconomic Developments

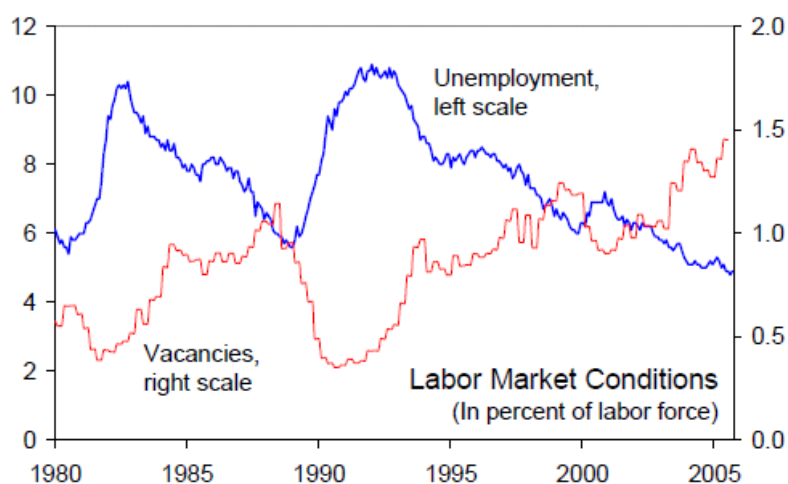
2006 was Australia's 15th consecutive year of uninterrupted economic expansion, the longest period since it became a federation in 1901. GDP growth slowed slightly to 2.5 percent in 2005 from the average 3.8 percent during 1995-2004. Subsequently, however, a cooling housing market in 2004 was alternated by the record-high terms of trade due to the recent global commodity price boom (Figure 1), which stimulated commodity exports and domestic investment. As a result, economic growth is strengthening and expected to become closer to the recent decade average rate.

Figure 1



Along with the favorable development of aggregate economic activities, the unemployment rate has fallen to below 5 percent, the lowest in 30 years (Figure 2), whereas overall real wages have risen mildly. Headline inflation showed some significant rise due to higher prices for some primary goods, while CPI inflation excluding these has remained below 2.5 percent, well within the (inflation) target zone.

Figure 2.



Source: Australian Bureau of Statistics

The Reserve Bank of Australia (RBA) has tightened monetary policy to fend off this slight inflationary pressure, though. Partly because of this policy stance, the Australian dollar has remained high both in nominal and real effective terms. The real effective exchange rate index remained above 120 throughout 2006 – its highest level since 1990.

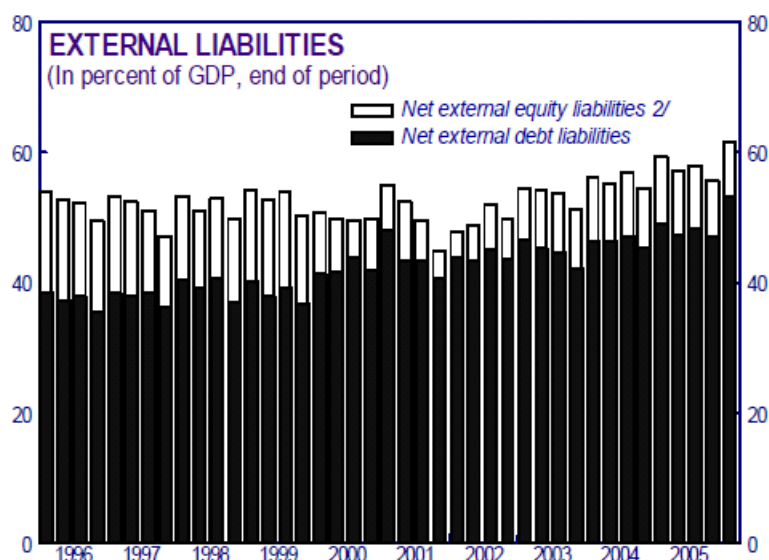
The primary objective of the Australian Government's fiscal strategy is to maintain the budget balance over the course of the economic cycle, and its supplementary objectives is to maintain surpluses over the forward estimates period while economic prospects remain sound and no increase in overall tax burden from 1996-97 levels and to improve Commonwealth government's net worth over the medium to longer term. Consistent with this fiscal strategy, the 2005-06 Budget delivered a surplus of 1.6 per cent of GDP. Revenue was higher than projected because of unexpectedly strong employment growth, significant capital gains from investments, and rapid growth in corporate profits due to strong commodity prices. As a result of consecutive fiscal surpluses in the recent past, the government's net debt was eliminated in 2006.

This economic expansion, however, generated larger current account deficit and rising net external debt. A dynamic pattern of current account (or saving-investment) balance can be explained mainly by investment movements in Australia. Domestic saving remains stable, while trend-declining household saving appears substituted by increasing business and government saving. In fact, higher investment and a stronger Australian dollar kept the external deficit around 6 per cent of GDP as opposed to the average deficit of 4.5 percent during 1981-2005. While the trade deficit reduced due to commodity price booms, overall import growth remained high because of increasing imports of capital goods and the income balance deteriorated because of a large share of foreign firms in booming resource sector.

Consequently, while net interest payments were not significant so far, Australia's net foreign

liabilities amounted to 60 percent of GDP, almost all of which are held by the private sector (Figure 5). They are financed by portfolio inflows, mainly through offshore medium-term bond issues by the major banks in international markets. While the private sector's net foreign liabilities has been relatively stable so that sustainability issue will not come up immediately, the soundness of the financial sector's balance sheet and the depth of capital markets will become more important.

Figure 3.



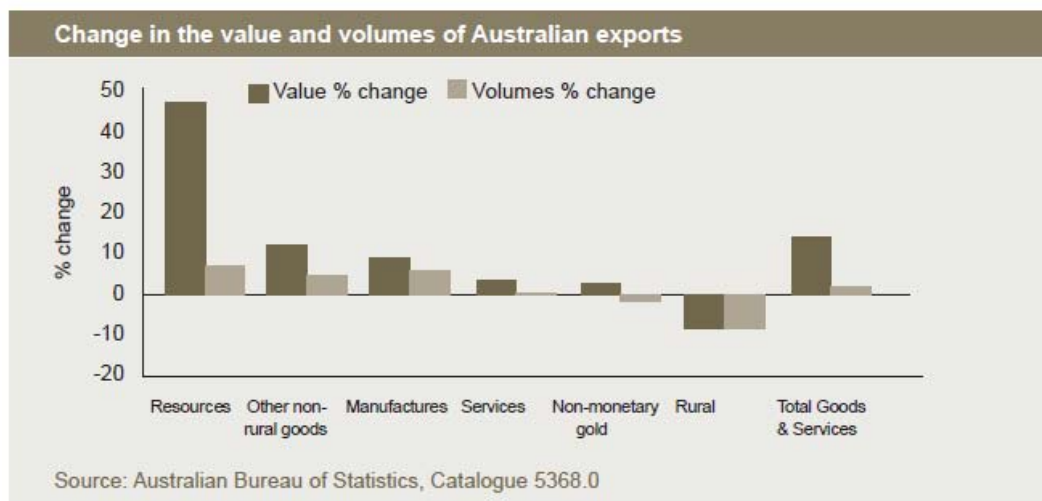
As in the past experience (in the 1970s), the present terms of trade boom will sooner or later be reversed. The Government correctly allow for a decline in commodity prices in the medium term fiscal projection. Uncertainty related to the terms of trade remains in either way that commodity prices may fall sharply more than expected or remain high longer than expected, though. Alternately, the hard landing scenario of house prices appears narrowing with few signs of household financial distress, while household indebtedness has amounted to more than 150 percent of disposable income in 2006.

Turning to the longer run perspective, Australia is successfully closing the productivity gap with other advanced economies thanks to its broad structural reforms and innovations in contrast with the 1970s and the 1980s. On top of this, the reform programs laid out by the new National Reform Agenda by the Council of Australian Governments (COAG) in 2006 include those in export infrastructure, land transportation, energy and water. To reduce regulatory uncertainty and compliance costs, a simpler and nationally consistent system of regulation for ports, railways, and other export-related infrastructure is pursued. Introducing efficient road and rail freight infrastructure pricing as well as achieving a fully national electricity market are their goals. The National Reform Agenda will continue competition reforms to make Australian markets work more efficiently and to reduce the regulatory burden on Australian business.

Developments in Trade and Investment

Being an open economy with its exports accounting for around 20 percent of GDP, Australia achieved its highest exports in 2005, i.e. \$176.7 billion, a 15 percent increase from 2004. Among the top 20 goods and services, twelve attained record highs, including coal, iron ore, natural gas and wine. By sector, resources exports (1/3 of the total exports in 2005) surged due to strong world demand, manufacturing exports (1/5 of the total) also performed well, and services exports (also 1/5) increased with tourist numbers and education services exports reaching their highs (Figure 3).

Figure 4.



Australia's imports of goods and services rose by 9 percent in 2005 to \$196 billion. The strong business investment in capital goods (6 percent growth) as well as increased demand for imported inputs and intermediate goods (14 percent growth) was reflected on this imports increase. The resulting trade deficit narrowed from \$25.6 billion in 2004 to \$19.4 billion in 2005. Australia's terms of trade rose by 11.7 percent to the highest since the 1950s. The improvement was enabled by a 12.4 percent export price increase (commodity price boom). The narrowed trade deficit was mainly explained by this favorable price changes, less by volume changes.

By region, Australia's exports in 2005 grew the fastest in East Asia with its share of more than 50 percent of the total (Figure 4). Particularly, exports to East Asia grew by 25 percent in 2005 (by 41 percent for China) because of China's strong industrial growth, the region's strong energy demand and high world energy prices, the region's demand for BSE-free Australian beef and the growing demand for Australian education and travel services. Outside East Asia, exports to India grew by 29 percent, those to EU by 8 percent.

Figure 5.

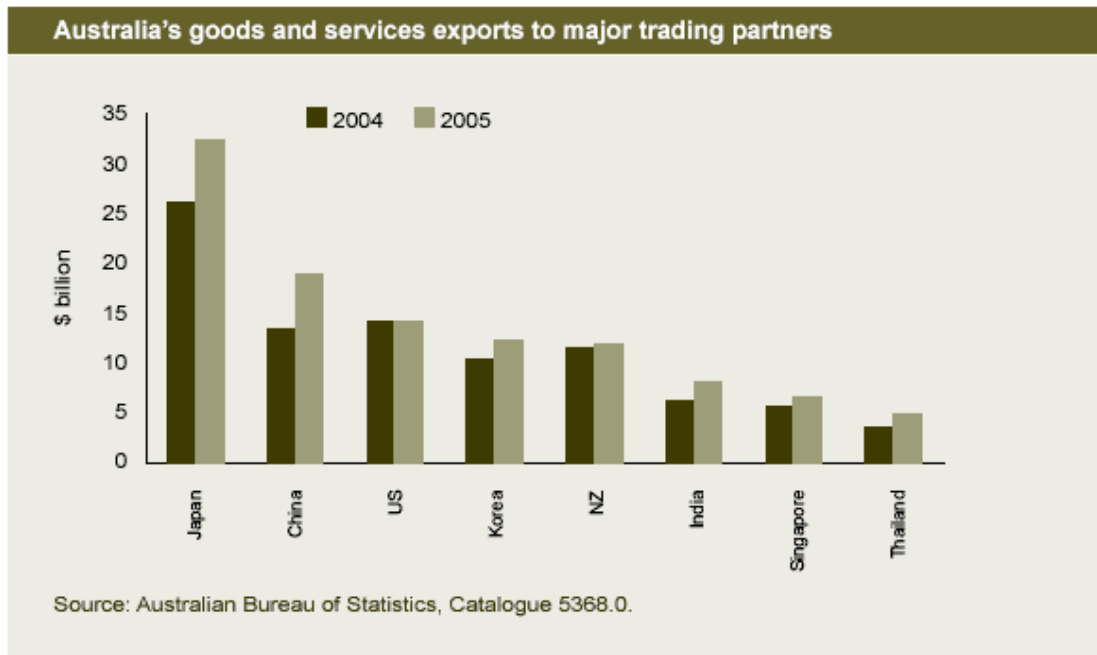
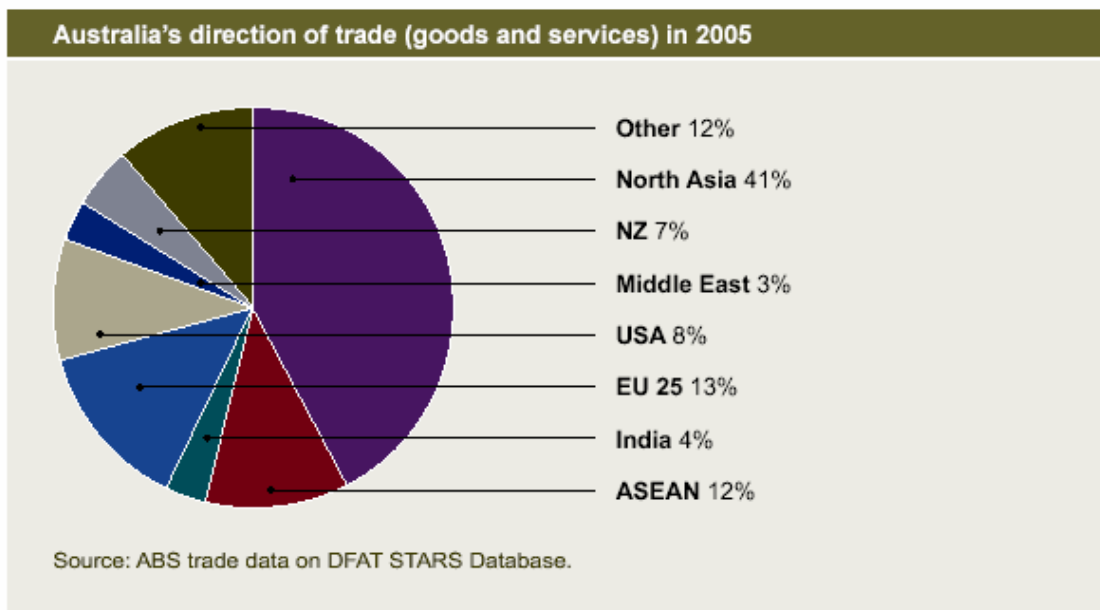


Figure 5 (Continued.)



Australia has continued to pursue a multi-faceted approach to trade policy, integrating multilateral, regional and bilateral approaches to ensure the best possible trading environment. An ambitious outcome from the current Doha Round of WTO negotiations remains Australia's highest trading priority. Australia is also pursuing regional or bilateral agreements that deliver substantial gains to Australia and which cannot be achieved in a similar timeframe elsewhere. Free Trade Agreements (FTAs) that are comprehensive in scope and coverage can complement and provide momentum to Australia's wider multilateral trade objectives. Australia also remains committed to

achieving the Bogor Goals by 2010 and has made considerable progress in achieving the Bogor Goals by implementing significant trade liberalization measures to open the economy. It is expected that any progress in regional trade liberalization will be multilateralized in due course through WTO negotiations.

Australia has also implemented a number of measures to support Australia's trade-oriented economy. These include provision of support to exporters through Austrade and the Export Finance and Insurance Corporation, reform of transport and telecommunications infrastructure, and support for foreign investors through the establishment of Invest Australia.

II. OVERVIEW

FTAs/RTAs

Coming on the heels of agreements with Singapore, the United States and Thailand (the last two having entered into force on January 1, 2005), Australia is currently in free trade negotiations with APEC member economies China, Malaysia, and (in partnership with New Zealand) ASEAN, and continues to deepen its already very close and open economic relations with New Zealand. The negotiations with Malaysia and ASEAN will naturally occur in parallel and will support each other, as well as build on earlier successful talks with Singapore and Thailand, since the three economies are ASEAN members. A joint Japan-Australia Free Trade Agreement Feasibility Study was released in December 2006 and FTA negotiations with Japan have been launched. Australia has also agreed in-principle to commencing a bilateral negotiation process with Chile, with a view to developing a comprehensive FTA.

In principle, these agreements contribute to the Bogor goals of free trade and investment, at least among those who are party to them. However, they are by their nature discriminatory – creating new preferences within APEC, or between some APEC economies and non-APEC economies, that by definition exclude those APEC economies that are not party to them. They also throw up new obstacles to trade facilitation within the region as a whole, for example by resulting in different overlapping schedules for tariff reduction, differences in conformance standards, and different rules of origins, that seriously add to the complexity of cross-border business. These issues can become especially problematic in the context of stalled multilateral trade talks, meaning that expectations that a “rising tide” of multilateral liberalization and standardization will be supportive of a more harmonious regime for fruitful economic decisions within APEC may not be realized for a while.

At the same time, it is also true that bilateral or other preferential arrangements, because they can go much “deeper” in making concrete improvements on tough issues between two countries, can also provide, if not a template, then at least a platform for discussions with other APEC member economies, and indeed at the WTO, on how complex and contentious obstacles to trade and investment can be removed.

In appreciation of the importance of the concerns raised by bilateral or other preferential agreements entered into by APEC member economies, action is being taken within APEC to enhance available information about agreements signed by member economies, as well as looking at administrative measures such as simplifying the customs documentation process across the region, that would offset the increased complexity brought by the proliferation of preferential arrangements.

In general, economies, including Australia, are now keenly aware of the impact that pursuing preferential agreements may have on the dynamic of liberalizing trade and investment within APEC

as well as globally. The joint Japan-Australia Free Trade Agreement Feasibility Study concludes that reaching such an agreement should be “a matter of priority,” but it also sets high thresholds for a successful agreement. It mentions that such an agreement should be able to address discrimination that results from existing free trade agreements, and that by entering into such an agreement Japan would signal that it is “open for business” overall. It also says that greater security of food supply means that agriculture should not be excluded from the agreement, and that a high quality agreement would show leadership in the process of regional integration. In that context, it appears that sound bilateral agreements can indeed provide the building blocks or be catalysts for wider trade and investment liberalization.

Trade Facilitation

Trade facilitation may be defined as a reduction in the costs for business conducting trade, as distinct from the impact of the liberalization of trade rules per se. Thus trade facilitation in the first instance may refer to the reduction in the cost of the formal administrative burden (paperwork, etc...) or logistical effort (at ports, etc...) required for the movement of goods, services, people and capital. It may also refer to addressing less formal or barriers that are nonetheless real and costly. Lack of fairness and transparency, and even corruption, are often mentioned in that context.

Trade facilitation also encompasses efforts at ensuring that various national standards do not unnecessarily deviate from applicable international norms, and that individual economies are able to benefit from the explosion in the standardized global information economy. Finally, it appears from the activity that is taking place under the trade facilitation heading, that trade facilitation also involves ensuring the development of measures that counter illegitimate trade and movements of people and capital, since those often pose a direct threat to legitimate economic and other activity. In short, lowering the direct costs and the risk attached to beneficial legitimate transactions is what trade facilitation is all about.

Given the above definition, it can be said that Australia has been a leader in trade facilitation within APEC. Trade facilitation is of course closely intertwined with a number of areas addressed elsewhere in this report and where notable progress has been made, notably those of standards conformance, customs procedures (as distinct from customs rules), regulatory reform and mobility of business people (see above). In addition, Australia assists other APEC economies with projects that promote trade facilitation, including the adoption of international standards and the protection of intellectual property

Concerning the aim of countering illegitimate movement of goods and people, Australia has streamlined its own procedures and is participating in a number of comprehensive APEC-wide, bilateral, and international initiatives. Apart from the obvious immediate benefit of reduced cross-border security threats, streamlined and effective enforcement against illegitimate practices facilitate the growth in legitimate trade. Some of these measures have been quickly reviewed in the

section above on mobility of business people. Others encompass: initiatives to protect cargo (e.g. through better risk management systems and computerized customs clearance); protection of ships engaged in international voyages (e.g. fighting piracy); protection of international aviation (e.g. reinforced flight deck doors, effective baggage screening procedures and equipment at all APEC airports); and the promotion of cyber-security (e.g. by working closely with industry and by developing computer security incident response teams).

Transparency

Australia's laws, policies and processes with respect to all of the above measures are highly transparent and publicly available, including on a "real time" basis through the internet. Because many of Australia's policies and procedures related to the movement of goods, services, people and capital are based on clearly enunciated principles, their application also exhibits a high degree of predictability, which contributes to the transparent environment in practice (in addition to transparency on paper).

To the extent that this high degree of transparency on the part of Australia contributes to a predictable trade and investment environment, it promotes efficient trade and investment, and thus contributes to the Bogor goals. It appears to these reviewers that Australia actively subscribes to all issue-specific APEC transparency standards, such as the APEC Transparency Standards on Government Procurement, and APEC Leaders' Transparency Standards on Services.

Participation in APEC

APEC's wide-ranging agenda of trade and investment liberalization and facilitation and economic and technical cooperation is central to Australia's efforts to promote sustainable economic growth. APEC's key commitment is the Bogor Goals of achieving free and open trade and investment in the region by 2010 for developed economies and 2020 for developing economies. Achieving the Bogor Goals remains of fundamental importance to APEC. There are four years to go before the 2010 deadline and 14 years before the 2020 deadline. Australia is confident that APEC economies are capable of delivering in concert the Bogor Goals but that they must remain vigilant, show political leadership and work together to enable free and open trade to prevail across the APEC region. Australia believes that it has made considerable progress in achieving the Bogor Goals by implementing significant trade liberalization measures to open the economy.

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promote high-quality FTAs to other APEC economies through targeted programs of technical assistance and capacity building.

Australia has remained strongly committed to APEC's Trade Facilitation Action Plan and its objective of reducing trade-related business costs across the APEC region. Australia has continued to implement a wide range of measures aimed at facilitating trade, increasing business mobility and reducing business costs in the region. Australia has continued to undertake research on different aspects of trade facilitation and issues which could impact upon trade in the region and regularly funds or manages capacity building projects for less-developed APEC economies regarding trade facilitation initiatives and benefits. This has included Provision of technical assistance within the region for standards harmonization and capacity building activities to enable economies to protect intellectual property. The entry into force of a number of FTAs, along with progress on a number of other economic agreements and partnerships, has seen the further liberalization of Australia's foreign investment regime and improved transparency and competition for government procurement processes.

III. RESPECTIVE ISSUES

Chapter 1. Tariffs

Various rates of Australian tariffs have been reported in its annual Tariff Summary Report attached to Australian IAPs since 1996. As to bound tariffs, since the last IAP, no improvements were implemented. All of agricultural tariff lines are bound. The simple average bound tariff rate stands at just over 10 per cent. Further improvements will be considered as part of the WTO Doha Round negotiations. As a matter of fact, the past reviewers noted that Australia's WTO tariff bindings still remain at higher levels than in other industrialized economies.

As to applied tariffs, the simple average has fallen from 6.1 per cent in 1996 to 4.3 per cent in 2002, and then to 3.53 per cent as of January 2006. 47.64 per cent of Australia's applied MFN tariff lines are now zero, up from 40.6 per cent in 1996. Over 86 per cent of tariff line rates are 5 per cent or lower since 2002 IAP.

Tariff rates higher than 5 per cent are in the Passenger Motor Vehicles (PMV) and textiles, clothing and footwear (TCF) sectors. The applied tariff rate on PMVs and for most automotive components is currently 10 per cent. Legislation was enacted in 2003 providing for the further reduction of tariffs on PMVs, components and replacement parts to 5 per cent in 2010. Applied tariffs for TCF products are 17.5 per cent for apparel and certain finished textiles and 5, 7.5 and 10 per cent for others. Each will be reduced to 10 per cent and 5 per cent, respectively, from 1 January 2010.

As to *tariff quota*, only 0.1 per cent of tariff lines are subject to a tariff quota and no improvements are implemented since the last IAP. On *tariff preferences*, from 1 July 2003, the 49 Least Developed Countries and East Timor have received duty-free and quota-free access. Australia provides preferential tariff arrangements, including under free trade agreements, for goods originating from New Zealand, Singapore, United States, Thailand, Papua New Guinea, Forum Island Countries, Developing Countries, Least Developed Countries, Canada and Malaysia. Additional preferential tariffs are planned in or by 2010 and onwards. Australia considers its tariff arrangements to be fully transparent and no improvements were implemented nor planned since the last IAP.

Chapter 2. Non-Tariff Measures (NTMs)

Australia generally does not make use of non-tariff measures, other than for soundly-based health and safety reasons and to discharge Australia's international obligations.

Australia does not generally impose *quantitative import restrictions*. No improvements in *quantitative export restrictions/prohibitions* are implemented and planned since the last IAP.

Neither *import nor export levies* are imposed. No improvements in *discretionary import licensing* are implemented and planned. *Automatic import licensing* is not imposed. *Export licensing* arrangements are in place for a range of agricultural (meat, dairy products, eggs, animals, fish, grain, vegetables and fruit) and non-agricultural products including certain drugs and goods containing those drugs, as well as certain animal and human products, hazardous waste and ozone depleting substances. State Trade Enterprises manage exports of bulk wheat, and in some states, bulk barley, lupines, canola and rice. *Export controls* for plantation wood are partially lifted up. Australia does not impose *voluntary export restraint* arrangements, nor use *export subsidies*, nor set *minimum import prices*.

As to *other non-tariff measures maintained*, Import Risk Analyses (IRAs) and Food Labeling stand out. Australia adopts a conservative approach to pest and disease risk, using quarantine measures (quarantine permits are required for animals, plants and related products), which are developed through risk assessments (IRAs) conducted by establishing Biosecurity Australia, an independent agency, within the Australian Government's Agriculture, Fisheries and Forestry portfolio, in 2004. Imported foods are liable to inspection to ensure compliance with Australian food standards. Correction of food labeling deficiencies on arrival in Australia is now in force.

Chapter 3. Services

Overview

Australia has made some further progress toward the Bogor goals overall in the area of services since the last IAP with respect to formal cross-border barriers to services investment and trade, but has accomplished even more progress with respect to indirect barriers to foreign investors and traders, as embodied for example by certain domestic regulatory measures.

Concerning investment in services, there has not been a noticeable relaxation of the few formal existing foreign ownership limits since the last IAP, with the notable exception of the investment provisions of the AUSFTA and some other bilateral agreements, some of which are noted below under the "Investment" rubric.

However, indirect barriers are very important to market accessibility to services providers. For example, depending on the mode of delivery, services trade liberalization is clearly intertwined with the evolution of the regulatory regime applicable to each industry, the mobility of the individuals that may be necessary to ensure delivery or consumption of the service (the cross-border aspects of which are covered in the "Mobility of Business People" section below), as well as access to infrastructure, for example in the transportation and energy sectors.

Furthermore, in Australia, regulation of many key services tends to rest with the state governments. In the words of the Council of Australian Governments (COAG), the existence of multiple regulatory environments across the States and Territories impeded freedom of trade within

Australia and compromised Australia's ability to compete in the international economy. The fact that Australian governments have worked in the recent past and continue to actively work together to harmonize various laws and regulations affecting services, and permit greater competition within the Australian market as a whole (see below: competition policy and regulatory reform sections), in a manner that preserves due regard for their respective constitutional responsibilities, has had and will continue to have the effect of making the conditions in some important services markets more competitive and transparent, and thus present increased opportunities for foreign services providers in Australia.

In short, services trade liberalization occurs through a mix of direct and indirect barrier removal. Below are key recent examples of liberalization in the services sector.

Telecommunications and Media: In telecommunications, as is often the case with countries at the forefront of liberalization, internal reform stemming from the importance of efficient and leading-edge telecommunications capabilities in sustaining the overall economic competitiveness of Australia has been the driving force. Notable developments in telecommunications liberalization and competition, include improving investment certainty in relation to telecommunications infrastructure, the operational separation of Telstra, the privatization of Telstra, and include removal of price regulation from services provided to large business customers.

The Government's new media reform legislation removing foreign investment restrictions in the media sector has been passed, but has not yet entered into force. This legislation could lead to greater foreign involvement in Australia's print and broadcast media, even though the media will continue to be a "sensitive sector" such that each new direct investment will be subject to scrutiny under the existing foreign investment review process. Australia has reservations under the AUSFTA which allow it to maintain local content requirements for television and radio broadcasting.

Business Services: The legal profession is regulated at the State and Territory level in Australia. Foreign legal services providers will benefit from the removal of intra-Australian barriers as a result of the adoption of a Model Bill and accompanying Model Regulations that provides for a uniform comprehensive approach. Not all states have implemented the Uniform Model Bill, but they are expected to introduce legislation for its implementation in 2007.

In architecture, Australia is working towards further liberalisation through, *inter alia*, its participation in the APEC Architect Framework, whose purpose is to establish a common basis for the recognition of professional competence that will simplify access to independent practice as an architect in other participating APEC economies. Moreover, Australia is one of only 7 APEC economies that have indicated an intention to implement a domain specific exam (which tests only a limited set of country-specific skills/areas of expertise) for foreign architects who have secured APEC registration based on their domestic qualifications. APEC-registered architects from other

APEC economies which offer a domain specific exam to Australian APEC-registered architects will be eligible to sit the exam. Once fully implemented, APEC-registered architects who are eligible for and who pass the domain specific exam will be entitled to professional registration in Australia. The Architects' Accreditation Council of Australia is actively engaged in discussions with relevant bodies from other APEC economies, with a view to ensuring widest possible availability of domain specific exams for APEC-registered architects. .

In engineering, Australia has maintained its commitment to the liberalisation of trade in engineering services in the APEC region. In particular, the APEC Engineer Register was an initiative of the Australian Department of Education Science and Training and Engineers Australia to facilitate cross border mobility for professional engineers in the APEC Region. An APEC Engineer Register has been established in Australia, Canada, Hong Kong China, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Thailand and the United States of America. Likewise, Australia is a member of the Washington Accord. Engineers Australia has also negotiated a variety of bilateral mutual recognition arrangements with relevant professional bodies in other APEC economies and continues to pursue such arrangements in others.

Education Services: In educational services, foreign providers of higher education can now provide education services to overseas students in Australia.

Transport Services: No nationality based restrictions are imposed on entry with respect to Maritime Transportation Services. As to *Air Transport Services*, market access arrangements under bilateral Air Services Agreements are being liberalized with open skies recognised as an aspirational goal, to be negotiated on a case-by-case basis where it is in the national interest. Generally no further improvements have been implemented since the last IAP in *Maritime, Rail and Road Transportation Services*, although Australian Governments made a range of road and rail-related reform commitments in February 2006 under the Council of Australian Governments (COAG) National Reform Agenda. (See below sections on deregulation/regulatory reform and competition policy as they pertain to transportation services).

Energy Services: While major elements of COAG's Energy Market Reform programme are to be implemented in 2007 and despite undertaking important domestic energy market reforms since the last IAP, these reforms have not been specifically targeted at increasing Energy Services market access between APEC economies.

APEC Menu of Options

The *Menu of Options for Voluntary Liberalization, Facilitation and Promotion of Economic and Technical Cooperation in Services Trade and Investment* includes an illustrative list of measures organized along the “three pillars” of APEC: trade liberalization, trade facilitation and economic and technical cooperation.

With respect to trade liberalization, as variously outlined in this report, the items in the menu that are grouped under the “MFN” category seem to be the furthest from an ideal situation, for the simple reason that some (but by no means all) of the other items on the *Menu of Options* are proceeding toward liberalization at different speed between Australia and different trading partners. Thus, some of the rules pertaining to trade and investment in services clearly apply differentially depending on the country of origin of the provider. In practice, services regulatory regimes within APEC are quite diverse and so, in a context where the WTO/GATS talks are not proceeding as hoped and in which bilateral negotiations reveal Australia as sometimes the “demandeur” on services and at other times the net recipient of demands, MFN derogations (in a context of net liberalization overall) are perhaps only to be expected.

Very few of the practices that run counter to national treatment or that constitute barriers to market access according to the list types of measures that could be liberalized according to the menu are actually in use by Australia, and those that are seem to be sparsely used. As noted below, there has been a great deal of activity toward deregulation and privatization that also form part of the liberalization menu of options.

With respect to trade facilitation, as noted elsewhere, Australia scores very high on transparency, and has been proceeding systematically on principled-based regulatory reform. Mutual recognition is still a work in progress in a number of areas, although Australia has been very active on that file: for example, the AUSFTA established a Professional Services Working Group that will encourage relevant bodies to develop mutually acceptable standards and criteria for licensing and certification and provide recommendation on mutual recognition between the two countries, and admission to practice law in Australia for applicants from New Zealand occurs under a mutual recognition arrangement between the two countries. The competition and regulatory regimes has been moving toward increased “contestability” of the Australian market, again along principled and transparent lines.

Finally, Australia has been busy providing technical assistance and infrastructure to trading partners, notably with respect to the mobility of business people and the safety and security of goods, people and services exchanges.

Chapter 4. Investment

Australia encourages foreign investment. Its foreign investment regime is generally transparent and liberal, although it maintains a screening regime to ensure that foreign investment is not contrary to the national interest. Australia, along with a number of other countries, also maintains foreign equity caps in certain sensitive sectors, namely real estate, civil aviation (Qantas as well as airports), the media (legislation to remove specific foreign investment restrictions on media has been passed but has not yet entered into force), telecommunications (Telstra) and shipping.

Australia's foreign investment screening regime operates under the presumption that foreign investment proposals are generally in the national interest and should be approved. The Foreign Investment Review Board (FIRB) screens and provides advice on investment proposals. However, where the Treasurer considers the proposal is contrary to the national interest, he may reject it under the Foreign Acquisition and Takeover Act 1975 (FATA). No business proposals have been rejected since April 2001. Australia provides national treatment with respect to the post-establishment operations of investments.

APEC objectives are to progressively provide for MFN treatment and national treatment and ensuring transparency for foreign investors. The recent Australia-United States Free Trade Agreement (AUSFTA) substantially liberalized Australia's foreign investment screening regime in relation to US investors. Relevant measures included: a huge (16-fold) increase in the threshold at which investments in non-sensitive sectors are subject to screening (up from \$50m to \$800m) and exempting all US "Greenfield" investments from notification and screening. The AUSFTA is fully consistent with WTO rules and with APEC best practice guidelines on FTAs/RTAs, which recognize such agreements as stepping stones to future multilateral liberalization. Given the lack of any multilateral agreement on investment, AUSFTA has set an important benchmark in this regard.

While the liberalization measures contained in the AUSFTA have not been extended to other APEC economies, Australia has indicated that it is very open to extending further investment liberalization on similar terms to other economies with which it is negotiating trade agreements. In addition, all APEC member economies will benefit from a recent decision by the Australian Government to raise general screening thresholds from \$50m to \$100m and to exempt from screening offshore takeovers of Australian businesses valued at up to \$200m. Consistent with APEC's non-binding investment principles, these new thresholds apply on a non-discriminatory basis to all source economies.

How is Australia's investment regime to be evaluated in light of the *APEC Non-Binding Investment Principles* adopted in 1994 and the *Menu of Options for Investment Liberalization and Business Facilitation* adopted in 1998? We have already referred to the non-binding principles of non-discrimination and national treatment, and Australia does not impose performance requirements on foreign investments. The non-binding principles of transparency and dispute settlement are addressed under these respective headings below.

With respect to the rule of law and compensation principles regarding expropriation, Australia subscribes to them (see, for example, the expropriation provisions of AUSFTA), and there are no laws or regulations that prevent foreign investors to remove legitimately earned income and financial assets from the country. Australia also has a healthy and independent judicial and a deep and sophisticated financial system that facilitate adherence with both principles just mentioned.

Australia also has a large and growing network of bilateral tax treaties that remove the problem of double taxation for investors from these countries, or Australian investors in these countries (A comprehensive comparative overview of the tax treatment of businesses and persons in Australia, including chapters on international taxation arrangements and the Australian taxation of international labour and capital flows, entitled “International Comparison of Australia’s Taxes” was published by the Australian Government in April 2006). Finally, there is no record of Australia systematically attempting to attract foreign investment by lowering its environmental, social or other standards.

These reviewers note that the *Menu of Options* now includes (since 2003) competition policy and regulatory reform. Certainly, as noted below under these respective headings, competition policy and regulatory reform in Australia can and have contributed to greater access for foreign investors.

Chapter 5. Standards and Conformance

Different levels of standards and conformance between APEC member economies tend to cause technical and regulatory barriers to trade. Of the standards published in the last year, more than 80 per cent are internationally aligned, and some 43 per cent of the 6500 Australian Standards are now internationally aligned. Australia participates actively in international standardization activities, in plurilateral as well as bilateral recognition arrangements of conformity assessments in the regulated as well as voluntary sectors.

Australia understands the need for developing economies to strengthen their technical infrastructure to better equip them to participate in the global market, to the benefit of all economies. It provides technical assistance, through its key technical infrastructure bodies, for measurement standards and calibration, laboratory accreditation, training in the verification of trade instruments, accreditation of quality systems certification bodies and standards development.

Australia actively participates in specialist regional bodies activities. Australia is committed to an open and transparent market. All of Australia’s laws and regulations are available on the internet and each of Australia’s standards and conformance bodies maintain separate internet sites. Australia also actively participates in relevant international fora.

Chapter 6. Customs Procedures

Improvements in customs procedures will facilitate trade in the Asia-Pacific region. Along the lines of the Sub-Committee on Customs Procedures (SCCP), 16 Collective Action Plans increased from 14 in the last IAP are taken, many of which have been already met the target objectives or not improved because of their already high achievements in Australia.

Among the rest for further improvements, first, Australian Customs has systematically expanded

and upgraded its systems to allow full *paperless trading*. Second, for the *development of a compendium of harmonized trade data elements*, Customs worked with World Customs Organization (WCO) members to develop models and full data sets for Version 2.0 of the WCO Data Model. Customs is actively working for Version 3.0 of the WCO Data Model, which will be ratified in June 2008. Third, for *systematic risk management*, Customs developed a Crisis Response Framework to ensure quick and adequate response to emergencies. A Business Continuity Management Framework has been implemented to allow Customs to prioritize recovery of critical business functions in emergency. Fourth, Customs has continued to develop new procedures and messages for the report and clearance of air cargo consignments, including *express consignments*. Finally, Customs supports the development of one WCO standard covering both the WCO Data Model and *Single Window*.

Chapter 7. Intellectual Property Rights (IPRs)

The 2006 IAP states that IP Australia is now able to offer streamlined methods of secure fee payments and electronic lodgment of documents, part of IP Australia's wider "one-stop" facility that includes searching of IP databases and an Assisted Filing Service for trade mark applicants. As part of a strategy emphasizing a coordinated approach to intellectual property policy, the Plant Breeder's Rights Office was moved to IP Australia in December 2004. IP Australia and other bodies concerned with intellectual property are very active in disseminating information about intellectual property rights, for example among small businesses where it seems that continuing educational and awareness efforts are required.

The Australian National Audit Office recommended, in a 2004 report, a "whole of government" approach to the management of intellectual property rights, including industrial property (patents, trade marks, design and plant breeder's rights) by government. As a result, the government (the Attorney-General's Department, IP Australia, and Department of Finance and Administration) has been working on a better practices manual in that area to assist government agencies in the management of IP and encourage them to adopt good practices in the creation, procurement and use of IP.

At the border, Australian Customs Service administers the import provisions of the Trade Marks Act 1995 and the Copyright Act 1968. These provisions comply with the WTO Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS). In broad terms, this legislation gives Australian Customs the right to detain infringing goods while the Intellectual Property Rights holder pursues civil action against the importer.

Australia is amending its copyright legislation to strengthen civil and criminal enforcement measures, implement remaining AUSFTA obligations and allow accession to the Copyright Treaty and the Performances and Phonograms Treaty of the World Intellectual Property Organization. The Australian Advisory Council on Intellectual Property (ACIP) has reviewed the enforcement of

industrial property rights in Australia and the Government intends to implement certain aspects of its response to that review.

At the same time, APEC economies are committed to using their intellectual property rights systems for the social and economic benefits of members. In that vein, the government is re-examining some exceptions to the Copyright Act to ensure that legitimate consumer practices are legal while encouraging online activity and the growth of the information economy. The Australian government has also announced that it will introduce indigenous communal moral rights in relation to a work or film.

Australia is taking a leading role in supporting the work of the APEC Intellectual Property Rights Experts Group, and in promoting awareness of intellectual property rights issues across APEC in general.

Chapter 8. Competition Policy

Australia pays a great deal of attention to the impact that its competition regime has on both economic efficiency and fairness. The fact that many of its internal micro-economic policies are assessed through the prism of open but fair competition indirectly favors more open trade and investment with other APEC economies. Regular reviews of the role that competitive conditions play in a country's own domestic well-being, taking into account sustainable development, that country's unique socio-economic conditions as well as external factors such as globalization, do not by themselves automatically open markets to foreign producers or investors. But open, fair and transparent market conditions, both internally and vis-à-vis external trade partners, is often an important byproduct of the competition policy reviews, and hence an important indirect contributor to the Bogor goals.

Thus, APEC economies should pay particular attention to the evolution of the internal competition regime in Australia, which applies in a non-discriminatory way to domestic and foreign businesses alike.

Of course, as with other aspects of public policy, enforcing national rules often require co-operation with other countries' authorities, and here Australia has been very active in terms of technical assistance, exchange programs and activities in various international organizations that concern international cooperation and emerging issues in competition policy.

Of note is the close intertwining in many sectors of both competition policy review and regulatory reform, under the general umbrella of productivity improvements. Over the past ten years, Australia underwent a program of National Competition Policy (NCP) reforms, under the aegis of the Council of Australian Governments (COAG), as a result of which Australian governments have reviewed and reformed legislation restricting competition. An independent National Competition

Council advised on these reforms, and the Productivity Commission (described in the section on regulatory reform below) independently assessed the reform program. In turn, these inputs were taken into account in COAG's final review of the NCP.

Following the experience of the NCP reforms, COAG has announced its commitment to deliver a new reform agenda that includes an examination of regulations that impede competition in three vital economic areas, both for Australian and non-Australians doing business in that country: transport, energy and infrastructure. Specifically, on energy, the goal of the reform is to transfer responsibility for all energy regulation and rule-making to national bodies, thus developing a streamlined regime by 2008, improving price signals and strengthening the national electricity transmission grid.

As a result of the close interface between competition review and regulatory reform, please note that some additional comments on sector-specific reform can be found under the section on regulatory reform (below).

Chapter 9. Government Procurement

The APEC non-binding principles are value for money, open and effective competition, fair dealing, accountability and due process and non-discrimination. These principles are fully reflected in Australia's federal government procurement framework, as embodied in the Commonwealth Procurement Guidelines (CPGs). The core principle of Australia's procurement framework is value for money, which requires a comparative analysis of all relevant costs and benefits of each proposal throughout the whole life-cycle of the procurement. Other principles include competition, non-discrimination, accountability, and transparency, as well as conducting procurement and using resources in an efficient, effective, and ethical manner. In the event of complaints, due process is also available to foreign suppliers on the same basis as that available to domestic suppliers.

The Australia-United States Free Trade Agreement (AUSFTA) contains comprehensive provisions on government procurement which are extended to all trading partners through the CPGs. Industry development obligations that were required of successful bidders for federal government contracts in certain sectors have been abolished under the terms of AUSFTA, which benefit all bidders. Australia has also undertaken government procurement commitments under the Singapore-Australia Free Trade Agreement (SAFTA). The key SAFTA obligation is to provide non-discriminatory national treatment in tender processes. Again, this has been applied on a multilateral basis through the CPGs. Note that specific requirements for small and medium enterprises (SMEs) remain— although these measures are largely directed at ensuring that SMEs are not unfairly discriminated against in procurement. Support for SMEs feature in many economies and is a complex issue that from these reviewers' standpoint should not be equated with discrimination as such, although they sometimes appear under that heading in various commentaries. At the state level, only New South Wales retains price preferences for domestic

suppliers in its procurement practices, albeit this state accounts for over a third of Australia's economy.

Australia currently has no plans to accede to the WTO Government Procurement Agreement (GPA), as it considers the GPA is unnecessarily burdensome in terms of the procedural requirements it places on the conduct of procurement. Nevertheless, Australia continues to monitor the progress of the GPA so that if the GPA becomes favourable in these respects Australia is well placed to consider accession.

Chapter 10. Deregulation/Regulatory Review

Australia has made a number of moves over the past decade toward well thought-out and principles-based regulatory reform, and has recently requested more input and launched on new regulatory reform paths. Such reform processes have been assisted by consultation between the federal government and the states and territories under COAG, of great importance given Australia's federal nature, and by the work of the Productivity Commission, a highly reputable and independent analytical and advisory body on micro-economic matters. In turn, the Office of Best Practice Regulation within the Commission ensures continued monitoring of the regulation review process. There is, in short, a built-in agenda of regulatory review and there are bodies that effectively assist in conducting it. This agenda is comprehensive and in principle may affect regulation covering all commercial sectors.

A number of regulatory reforms were recommended and/or implemented within the above-mentioned framework since the last IAP, which would be of significant interest to exporters to or foreign investors in Australia. These include: in telecommunications a more transparent and equitable access to Telstra's wholesale services, through Telstra's operational separation; a decision to promote further competitive reform of the international liner cargo shipping sector in Australia by amending, albeit retaining, that part of the Trade Practices Act (TP) Act (Australia's main competition statute) which allows liner cargo shipping operators to collaborate as "conferences" by providing limited conditional exemptions from some provisions of the TP Act; and, in 2003, bringing airports under the general access provisions of the Act, as opposed to maintaining an airport-specific access regime. In addition, a review of price regulation at the main airports was undertaken in 2006 and the review findings are currently being considered by the Government.

More recently, the federal government established a taskforce to identify areas where further reform might be needed or compliance costs alleviated. The *Report of the Taskforce on Reducing Regulatory Burdens on Business* (January 2006, available online), covers a large number of issues in the course of making its 178 recommendations. To be sure, only some of those issues directly relate to cross-border trade or investment regimes (e.g. review country of origin labeling requirements for food; reduce variation from international standards for chemicals and plastics, raise approval threshold for foreign acquisitions). But a great many more, if implemented, would

likely be beneficial to exporters and/or investors into Australia (e.g. reducing compliance cost of fringe benefits and payroll taxes, single regulator for mine safety). The government released its final response to the Report of the Taskforce in August 2006, accepting in full or in part 158 of the 178 recommendations.

Regulatory reform, with a focus on “red tape” reduction, is one of the three streams of the National Reform Agenda which COAG committed itself in February 2006 to deliver on, along with a human resources stream and the competition stream identified under the “Competition Policy” heading in this report.

In these reviewers’ views, the system, institutions and principles under which regulatory and competition policy reviews operate in Australia have proven their worth in providing dynamic reviews of a wide range of policies of interest to Australians’ well-being, and in the process has provided the stimulus for reforms and dynamic engagement in the Asia-Pacific region that have brought Australia and indeed its trade and investment partners closer to realizing the Bogor goals.

Of course, the underlying process could not exist without the active support of governments, who convene, listen to and respond to advisory groups, and also specifically mandates some of the key analytical work produced by the Productivity Commission (who otherwise conducts its own technical work but does not pronounce on key decisions before governments unless requested to do so).

In light of this experience, it may be time for APEC economies to consider funding the work of a region-wide “productivity commission,” an advisory body that would build up technical and analytical capacity within the region in the numerous economic areas that continuously require the attention of APEC ministers. This technical body’s analysis would hopefully feed into the questions and advice of ABAC, or into the work of the PECC as an independent observer and recommendation-making body, in a highly complementary way. Such a technical body would examine, at the request of Ministers, various ways in which common objectives can be attained, with due regards to the divergent political and socio-economic institutions and circumstances of the various economies, and advise Ministers on various co-operative options to advance APEC-wide productivity. This of course would be a major step, but its worth is that it would probably constitute over time a fount of useful ideas for the various APEC working groups and committees.

Chapter 11. Implementation of WTO Obligations and Rules of Origin

It appears that Australia has fully implemented its Uruguay Round WTO commitments, including application of the WTO rules of origin, and is actively fulfilling its ongoing obligations. There were no questions or complaints from other APEC economies or from the ABAC related to WTO implementation. Furthermore, the most recent WTO Trade Policy Review of Australia (which dates from 2002) makes no mention of lapses by Australia in this respect.

In general, it would appear that key elements in Australia's trade agreements that ensure the impartial, transparent and neutral application of rules of origin fall under the following headings: Australian custom laws, regulations and administrative procedures are available on the internet; there are contact points to address inquires concerning the application of rules of origins, the customs authorities will provide advance rulings to importers on whether a prospective imported good meets the rules of origin; and rulings by the customs administration will not be arbitrarily modified or revoked.

Having said this, the rules themselves and the customs provisions that ensure their application will of course vary depending on the trade agreement, due to the specific circumstances of the trading partner (for example: a trading partner that is a major point of transshipment). Indeed, a recent development of note is that under the AUSFTA, the need for importers to apply for a certificate of origin or seek a formal declaration from the exporter has been removed altogether.

Chapter 12. Dispute Mediation

Australia's approach is to "seek to resolve disputes with other Governments in a cooperative and non-confrontational manner and having regard to International Law" (Australia 2006 IAP, p. 390). Although consultation and cooperation in finding a mutually acceptable solution to a dispute is always the preferred route, Australia is nevertheless very active as a party in various disputes currently before WTO panels. Australia's quarantine measures applying to the importation of fruits and vegetables and its quarantine regime for imports have been the subject of WTO consultations.

Australia and the United States successfully argued against the European Union with respect to the latter's regime protecting geographical indications, while Australia, Brazil and Thailand successfully argued against the European Union's sugar export subsidies. Australia is also participating as a third party in seven WTO disputes, four of which concern food and agriculture products, two other the transportation equipment industry, and the last one concerning certain customs matters.

With respect to investor-state disputes, Australia's International Arbitration Act 1974 implements in Australia the Convention for the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) and the International Convention for the Settlement of Investment Disputes (the ICSID Convention). There were no new cases registered under the ICSID facility against Australia since the last IAP, and no case dating from earlier periods.

Of note is the statement prepared by the US International Trade Administration on US interests in entering the free trade agreement with Australia, to the effect that an investor-state dispute settlement mechanism was not needed in the AUSFTA (at least not for the moment), because US investors "have confidence in the fairness and integrity of Australia's legal system" (p.12).

Chapter 13. Mobility of Business People

The temporary mobility of business people is particularly important as a means of directly delivering services to another country, as a way to secure the mutual benefits of cross-border investment through temporary assignment and exchange of qualified personnel between the home and host economies, and in facilitating trade in goods, for example through providing after-sales services to a customer in another country.

Australia has provided considerable leadership on this important front, as its ongoing Chairmanship of the Business Mobility Group (BMG, formerly the Informal Experts' Group on Business Mobility, established in 1997), attests. Australia also administers the APEC Business Travel Card (ABTC) scheme on behalf of the BMG. This card is supplementary to a passport and provides frequent business travellers with:

- streamlined, express immigration processing through specially marked APEC lanes at major international airports; and
- pre-cleared multiple entry to all participating economies for up to 90 days on each visit. This negates the need to apply for individual entry permits and visas for each economy.

The number of ABTC card holders is now approximately 16000.

Australia has recently built and rolled-out a new Internet-based ABTC application processing system (via which economies exchange the necessary data) with improved reliability, security and capacity to handle increasing numbers of ABTC applications. Australia provided technical assistance and training on the new system during late 2006 to all 17 participating economies.

The need to thoroughly address security concerns obviously has the potential to seriously slow down bona fide trade and impede the mobility of legitimate travelers, including business people. Australia is a leading party to all major efforts to address this threat to legitimate movement.

Australia is spearheading the work to accelerate the adoption of international standards on biometric e-passports and is also continuing to assist members with the implementation of the Advance Passenger Information (API) Pathfinder Initiative, which significantly enhances economies' capacity to provide greater integrity in passenger movements and a higher level of facilitation and safety for passengers. To date, Australia has conducted a total of 10 API feasibility studies and a total of 11 economies have implemented or announced their commitment to implement API systems.

Australia and the United States, under the auspices of the BMG, commenced operation of a pilot Regional Movement Alert List (RMAL) system on 13 September 2005, which helps to combat trans-national crime and terrorism by detecting the use of lost and stolen travel documents while facilitating the safe and efficient movement of legitimate travellers. New Zealand joined the pilot in

March 2006 and Australia will encourage further members to consider joining during 2007.

Along with other economies, Australia has also streamlined arrangements for the intra-company transfer of executives, senior managers and specialists, consistent with the current BMG agreement to implement, on best endeavours basis, a 30 day standard to process applications for temporary residence, upon receipt of all necessary documents. Current arrangements for temporary business residence applicants provide full electronic processing, from application lodgment to decision advice.

The Department of Immigration and Multicultural Affairs (DIMA) launched a revised Client Service Charter in June 2006, which is available on the Department's web site in twenty-eight languages, and ensures a great deal of transparency and accountability in the operation of Australia's migration services. Australia has already implemented the vast majority of agreed BMG standards in respect of travel document examination and security, professional service, transparency and legal infrastructure in line with the BMG's agreed Collective Action Plan.

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Appendices

Questions and Comments

1. Canada:

Chapter 3: Services

Under the heading “Other Generic Requirements Applied to Trade in Services” on page 71, Australia indicates that Federal and state cross-sectoral bodies regulate the activities of the services sector. Could Australia please expand on this to describe the relationship and the jurisdiction of the state and federal regulatory bodies involved?

Chapter 3 (b:3): Communication Services: Telecommunications

In September 2005, the Government passed legislation to allow for the full privatisation of Telstra. Is there a timeframe in place for the sale of Telstra? Does Australia have any further precision on when we can expect to see movement on this front?

The access regime to telecommunications networks (Part XIC of the Trade Practices Act 1974) dictates that suppliers controlling network facilities are required to allow access by other suppliers "where this is in the long-term interest of end-users". Please advise what factors are used in determining the “long-term interest of end-users”.

Chapter 3 (f): Environment Services

In the WTO context, Australia has made market access commitments in the GATS under modes 2 and 3 for the entire range of environmental services. Mode 4 remains unbound except as indicated in the horizontal section (commitments on contract service supplier and independent professionals cover environmental services). In these same sectors, Australia remains unbound for mode 1 due to lack of technical feasibility.

Canada believes cross-border supply of services is technically possible for the entire range of the environmental services and that mode 1 commitments go beyond consultancy services, particularly in the case of services often provided on a private basis – e.g. nature and landscape protection services, air pollution control services, noise abatement services and other environmental protection services. Canada has been able to identify clear examples of environmental services being supplied via mode 1 (electronic monitoring of sewage levels/quality, garbage truck that crosses the border to supply refuse disposal services).

Please advise if Australia is considering making mode 1 commitments for the entire range of environmental services.

Chapter 3 (i): Tourism and Travel Related Services - Operational Requirements

Australia's Annual Report on Tourism and Travel-related Services mentions that the funding arrangements of the Travel Compensation Fund are under review by the Ministerial Council on Consumer Affairs. What possible revisions or additions are expected to result from this review and when is the review expected to be completed?

In respect of the reference to the Approved Destination Status, please provide a source for more information on the changes to the ADS governance arrangements.

According to the section, Further Improvements Planned, Australia and the People's Republic of China will begin to work on cooperative arrangements to further strengthen the ADS scheme. What kinds of cooperative arrangements are being envisioned to strengthen the scheme and what timetables are in mind?

Business Mobility

In the "Highlights on Trade Facilitation" document there is an entry on page 5 noting that Australia has developed new training programs for all employees to strengthen their ethical conduct. Would it be possible to see additional information on this?

Electronic Commerce (page 7)

Please advise if potential exporters to Australia can use the TAPIN IT system to get pre-entry binding tariff information or if it is only accessible to Australian importers.

Other – Investment

Australia states that "Australia extended the Most Favoured Nation principle, such that foreign investment policy was applied on a non-discriminatory basis with respect to the source economy of investment funds.

In what sectors does the Government of Australia not accord national treatment to foreign investors?

In light of the Aus/USFTA, are US investors subject to the same national treatment restrictions in these sectors?

Annual Red Tape Reduction (page 15)

There is mention of a "new *annual* process to examine the cumulative stock of regulation and identify an *annual* red tape reduction agenda". Given that this appears as a potentially lengthy process, would Australia please advise how it plans to do this on an annual basis?

FTAs and RTAs Reporting Templates

Given that there were mixed reports on the benefits of the AUSFTA on its first anniversary in January 2006, would Australia have any further views on the benefits accrued to Australians as a

result of this FTA? Could Australia report on its progress in FTA negotiations with China?

Non Tariff Measures

Australia has completed a review of its current BSE import policy which prohibits live cattle, beef and beef products imports from countries, such as Canada, that have reported cases of BSE. As a result, would Australia please advise if there have been decisions taken in this regard?

Genetically Modified Foods

Are there any barriers to commerce with regard to genetically modified labelling and approval of genetically modified food commodities that are not applied to all economies consistently?

2. Hong Kong, China

Tariffs

1. We commend Australia for maintaining generally low applied tariffs (average rate of 3.53%) and also the commitment to a programme to reduce applied tariffs in passenger motor vehicles and textiles, clothing, footwear products to no more than 5% by 2015. We encourage Australia to accelerate the pace of reduction where possible.
2. According to the "Tariff Dispersion Table for 2005" in Australia's IAP, there are other sectors (e.g. electric machinery and non-electric machinery) where there are tariff lines with applied rates above 5%. We would like to know whether Australia has any plan to bring such applied tariffs to no more than 5%.

Non-Tariff Measures (NTMs)

3. We note that Australia's NTMs are applied mainly for reasons of public health, safety and international obligations. For trade facilitation sake, we encourage Australia to regularly review its NTMs with a view to reducing their use as far as possible.

Services

Business Services: Legal

4. "Licensing and Qualification Requirements of Service Providers": We note that "There are no barriers to non-Australians obtaining a practising certificate provided they meet the criteria for admission and the issue of a practising certificate". We would like to know if there is any citizenship or residency requirement for the criteria for admission and the issue of a practising certificate.
5. "Foreign Entry": We note that "Applicants seeking admission to practise Australian law in Australia on the basis of their overseas qualifications require assessment of their qualifications and directions as to what further steps are required to meet the local requirements for admission". We would like to know whether there are any examination

requirements. If so, is there any distinction between lawyers from common law jurisdictions and non-common law jurisdictions? What are the usual "further steps" that need to be taken by applicants?

Business Services: Architecture

6. "Foreign Entry": It is stated in Australia's IAP that there is no discriminatory treatment of foreign architects, but we note from the same document that qualification requirements for architects include, among others, a minimum of 1 year approved experience in Australia. While such a requirement for local experience may, in our view, constitute a de jure discrimination against foreign architects, it seems to us that Australia does not consider the requirement as discriminatory, as evident by the full commitments inscribed for the sector in modes 1 to 3 in Australia's GATS schedule of specific commitments. We would be grateful if Australia would share with us their views and considerations on this, including the compatibility of the applicable domestic regime with the full GATS commitments inscribed for the sector.

Communication Services: Telecommunications

7. "Operational Requirements": As stated in the IAP, the Chairperson and a majority of Telstra's directors are required to be Australian citizens. We however find that Australia has offered to remove the citizenship requirement in its services offer tabled in the context of the on-going WTO services negotiations. Would Australia clarify its existing regime in this respect? If the citizenship requirement does exist, would Australia advise how the requirement is considered to be compatible with its national treatment commitments in mode 3 to be undertaken for telecommunication services in the GATS context?

Communication Services: Audio-visual

8. "Discriminatory Treatment/MFN": We are pleased to note that Australia would conduct a consultation with the audiovisual industry in mid 2006 with respect to the MFN exemption relating to unreasonable measures that it currently maintains under the GATS. We hope that the consultation will shed useful light on the need for Australia to further maintain the exemption, and look forward to Australia's removal of the exemption if the conditions which create the need for the exemption no longer prevail.

Financial Services

9. "Discriminatory Treatment/MFN": We note that overseas life insurance companies have to operate through a subsidiary but not a branch except that life insurers incorporated in the US are permitted to conduct life insurance business through a branch. Would Australia clarify the different treatment between US incorporated insurers and other foreign life insurers?
10. "Discriminatory Treatment/MFN": We note that a foreign insurer not authorised by APRA

(Australian Prudential Regulation Authority) can supply general insurance to Australian customers via an agent or broker. Please clarify whether foreign general insurers not subject to the authorization and regulation of APRA are permitted at present to sell general insurance products via their agents. If yes, we would like to know the rationale and safeguards for protection of interests of policyholders.

11. "Discriminatory Treatment/MFN": We note that Australia distinguishes between superannuation funds on the basis of whether they are offered or managed by a non-resident or under foreign control. Overseas (or "non-resident") funds cannot benefit from Australian taxation concessions. We would like to know what are the considerations behind for the differential tax policy.

Environmental Services

12. "Foreign Entry" and "Discriminatory Treatment/MFN": We note that mode one remains unbound due to lack of technical feasibility. Would Australia elaborate on what kind of technical feasibility is lacking.

Recreational, Cultural and Sporting Services

13. We note that Australia has a very established system for sports regulation and development. We would like to know whether there is any plan on further liberalisation. We would also like to know more whether Australia has any regulations on entertainment business. If yes, we would like to have a brief account on the regime.

Investment

14. We note that Australia operates a pre-establishment screening regime of investments to preventing it from offering national treatment. We would like to know if Australia has any plans to review or relax the requirement. If so, which type of foreign investment proposals will be applicable.

Customs Procedures

15. The Customs procedures adopted by Australia have largely met the target objectives of the Action Plans. We consider the Cargo Management Re-engineering project a sound initiative to integrating IT systems to enhance the efficiency of cargo clearance.

Government Procurement (GP)

16. We appreciate Australia's efforts in the past few years to improve its GP regime. We encourage Australia to keep up efforts in enhancing the efficiency and transparency of its GP system (for example by making use of the latest information technology).

3. Japan

General comments

- **Energy Policy**

We are very interested in the current debate of nuclear power in Australia. Please explain Australia's future strategy and policies with regard to energy security. We also would like to know Australia's position of uranium mining, uranium exportation, uranium enrichment, establishment of nuclear power generation as well as disposal of nuclear waste.

- **Environmental Policy**

We request Australia's early accession to Kyoto Protocol Treaty in endeavor to reduce the CO2 emission.

Specific comments

(IAP Chapter 1: Tariff)

- Although Australia's general applied tariff rates are relatively low, high tariff rates still remain in some of the sectors such as the textiles, clothing and footwear (TCF: clothing 17.5%, textiles and footwear 10%) and passenger motor vehicle (PMV: 10%). We appreciate the announcement by the Howard administration of reduction of such tariffs; however, we request to accelerate the schedule of tariff reduction.

(IAP Chapter 2: Non-Tariff Measures)

- **State Trading Enterprises**

- It is our understanding that trade distorting effect of export state trading is significant and, in the international discussion such as WTO, concern of this negative effect is raised toward "Export State Trading Enterprises" such as AWB, Grain Corp, Rice Marketing Board of NSW and Queensland Sugar Corporation. Those enterprises are allowed to have exclusive right to export wheat, grain, rice or sugar by the federal or state government. We request comments from Australian Government on these trade distorting effects or necessity to enhance transparency.
- According to the press report, an application from an enterprise for permission to export wheat, was rejected, not by the government, but by AWB, which was authorised by 1998 Wheat Marketing act to exercise veto power in the government acceptance of application.
- Could we understand that this veto by AWB means that the Australian government allows AWB to have monopoly right to export wheat? In addition, why does a mere private company, namely AWB, have the veto power and discretion to decide whether or not to give the export permission to other companies?

➤ So long as AWB holds the monopoly right on export trade and consequently deprives other companies of the opportunities to export, it seems reasonable to expect AWB to be responsible for increasing transparency and predictability of its transaction, especially for importing countries of food which depend on stable supply of food and international market. So does Australia consider some system to ensure this predictability? In addition, does Australia have a plan to introduce some system for this purpose in the future?

- **Infrastructure**

The capacity of facility of shipping port and transportation system does not match the vigorous demand based on the booming Australian economy. Such a mismatch becomes the barrier to trade. We request to improve transportation infrastructure.

- **Trade Union**

The trade union in Australia has a strong power. Industrial action takes place frequently, which becomes the burden for foreign companies to operate and invest in Australia. We are carefully watching the impact of the Work Choices Act which recently comes into effect.

- **Restriction of Issuance of Visas to Foreign People**

Issuance of visas for foreign workers in less important positions is severely restricted. This results in a high cost to companies.

- **Overprotection of Workers**

No age retirement system and no limitation on the number of days to buy out annual leave makes it difficult to cut down budget for salaries.

(IAP Chapter 4: Investment)

- We request to increase the threshold of prior approval under the Foreign Acquisitions and Takeovers Act 1975 from \$50 million to \$800 million which is applied under Australia-US FTA.

- The legal basis of prior approval system toward establishment of subsidiaries by foreign company is not clear. For example, we request clarification of the concept of “contrary to the national interest.”

- **Question in regard of "Current Investment Measures Applied" under "Non-discrimination")**

In light of the Bogor Goals, does Australia have any plans in the near future to liberalize its investment regime in principle, and apply pre-establishment screening to only exceptional sectors/ investments?

Also, we note that Australia provides several preferential treatment to U.S. investors under the FTA with the U.S.

Will Australia consider eventually making such treatment a standard one (applicable to all economies)?

- **(Question in regard of "Current Investment Measures Applied" under "Expropriation and Compensation")**

Does Australia give prior consent to bringing investor-state disputes to international arbitration panels such as ICSID etc. under its investment agreements?

(IAP Chapter 7: Intellectual Property Rights)

- Concerning “Australia will accede to the WPPT and WCT subject to the completion of the necessary processes”, please explain the detailed schedule for conclusion of these treaties. Will your government conclude them after amending the Copyright Act to comply with TRM obligation in the AUSFTA?
- Concerning “the Government prepared a draft Bill to amend the Copyright Act to provide for Indigenous communal moral rights in relation to a work (including an artistic work) or film”, what rights your government is planning to grant for indigenous community as copyright in the draft bill?
- Your government amended the Copyright Act in 1998 to remove the controls on parallel importation of music CDs. Please elaborate the economic effect of that amendment.
- Concerning “Australia and WIPO established a joint working group in 2000 to coordinate the provision of intellectual property technical assistance in Asia and the Pacific Region”, please elaborate the detailed content of technical assistance in copyright field in Asia and the Pacific Region through WIPO structure.
- Concerning "The Acts administered by IP Australia were the Patents Act 1990," is it possible to consider adding Japan to the list of "prescribed foreign countries" for the Modified Examination, defined in the Australian Patent Rule 3.21?
- Concerning "Project currently underway include providing more electronic forms and increasing the range of information available in electronic format," Japan is providing patent prosecution history to the other IP offices including the IP Australia via the internet (AIPN). Please elaborate your plan to provide patent prosecution history to other IP offices via the internet.

(IAP Chapter 9: Government Procurement)

- We request Australia's early signing up to the WTO Government Procurement Agreement.

(IAP Chapter 10: Deregulation/ Regulatory Review and Reform)

- According to the description on deregulation chapter, NSW deregulated the single desk arrangement for domestic rice marketing by introducing a system to issue sales permission to private companies. Is there reasonable justification for maintaining the single window system for export rice and for differentiated approach between export and domestic rice marketing?

4. Chinese Taipei

Specific comments

(IAP Chapter 3: Services)

- **Energy Services:** Section: Operational Requirements, Column: Further Improvements Planned, Page 185

Among "the next steps in the implementation of the Energy Market Reform," Australia lists "the transfer of retail and distribution functions to the AEMC [Australian Energy Market Commission] and the AER [Australian Energy Regulator] with the implementation of an agreed national framework for distribution and retail regulation." How would the role of AEMC be separated from AER in the function of retail and distribution sectors of energy market reform?

- **Energy Services:** Section: Licensing and Qualification Requirements of Service Providers, Column: Current Entry Requirements, Page 189

Australia's IAP indicates that Australian State and Territory governments issue natural gas pipeline operators' licenses according to the licensing requirements of each jurisdiction. Are there criteria or specific restrictions for the licensing requirements? And what would be the requirements for interconnection among the Territories?

(IAP Chapter 4: Investment)

- We see that in the section of the chapter on Investment in Australia's IAP that discusses plans for future improvement, there is a passage stating that Australia is in the process of pushing for the 6th edition of the APEC Investment Guidebook as part of Australia's efforts to foster greater transparency throughout the APEC region. Considering that APEC member economies already provide much useful information in the Investment chapters of their IAPs, we would like to ask Australia which kinds of information contained in the APEC Investment Guidebook, as compared with that in the IAPs, are more useful to investors. What would be the "added value" for investors?

(IAP Chapter 7: Intellectual Property Rights)

- In 2005, three Model Guidelines were approved at the ministerial level. In accordance with “The Model Guidelines to Reduce Trade in Counterfeit and Pirated Goods”, the domestic law of each member economy must include effective border-control enforcement procedures designed to empower right holders and Customs and other competent authorities to restrict the import, export and transshipment of counterfeit and pirated goods. Please explain how these procedures are regulated in your domestic law, specifically in handling the transshipment of infringing goods.

5. Akira Kohsaka

S1. Macroeconomy

a. Flexible exchange rates and inflation targeting is said to have contributed to macroeconomic stability since the 1990s. Potential risks to Australia as a small open economy come from some external turbulence such as terms of trade fluctuations due to oil and some primary commodities and asset market booms and busts through international financial flows. How do you assess the effectiveness of the monetary policy framework to cope with these external turbulences?

b. Australia has had non-negligible cumulative amounts of external debt through persistent external imbalances as in the United States. How are you ready for potential risks of sustainability as well as currency realignment issues?

c. Financial health is one of the keys to maintain the stability and growth of the economy through more frequent international financial turmoil as well as domestic bubbles. How do you assess the financial market framework built in keeping financial health and what would be the agenda to upgrade the framework in the future? (reference to: housing loans, prudential regulations)

S2. Structural Reforms

a. Structural reforms in external trade, infrastructure, financial market, labor market and public sectors since the 1980s are said to have successfully improved the overall efficiency of the economy through reallocation of resource in Australia. Have these and other efforts so far promoted long-term aggregate productivity growth? (reference to: National Competition Policy)

b. Structural reforms attained remarkable successes in various fronts of infrastructure including electricity, telecommunication, transportation and other miscellaneous public services. Of course, there remains much to be done, though. What are the most urgent issues or sectors to tackle and how do you assess the outcome of reforms in terms of aggregate productivity growth?

Respective Issue Areas

I. Tariffs

II. Non-Tariff Measures (NTMs)

S1. How do you assess the role of public sector in external trade such as state trading enterprises in promoting trade liberalization?

III. Services

S1. Privatization and other structural reforms have been pursued in various categories of infrastructure development. Sometimes upgrading infrastructure development in such categories as electricity and land transportation is pointed out as urgent. Is there any significant development in this respect or any strategy for the future under the solid fiscal position in Australia?

S2. Perhaps the most difficult task in structural reforms would be to get rid of or to reduce the institutional rigidities in the labor market. Australia has been known to be very successful in this front, too. What measures do you find most effective to this end and what are the remaining issues to tackle in the near future? (reference to: decentralization of bargaining, minimum wage, welfare system)

6. Daniel Schwanen

I. Tariffs

1. Has there been an evaluation of the impact of adjustment packages for industries undergoing tariff reductions (for example, measures to encourage investment and innovation in the automotive sector under ACIS) (see IAP, p.44). More specifically, have the packages helped the industry attain competitiveness on a sustainable basis, through greater innovation for example?

II. Non-Tariff measures

1. The same question as above applies to industries facing the reduction of non-tariff protections such as bounties. Specifically, has there been an evaluation of the effectiveness of the Shipbuilding Innovation Scheme in promoting competitiveness on a sustainable basis in that industry?

IV. Investment

1. Australia appear to be facing ongoing demands from foreign-owned businesses in certain industries that, taken together, suggest that continued FDI in these industries in Australia is contingent on continued protection, on additional incentives being directed to the high value-added sectors of the economy, and even on enhanced incentives for local procurement. In Australia's view, are such demands consistent with the general goals of economic openness that are espoused by APEC?
2. If the above-mentioned policies (high external protection and subsidies, incentives for local

procurement) are not favoured by Australia, are there other types of measures that Australia would contemplate in order to facilitate the operation of foreign-owned businesses on its territory, given the advantages that the latter bring? Measures one may have in mind might encompass: streamlined payroll taxation and other measures affecting labour costs of foreign-owned businesses; reduced tariffs on imported inputs; simplified rules to facilitate the secure temporary movement of international business and technical people, and improved competitiveness of transportation and other infrastructure.

3. Is Australia planning to further liberalise the foreign investment regime (both portfolio and non-portfolio) regarding media and telecommunications? Specifically, what is the state of debate in Australia with respect to enforcing specific foreign-ownership limits in media and in telecommunications? Would relying on generally applicable FDI screening rules applicable to all industries, on the Trade Practices Act, as well as on restrictions on cross-ownership in local markets and on rules regarding the nationality of Board of Directors members, not frame a proper competitive regime in these sectors? What do FDI ownership restriction rules accomplish in addition to these?
4. In a similar vein, in the banking sector, Australia applies the principle that any large scale transfer of Australian ownership of the financial system would be contrary to the national interest. What might be considered “large scale” in that context? In the interest of the APEC transparency objectives, is there a more objective test that could be devised in terms of defining the national interest?

VIII. Competition Policy

1. Will the competition stream of the newly-announced National Reform Agenda, focusing on competitive reforms in the areas of transport, energy and infrastructure regulation, explicitly address the question of whether improved access by foreign investors and suppliers in these sectors can bring efficiency and dynamic benefits to the Australian economy?
2. Are there elements of the competition codes in States and Territories (mentioned in the IAP p. 331) that could prevent an international merger or other form of alliance involving a non-Australian owned firm, that would otherwise be allowed under the Trade Practices Act? If so, is there a plan to harmonise such state and territory provisions with those of the federal legislation?

IX. Government Procurement

1. Australia’s IAP states (pp. 357-358) that the Australian government is committed to negotiating a common approach to Government Procurement with the State and Territory

Governments, including the elimination of preference margins. What is the current status of this commitment?

2. Australia has expressed the general view that bilateral and multilateral trade liberalisation are mutually reinforcing. More specifically, it has said that it will enter into bilateral agreements when these can deliver benefits faster than multilateral agreements. However, the same progression does not seem to apply when considering government procurement more specifically. Granted that the WTO Government Procurement Agreement (GPA) is a plurilateral and not a multilateral agreement, the bilateral route that Australia is taking on the liberalisation of government procurement (e.g. with the AUSFTA) is slower than the available WTO route, since Australia is not a signatory to the GPA. Given that Australia is considering an extension and deepening of its network of bilateral agreements anyway, would it not make sense to reconsider non-adherence to the GPA in order to better underpin these existing and future bilateral/regional agreements, and reduce the increasing differences faced by businesses from different APEC partners in the Australian market for government procurement?
3. Concerning the process for administrative Government Procurement Complaints, when a matter cannot be resolved between a supplier and a government agency, the IAP states that the matter may be referred to an external body, citing the Commonwealth Ombudsman as an example, with the ultimate recourse being to “the Australian Legal system.” (IAP p. 352) Just for clarification, what are the avenues that are available through Australia’s legal system? Specifically, is this ultimate recourse to a tribunal falling under the jurisdiction of the Federal Court of Australia?

X. Deregulation/Regulatory Review

1. The January 2006 report of the Taskforce on Reducing Regulatory Burdens on Business makes many specific recommendations that would facilitate commerce between Australia and its trading and investment partners. One such recommendation pertains to ensuring that “uniquely Australian” variation from international standards in the chemicals and plastics sector be contingent on a net public benefit demonstration. Are there other sectors where “uniquely Australian” variations from international standards are applied, and where such variations might also be made subject to a public benefit test?

7. ABAC1

Normally, Australia is a free trade country and complies with its international commitments. But in some cases, Australia bows to industry pressure (especially, agriculture) and uses quarantine or health reasons to refuse the entry of certain products into the country. For example, in March 2006, when Queensland, Australia was hit by a cyclone, 70% of the banana plantation was destroyed and

the domestic price of banana went up by as much as 100 to 200%. Yet, in order to protect the domestic banana industry, the Australian government refused to import any banana using quarantine reasons.

8. ABAC2

	Category	No	Issue	Issue Details	Requests	Governing Laws
6	Reduction and elimination of preferential policies for foreign capital	(1)	Insufficient incentives for local procurement	<ul style="list-style-type: none"> - There is hardly any advantage in localizing the procurement of products. 	<ul style="list-style-type: none"> - It is requested that Government of Australia (“GOA”) enhances the benefits for the local procurement. - It is requested that GOA provides more benefits, such as reduction in corporate income tax (“the CI Tax ”) and exemption of import duties. 	
<p>(Actions)</p> <ul style="list-style-type: none"> - On 21 June 2004, Australian Quarantine and Inspection Service (AQIS) decided to introduce “International Standards for Phytosanitary Measures Publication No. 15 (ISPM 15)” which applies in parallel with the <u>Australia’s own existing Quarantine and Inspection Standard.</u> 						
		(2)	Insufficient support for local production	<ul style="list-style-type: none"> - The share of imports is increasing year after year against the total domestic sales of new cars. This negatively affects the local manufacturers both for the finished cars and car parts. - The staged reduction in tariff rates down to 10% in 2004 and thereafter for imported finished cars is jeopardizing the existence of the local car production in a small market. Enterprises in concern are anxious to learn how GOA envisages the future for the finished 	<ul style="list-style-type: none"> - It is requested that GOA provides its support for both technology and finance to enable foreign funded enterprises (“FFE”) to develop and produce locally high added value products in Australia. 	

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>car industry in Australia.</p> <p>(Actions)</p> <ul style="list-style-type: none"> - It was expected that a new incentive (ACIS) would be implemented to promote the car industry in terms of research and development and in production in a five-year programme beginning January 2001. - Excepting RHQ (Ordinance to Establish Regional Headquarters) introduced in May 1994 no incentive exclusive to foreign investment has been provided. - The Productivity Committee released its Report covering extension of ACIS beyond 2005, staged reduction of car tariffs, review of research and development, promotion of labour union innovation, and supporting car industry beyond 2005. - The Inter-State competition for attracting foreign capital is being intensified with each State offering a better beneficial taxation system, subsidy and financing scheme individually. - In December 2002, Automotive Industrial Policy beyond 2005 was announced: <ul style="list-style-type: none"> - Import tariffs for passenger motor vehicles and parts would be reduced to 10% by January 2005 and to 5% by January 2010. - Automotive Competitiveness and Investment Scheme would be extended by 10 years, until the end of December 2015, and during this time, total of 4.2 billion dollars would be deployed for this purpose. - R&D fund to the tune of 150 million dollars would be created. 		

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(3)	Difficulty in collecting large scale R&D investments	<p>- A business entity has invested to the tune of A\$40 million for R&D in Australia. However, it is finding that its recovery is difficult if it is targeted only to the Australian market. It has a plan to create employment of 300 workers in Australia which will act as one of the footholds in development of the global markets focused on the future generation cellular phones in response to the internet dominant society. To reach this end, it is imperative that large calibre eligible personnel are recruited and revenue and funds are secured so that the R&D activities may be continued into a long future.</p>	<p>- It is requested that GOA creates the public fund to support export of products and/or technology, which are developed locally in Australia.</p> <p>- It is requested that GOA provides governmental financial aids (jointly with industries) to universities and technical colleges with the express purpose of fostering engineers who can respond to the internet era.</p> <p>- It is requested that GOA develop commercially viable R&D centres jointly between the governmental agencies and private sectors aimed at formation of a full-fledged internet society.</p>	
(Actions)						
- GOA provides the provision system for the export market development, addressed to export enterprises.						
9	Restrictive export/import trade, duty, and customs clearance	(1)	High duty	<p>- High duty rates among others on certain clothing (25%), passenger car (15% maximum), electric machinery (15% maximum)</p> <p>- Compared to North America and EU, the duty on spark plugs (especially for 4 wheel cars) is extremely high (15% for 4 wheeled cars),</p>	<p>- It is requested that GOA reduces tariffs by a large margin.</p>	Tariff Concession Scheme of 1996

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>creating a price gap compared to other spark plug manufacturers, especially to those manufacturing them locally.</p> <ul style="list-style-type: none"> - Import duty on photographic film and photographic paper is high, e.g. on finished photographic film. <ul style="list-style-type: none"> -- Japan 0% vs. Australia 5% - High tariff barriers exist on cutting tools in the range of 5% to 10%. - The concession tariff of 3% is imposed on spark plugs, despite the fact that there is no local production in Australia. This action simply puts a heavy drag on the Australian automotive industry and goes against the internationalization policy of the automotive industry being promoted by the government. <p>(Actions)</p> <ul style="list-style-type: none"> - <u>The bilateral repeal of tariffs has made a fair progress due to the expansion of FTA, such as FTA (AUSFTR) with the U.S. and FTA (CER-FTA) with Thai, effective January 2005.</u> <p>(Improvement)</p> <ul style="list-style-type: none"> - <u>Import tariffs on textiles, clothes, and footwear have been reduced by 2005 down to 0% on clothes, finished textile goods and floor coverings and 10% on cotton cloth and footwear from 37%.</u> 	<ul style="list-style-type: none"> - It is requested that GOA repeals the tariff. - It is requested that GOA repeals as soon as possible the 3% concession tariff. 	
		(2)	Antidumping petition	- Antidumping duty is imposed on thick steel plate.	- It is requested that GOA repeals the antidumping measures.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(3)	Restriction on imported packing materials	<ul style="list-style-type: none"> - Fumigation is mandated on wooden pallets for communicable disease control - Fumigation is now required on all packing materials, burdening business entities for issuance of certificates and related costs. 	<ul style="list-style-type: none"> - It is requested that GOA repeals the fumigation requirement. - It is requested that GOA removes the fumigation requirement. - It is requested that GOA repeals this requirement the same as other countries and streamlines the import/export procedures. 	
		(4)	<u>Difficulty in Fumigation Certificate on Imported Goods</u>	<u>- On imported musical instruments incorporating, among others, natural wooden materials, it is difficult to include the precise fumigation specifications required by GOA.</u>		
14	Taxation Systems	(1)	<u>Grouping of payroll taxes</u>	<p><u>- The Payroll Tax System is structured in such a way that the tax is determined by the total sum paid by a group of companies, the higher the amount paid out, the higher becomes the amount of tax imposed.</u></p> <p>(Actions) <u>Effective July 2002, GOA requires enterprises to adopt the consolidated taxation system.</u></p>	<u>- It is requested that GOA repeals the grouping requirements on Payroll Tax (State Tax).</u>	
		(2)	Complicated Taxable Items on Fringe Benefit Tax (FBT)	- On top of the Fringe Benefit Tax (FBT added value tax) rate, which is by itself high at 48.5%, the assessment value (taxable amount) of FBT must be grossed up by 2.1292 times, more than twice the amount actually paid by	- It is requested that GOA streamlines the tax system and reduces the tax rate.	Fringe Benefit Tax Assessment Act, 1986.

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>the industry. The excessively high FBT rate is one of the factors inflating the investment cost in Australia burdening foreign investors.</p> <p>(Improvement) - The State of West Australia announced its policy to reduce taxes effective January 2005, from 5.5% to 6% on the payroll tax, and across the board reduction of 10% on stamp duty for transfer of assets, and reductions in land tax.</p>		
		(3)	High value added tax	<p>- Since 1 July 2000, general sales tax (GST) of 10% (not imposed previously) has been levied on imported machine tools. This high tax is bound to push up the local market prices and makes price negotiations extremely difficult.</p> <p>(Actions) - With the introduction of GST, GOA repealed the sales tax, and reduced the personal income tax. - In response to the introduction of GST, some states are discontinuing the stamp duty. (e.g., Victoria State in July 2001).</p> <p>(Improvement) - With the introduction of GST, GOA reduced the CI Tax in stages, from 36% to 30%, effective September 2001.</p>	<p>- It is requested that GOA reduces the tax rate. - It is requested that GOA excludes machine tools from the list of taxable items.</p>	Tax Administration Act 1999.
		(4)	<u>Tightened Transfer pricing taxation system</u>	<p>- At issue is the transfer pricing of commodities imported from Australia to Japan. The Australian Authority would not accept the use of Customs Clearance Statistics as a basis for transfer pricing. Instead, it is seeking for other indices.</p>	<p>- It is requested that GOA employs the officially released data as the basis for transfer pricing.</p>	

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>- Transactions must always be governed by the transfer pricing taxation system with all its legislative revisions, as regards the transaction between the related parties for purchase and sale of products manufactured in an overseas factory in which the parent in Japan has made a direct investment.</p> <p>- <u>GOA implements extremely strictly the transfer pricing taxation system, requiring enterprises to incur a huge amount of expenditures for prior examination and preparation of the documents and materials in advance.</u></p>	<p>- <u>It is requested that the Taxation Authority publishes a clear-cut guideline on the transfer pricing taxation system.</u></p>	
				<p>(Actions)</p> <p>- <u>In July 2002, GOA and Government of Japan (“GOJ”) reached agreement on the calculation method applied to the Advance Pricing Agreement (“APA”).</u></p>		
		(5)	Few deductible items	<p>- For foreigners, deductible items are extremely limited. Especially the inclusion into FBT of medical expenses, incurred by expatriates staying for a limited period and not covered by the health care insurance, is weighing heavy on business entities.</p>	<p>- It is requested that GOA expands the deductible items for foreign expatriates for the purpose of FBT.</p>	

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>- The deductible items from personal income of foreign expatriates are too narrow and too few. <u>The relative high costs of operation are one of the factors driving Japanese affiliated enterprises away from Australia.</u></p> <p>(Actions)</p> <p>- Income from house rent of the house left in Japan by an expatriate is subject to levying of tax in Australia.</p> <p>(Improvement)</p> <p>- The taxation system has been revised so that GOA now authorizes deduction of interest expense related to <u>the foreign withholding tax.</u></p>	<p>- It is requested that GOA expands the <u>deductible items from personal income, among others, medical, housing, education and transport costs.</u></p>	
		(6)	High personal income tax	<p>- Personal income tax for individuals whose income level exceeds a certain amount (A\$60,000) is extremely high (the maximum rate at 47%).</p>	<p>- It is requested that GOA reviews the personal income tax (such as raising the income level of individuals subject to the 47% tax rate).</p>	Federal Tax Law
		(7)	Delays in administrative judgement on taxation	<p>- The tax authority delayed in giving its taxation notice to a project, because it took too much time in assessing the application of SECT 51AD of Income Tax Assessment Act 1936.</p>	<p>- It is requested that GOA expedites the assessment period for issuing the taxation notice.</p>	Income Tax Assessment Act 1936
16	Employment	(1)	Annuity for expatriates	<p>- The contributory obligations to the superannuation are exempted for certain expatriates working under the 457 Visa (who correspond to the previous 413 Visa, issued to expatriates who were short stay residents). However, it is not clear in what circumstances can such expatriates be deemed as</p>	<p>- It is requested that a clear-cut definition is provided regarding how to distinguish individuals who can be exempted from the contributory obligations as was the case for the previous 413 Visa.</p>	

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>corresponding to the previous 413 Visa status.</p> <ul style="list-style-type: none"> - Personal funds could in fact be lost or placed in a sleeping condition where individuals with contributory obligations for superannuation returns to Japan, since the amount so having been contributed cannot be withdrawn pending retirement. - <u>The superannuation is problematic in respect of interchangeability and liberalization.</u> 	<ul style="list-style-type: none"> - It is requested that GOA grants an exception for withdrawal of the contributed funds for the individuals returning to Japan and for transfer of such funds to annuity plan of any third country for those moving to such third country. - <u>It is requested that both GOA and GOJ exchange dialogues on this issue.</u> 	
		(2)	Inadequate medicare	<ul style="list-style-type: none"> - The benefit under the Medicare (the equivalent of national health insurance in Australia), which was extended to temporary residents such as Japanese expatriates, has been removed since 1 July 1995, excepting those holding the 412, 413, 414 or 418 Visa subject to the short-term transitional measure. On the other hand, collection of the Medicare levy is continued while the application for levying exemption is being arranged by the Department of Human Services. - <u>Japanese expatriates without medicare are faced with problems in their daily life.</u> 	<ul style="list-style-type: none"> - <u>It is requested that GOA considers remedial measures for Japanese expatriates.</u> 	
		(3)	Complexities	<ul style="list-style-type: none"> - The procedure to obtain visas is complicated. 	<ul style="list-style-type: none"> - It is requested that GOA streamlines 	

	Category	No	Issue	Issue Details	Requests	Governing Laws
			and delays in visa acquisition	<p>- Despite the integration of all visas into the 457 Visa only, its issuance has not been made any speedier. Reduction of work force in charge of visa issuance on the contrary is causing further delays in some cases.</p>	<p>the procedure for visa acquisition.</p>	
		(4)	<u>Visa issuances restricted</u>	<p>- <u>GOA strictly restricts hiring from abroad of employees who are not in key positions. The treaty on hiring of workforce for positions which are not locally available in sufficient number remains problematic to Japanese affiliated enterprises in that the number of visa issuance is strictly limited. Moreover, a number of additional conditions must be satisfied before a visa is granted.</u></p>	<p>- <u>It is requested that GOA relaxes restrictions on visa issuances for skilled workers who are difficult to recruit or unavailable locally.</u></p>	<p>- <u>Immigration Act</u></p>
		(5)	Difficulty in adjusting labour costs	<p>- It is difficult to adjust labour costs because law protects maintenance of the vested interests of workers. It cannot be flexibly adjusted in response to the global standard. Particularly, such adjustment, favouring employers is impossible to make.</p> <p>-- In Australia, National Wage Cases are controlling whereby Australian Industrial</p>	<p>It is requested that GOA establishes a new rule in such a way that working conditions are determined commensurate with the business performance of business entities.</p>	

	Category	No	Issue	Issue Details	Requests	Governing Laws
				Relations Commission determines wages and working conditions.		
		(6)	Employment system heavily burdening employers	- Absence of the ceiling to the annual leave, absence of compulsory retirement age, etc. are excessively burdening employers.	- It is requested that GOA reviews the industrial relations between employers and employees (based for example on the system that corresponds to the number of service years of employees).	
24	Indigested legislation, abrupt changes	(1)	<u>Disharmony in interpretation of laws on use and acquisition of land with native title</u>	<u>- In development of new coalmines, that involves the use or acquisition of land with native title a uniform interpretation and administration of laws is remains undetermined. The fact remains that it takes a considerable time before the mining license is granted.</u>	<u>- It is requested that GOA rectifies the situation as soon as possible since as it now stands, it remains a grave risk factor for future investment by foreign investors.</u>	<u>- Native Title Act</u>
25	Government Procurement	(1)	Endorsed suppliers status	- Unless a business entity has exported a certain minimum amount from Australia and thereby having contributed to the inflow into Australia of foreign currencies, it is disqualified from bidding for tender by Australian governmental agencies. - Endorsed Suppliers of information technology machinery & equipment (the IT Products) must satisfy two conditions, 1) the annual sales of A\$40 million in the IT Products, and 2)	- It is requested that GOA deregulates this requirement. - It is requested that Australia will sign the WTO Agreement on Government Procurement as soon as possible and observe its requirements.	- PFD (Partnership for Development Programme) - FTA (Fixed Team Programme)

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>certain amounts of export from Australia and investments in Australia for Research & Development (R&D) during the period of 7~10 years established upon mutual consultation. As regards business entities not reaching A\$40 million in the annual sales of the IT Products, providing that they commit themselves to satisfy certain amounts in export and investment for R& D in 4 years after the manner mentioned in the foregoing, they will be granted the status of Endorsed Suppliers (the ES Status). To obtain the grant of the ES Status, at times, they are required to submit a business plan requiring R&D investments in the low return business areas. After the ES Status is granted, a periodical review will be made by the governmental agencies, and if export sales or R&D investment is not timely executed as laid down in the business plan, such ES Status may be revoked. This requirement corresponds to the offset, which is prohibited by the WTO Agreement on Government Procurement at Article XVI.</p>		
<p>(Actions) - Australia is still not a member to the WTO Agreement on Government Procurement.</p>						

	Category	No	Issue	Issue Details	Requests	Governing Laws
				- Australia's commitment for the IAP (Individual Action Plan Review) is appreciated.		
26	Others	(1)	Discriminatory tuition fees	- In New South Wales, public schools have started to collect since 2001 tuition fees (A\$4,000 per annum) for students whose parents (who are Japanese expatriates) do not possess permanent visas, for reasons of fund shortage. No such fees are payable by the parents who are Australian nationals or who possess permanent visas.	- It is requested that GOA removes the discrimination against the Japanese parents (without permanent visas), since they do pay personal income tax just the same as the Australian nationals and those who possess the permanent visa.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(2)	Unfair penalties	<p>- The penalty of 5,000 dollars per case is payable by an airline carrier, if any deficiency is found in a passenger's entry documents, such as visa, which should be obtained and maintained at the sole responsibility of the passenger himself/herself.</p> <p>- In the case of the reporting firm, the following are the 4-year-records of the number of cases and the penalty paid. The amount of penalty per case has been raised successively in July 1999, from \$2,000 to \$3,000, and to \$5,000, one year later in July 2000. All airline carriers, domestic and international, having been compelled to assume this heavy penalty, are requesting for improvements. The penalty thus collected is deposited temporarily in the Immigration Administration. However, it would seem, it is finally transferred, in effect, into the general budget and is not deployed for improvement of the Immigration Administration:</p> <p>July, 1998~June, 1999 122 cases×\$2,000 = \$244,000</p>		

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>July, 1999~June, 2000 171 cases×\$3,000 = \$513,000</p> <p>July, 2000~June, 2001 93 cases×\$5,000 = \$465,000</p> <p>July, 2001~June, 2002 76 cases×\$5,000 = \$380,000</p> <p>(Cases represent the total of Sydney, Brisbane and Cairns)</p> <p>While the introduction of the ETAS (Electronic Travel Authority System) since September 1996 has simplified the procedure to obtain visa, and has contributed to the passenger benefits, it seems the ETAS, without the visual inspection, has been the direct cause for the increased deficiency cases in the entry documents.</p> <p>Airline carriers are doubly burdened in that, in most cases, penalty cannot be recovered from passengers, while their employees must, by way of self-defense, spend extra time and cost for the prior checkup of the correctness and the sufficiency of the entry documents</p>		

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>prepared by each passenger. In the first place, what is problematic is the practice of the Australian authority, which holds airline carriers as primarily responsible for the deficiency caused by their passengers themselves. Such penalty willy-nilly must be reflected in the profit and loss of the account of the Australian route, and in the end to the airfare. How to resolve this difficulty is indeed a massive headache for the airline industry.</p> <p>Among the airline carriers flying in to Australia, some carriers have been forced to abandon the route to Australia, being unable to assume the huge financial burden from this penalty any longer. This forms a barrier for air transport service destined to Australia.</p> <p>Among many countries, which have already exchanged the bilateral visa exemption treaty, Australia belongs to the minority group of countries still demanding visas even for sightseeing tourists. Its imposition of exorbitant penalty has been a factor, blocking a free exchange of people between Australia and other countries.</p>		

Responses to the Questions raised by:

Canada

Question No/Heading	Response
Q1. Services	Regulatory responsibilities in Australia are borne by local, state and federal agencies, as well as statutory bodies. Certain services sectors are also subject to self-regulation, administered by professional bodies or industry associations. For example, in some sectors state government bodies regulate pursuant to state-based legislation (e.g. architecture). In other sectors, a combination of state-based regulation and professional self-regulation occurs (e.g., legal services). Most services suppliers are also subject, for example, to consumer protection regulation, which is enforced primarily at the state level, but is also governed by commonwealth legislation enforced by the Australian Competition and Consumer Commission. In summary, the way in which responsibility is divided between different levels of government, and between government and non-government bodies differs depending on the service sector in question.
Q2. Telstra sale	The Prime Minister announced on 25 August 2006 that a public Telstra share offer will proceed. The government will transfer the balance of its remaining shares to the Future Fund. The shares will be subject to an escrow period of around 24 months. After the escrow period, the Fund will be free to sell down its shareholding as it sees fit. The Government will not be directing the Fund on the timing or structure of a sell down, or setting a target price.
Q3. Access regime telecommunications	<p>In administering Part XIC of the <i>Trade Practices Act 1974</i> (TPA), the Australian Competition and Consumer Commission (ACCC) must uphold the object of the Part, which is to promote the long-term interests of end-users.</p> <p>While the term “long-term interest of end-users” is not defined in the TPA as such, s.152AB requires the ACCC to have regard to whether a particular thing promotes the long term interests of end users according to the objectives of:</p> <ul style="list-style-type: none"> ▪ Promotion of competition in markets for carriage services and services supplied by means of carriage services;

- achieving any-to-any connectivity for carriage services involving communication between end-users; and
- encouraging economic efficiency in the investment and use of telecommunications infrastructure.

Section 152AB of the TPA provides that the Commission must consider the extent to which arrangements considered under Part XIC of the TPA are likely to result in the achievement of these objectives.

Whilst these objectives are considered by the ACCC to be secondary objectives, they are the means by which the primary objective of promoting the long term interest of end users is to be realised. Generally the ACCC is of the view that an access regime that achieves one or more of these secondary objectives will generally promote the long term interests of end users.

Whilst Part XIC is primarily concerned with promoting the economic interests of end-users, the immediate impact of a decision under Part XIC often applies to the input services acquired by service providers. Therefore, the ACCC is concerned with the economic interests of service providers. As changes in their circumstances can be expected to flow through to end-users, the Commission can also evaluate the consequences of arrangements under Part XIC on end-users.

The ACCC undertakes a case by case analysis to form a view about the likelihood of each of the objectives being met in any given arrangement (eg. an access undertaking assessment, decisions to declare a service or determining pricing principles for declared services.) This approach also enables the ACCC to reach a decision in terms of the overall effect on the long term interests of end users, especially where the ACCC considers that the arrangement is likely to have mixed effects.

The analytical process undertaken generally involves:

1. Consideration of the likely result of the arrangement in terms of each secondary objective (e.g. would declaration

	<p>of a given service promote competition?)</p> <ol style="list-style-type: none"> 2. Consideration of whether the likely result of the arrangement on each secondary objective will promote the long term interest of end users (e.g. is promoting competition in the long-term interest of end-users in a given set of circumstances?) 3. Overall assessment of whether, having regard to the cumulative results of the arrangement on the secondary objectives, declaration will promote the long term interests of end users. <p>To consider the likely result of an arrangement, such as a decision to declare a service, with regards to the secondary objectives, the ACCC may use a “with or without test.” The ACCC will consider the future without the proposed arrangement, and will then compare this to the future if the arrangement were to go ahead.</p> <p>Where the ACCC is of the view that the arrangement is likely to have mixed effects in terms of one or more of the objectives, it will seek to form a view about the net impact upon end-users. Forming this view may involve judgements about the benefits and costs arising from the arrangements, and the spread of those costs and benefits.</p> <p>For further information, please refer to:</p> <p><i>The ACCC guide to the declaration provisions of Part XIC of the TPA</i>, which can be found at http://intranet.accc.gov.au/content/index.phtml/itemId/324247</p> <p><i>Access Pricing Principles – Telecommunications</i> http://intranet.accc.gov.au/content/index.phtml/itemId/324346</p> <p>Please also find at Annex A a more detailed explanation of the factors taken into consideration when applying the long-term interest of end-users test for declaration inquiries.</p>
Q4-6. Mode 1 commitments	We agree that, due to technological change, mode 1 commitments are now more feasible than in the past. Australia is seriously considering a mode 1 offer for environmental services.
Q7. Travel compensation	The Travel Compensation Fund (TCF) is being reviewed in two stages.

fund	<p>a) Stage 1 is to examine alternative funding options that may better ensure the adequacy of future TCF reserves and provide efficiencies in industry and TCF administration; and</p> <p>b) Stage 2 is to consider a more broadly based compensation scheme, encompassing end supplier insolvency (e.g. hotel, airline, cruise line etc).</p> <p>The first stage of the review was completed in 2004. It recommended that the TCF's funding reserves be improved through changes to the fee structure. These recommendations have been implemented by the TCF.</p> <p>The Second Stage of the review is yet to be completed. A number of key stakeholders like the Australian Federation of Travel Agents and the Australian Tourism Export Council made submissions to this review. We are not aware as to when this review is likely to be finalised.</p> <p>The TCF Board is also considering the possibility of widening the current review.</p> <p>In addition, the Standing Committee of Officials on Consumer Affairs (SCOCA) is also considering a number of issues concerning the TCF. These include:</p> <ul style="list-style-type: none"> • a proposal for an exemption from TCF membership for Australia Post to sell Jetstar domestic flights tickets from its outlets across the country; and • possible introduction of a risk-based premium structure for the TCF, so that low risk operators can benefit from lower premiums. The TCF has engaged a consultant to investigate possible options.
Q8. Approved Destination Status governance	Details of the strengthened administrative arrangements for the ADS scheme may be found at www.industry.gov.au
Q9. Approved Destination Status scheme China-Australia	<p>On 2 August 2006, the Australian Government signed a Memorandum of Understanding with the China National Tourism Administration on the ADS scheme. The aims of this arrangement are to:</p> <ul style="list-style-type: none"> • share information through regular interaction and information exchange between the relevant authorities; • cooperate to ensure the efficient and effective administration of the ADS scheme in both countries; and <p>build a successful and sustainable ADS scheme, to ensure Chinese visitors travelling to Australia under the scheme enjoy a quality holiday experience.</p>
Q10. Business Mobility	Code of conduct training is provided to all new officers in Induction courses, and refresher training is provided every two years to all officers in Australia and in overseas posts, including ALOs. The department is currently reviewing its Code of

		conduct and aspects of its training delivery strategy. The Department has established a new DIMA College of Immigration which commenced officer training on 3 July 2006.
Q11. TAPIN IT system		Potential exporters can apply for a pre-entry binding Tariff Advice either, electronically, through the TAPIN IT system via a customs broker located within Australia; or in writing, using the form available from the Customs website (www.customs.gov.au). When an officer makes a decision, the result is notified to the exporter/agent by the return of a hard copy or by notification through TAPIN.
Q12-13 National treatment investors	National foreign	<p>Australia operates a pre-establishment screening regime for investments above certain thresholds across all sectors, preventing it offering national treatment.</p> <p>Australia effectively provides national treatment with respect to the post-establishment operations of investments. However, post-establishment national treatment is not accorded in the residential real estate sector.</p> <p>See also Annex B</p>
Q14. National treatment US investors		As outlined above, due to the existence of a pre-establishment screening regime across all sectors, Australia does not offer national treatment to foreign investors. US investors are also subject to pre-establishment screening, albeit at higher threshold levels in certain sectors.
Q14. Red tape reduction		The Government intends to conduct the annual examination of the cumulative stock of Government regulation through a process involving the Productivity Commission. Suitable terms of reference for this process are currently being drawn up.
Q 15. FTAs/RTAs		<p>On 18 April 2005, Australia's and China's leaders agreed to launch negotiations on a free trade agreement (FTA). As at August 2006, five rounds of negotiations have taken place.</p> <ul style="list-style-type: none"> ➤ The substantive discussions are taking place within four working groups covering agriculture and quarantine; trade in goods; trade in services; investment and trade facilitation issues. ➤ The meetings have covered a wide-ranging and comprehensive exchange of information about each other's trade and investment regimes. ➤ Texts for a various chapters of an agreement have also been tabled, covering trade in goods and services,

	<p>and investment.</p> <p>Australia and China will exchange market access offers on goods, including agriculture, at the sixth round of negotiations (Beijing, 31 August – 6 September 2006).</p> <p>Services and investment market access negotiations should follow before the end of the year.</p> <p>China has accepted that there are to be no exclusions of any major sector from the negotiations.</p>
Q16. BSE import policy	<p>The Australian Government has reviewed Australia’s beef certification measures, which include a ban on imports of beef and beef human food products from countries reporting any BSE cases in indigenous cattle.</p> <p>The review process has involved a range of government agencies and experts responsible for the safety of our food supply, therapeutic goods, blood supply and agriculture. It was an evidence-based review examining changes in scientific and technical knowledge since the policy was first implemented, including current understanding of epidemiology of both BSE and variant Creutzfeldt-Jakob disease globally, and advancements in the detection and management of BSE.</p> <p>While the Government is considering outcomes of the review, the current import policy for beef and beef human food products remain.</p>
Q17. GM food	<p>No – All imported foods, irrespective of country of origin, are required to comply with the Food Standards Code. Food Standard (<u>Standard 1.5.2</u>) - foods produced using gene technology - regulates the sale of genetically modified foods in Australia and New Zealand and was incorporated into the Food Standards Code on 13 May 1999 and in an amended form on 7 December 2000. The standard has two provisions: a mandatory pre-market safety assessment requirement; and a mandatory labelling requirement.</p>

Hong Kong, China

Question No/Heading	Response
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<p>Q1. Tariffs – other sectors</p>	<p>In November 2003 the Australian Government announced its ten-year long-term plan for the TCF industry, the TCF Post-2005 Assistance Package. This Package provides the Australian TCF industry with a decade of certainty in respect of the rate of tariff and the amount of Assistance available from the Government.</p> <p>The objective of the TCF Post-2005 Assistance Package is the development of an Australian TCF manufacturing industry that it is viable and internationally competitive in a freer trading environment post-2015.</p> <p>Under this Package tariffs have been paused at 10 per cent for cotton sheeting, woven fabrics, carpet and footwear; and 7.5 per cent for sleeping bags, table linen and some footwear parts from 2005 to 31 December 2009. On 1 January 2010, these tariffs will be reduced to 5 per cent.</p> <p>Clothing and certain finished textile tariffs, which are facing the greatest level of tariff reduction, have been paused at 17.5 per cent from 2005. These tariffs will be reduced to 10 per cent on 1 January 2010 and remain at this level until they are reduced to 5 per cent on 1 January 2015. A schedule of TCF tariffs is below:</p> <p>Applied tariffs on passenger motor vehicles and related components were reduced to 10 percent on 1 January 2005. These tariffs will be further reduced to 5 percent on 1 January 2010. Tariffs on commercial vehicles and four wheel drive vehicles (and parts thereof) are 5 percent. This systematic reduction of tariffs provides an effective mechanism for the internationalisation of the automotive industry. The Government does not intend to accelerate this schedule of tariff reduction.</p>
<p>Q2. Legal – Practising certificate</p>	<p>No citizenship or residency requirement for the issue of a practising certificate.</p>
<p>Q3. Legal – foreign entry</p>	<p>As indicated under ‘Knowledge Requirements’ in the IAP under <i>Licensing and Qualification Requirements of Service Providers</i> academic requirements for admission are based on the coverage of a minimum of 11 areas of legal knowledge (specific areas identified in the IAP). While no specific distinction is made between lawyers from common law and non-common law countries, as the assessment of foreign qualifications is based on the extent to which the 11 areas of legal</p>

	<p>knowledge are covered, which are common law focussed areas, non-common law lawyers would generally need to undertake a greater proportion of additional studies to those from common law jurisdictions.</p> <p>Further steps subsequent to assessment of qualifications and practical legal training (PLT) requirements would generally include undertaking courses of study to satisfy coverage of the 11 areas and satisfaction of any PLT requirements. Assessment of satisfactory conclusion of each of the courses would generally include an examination. However, admission to practise is not based on a Bar Examination or the like.</p>
Q4. Architects – foreign entry	<p>Australia’s considers the applicable domestic regime is fully compatible with our GATS commitments for market access and national treatment. To obtain registration as an architect in Australia, apart from the recognised qualification, applicants must have a period of training through experience followed by completion of a practical examination.</p>
Q5. Telecommunications	<p>There are no changes to the Telstra Act in regard to the provision that a majority of Telstra’s directors are required to be Australian citizens.</p>
Q6. Audio-visual	<p>Consultations with the audiovisual industry on the need to maintain the MFN exemption relating to unreasonable measures are in progress. It is envisaged that these consultations will be undertaken via the newly established Industry Advisory Panel (convened by the Department of Communications, Information Technology and the Arts) in the last quarter of 2006.</p>
Q7. MFN life insurance	<p>Prior to 2005 no foreign life companies were able to conduct life insurance business in Australia through a branch. The Australian Government agreed as part of the 2004 Australia-United States Free Trade Agreement that US life companies would be permitted to conduct life insurance business in Australia through a branch. Amendments giving effect to this agreement received Royal Assent on 16 August 2004 and commenced on 1 January 2005. To date the Government has not extended this treatment to branches of life insurers domiciled in other countries.</p>
Q8. foreign insurer	<p>A foreign insurer not authorised by the Australian Prudential Regulation Authority (APRA) can supply general insurance to Australian customers via an agent or broker.</p> <p>The Government has undertaken a review of the regulation of foreign insurers not authorised by APRA and continues to examine the issue. It is keen to ensure that commercial arrangements that have worked successfully to date can continue. It considers that the purchaser in these commercial arrangements would normally be able to judge for itself the risks</p>

	<p>involved in the transaction.</p> <p>However, the Government is also keen to protect consumers. To that end, it requires under the <i>Corporations Act 2001</i> that providers of financial products give their retail clients a Product Disclosure Statement that sets out the key characteristics of the product they are purchasing. This assists the policyholder in making an informed decision. For foreign insurers not authorised by APRA this includes the country in which the foreign insurer is incorporated, and whether the country has a system of financial supervision of insurers; the paid up capital of the foreign insurer; and which country's laws will determine disputes in relation to the financial product.</p> <p>Financial intermediaries, including agents and brokers, are also required to provide their retail clients with a Statement of Advice detailing the basis for their advice in suggesting a particular product.</p>
<p>Q9. Superannuation funds</p>	<p>In Australia contributions to private sector superannuation funds are both compulsory for employers up to a minimum level and further encouraged by significant taxation concessions.</p> <p>In this context it is imperative that the funds to which the contributions are made are subject to Australian prudential supervision (to ensure the safety of the accruing benefits) and regulatory controls (eg: limits on access to benefits until retirement as the taxation concessions are provided on the policy basis they are used for retirement). Imposing such restrictions on non resident funds outside Australia's legislative jurisdiction would not be practical.</p>
<p>Q10. Environmental services</p>	<p>Due to technological change, mode 1 commitments are now more feasible than in the past. Australia is seriously considering a mode 1 offer for environmental services.</p>
<p>Q11. Sports regulation and development</p>	<p>Australia does not have plans to go beyond its GATS commitments on recreation and sporting services. We would note that under the GATS schedule of commitments for the sport sector there are no specific limitations on market access. We consider our commitments against these services offer unrestricted market access. The regulations depend on the particular service under consideration. These regulations are required to manage public and consumer health and safety and such issues.</p>

Q12. Investment	The Australian Government has a history of continued liberalisation of its foreign investment policy. The Government is currently undertaking a review of foreign investment policy.
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Japan

Question No/Heading	Response
Q1. Energy Policy	<p>The Energy White Paper (<i>Securing Australia's Energy Future</i>) was released in June 2004 and sets out the Australian Government's energy policy, including its approach to energy security. The Energy White Paper concluded that Australia has a high level of energy security, stemming from:</p> <ul style="list-style-type: none"> – a natural endowment of crude oil, vast coal and gas reserves, potential for renewable energy, and access to imported fuels; – extensive infrastructure to deliver power, gas and transport fuels to business and households; and – good access to world markets. <p>Australia's energy security position has been considered in both the short- and long-term. In assessing short-term energy security, the current demand and supply balance was examined to determine if the needs of the economy and community were met. An analysis of factors that could disrupt energy supplies in the short-term was undertaken and an overall assessment made of the security of supplies across each of the sectors.</p> <p>In the longer-term to 2019-20, projections of demand and supply were undertaken, and an assessment of the investment required ensuring that demand across each of the sectors continues to be met. Factors that could limit investment were also considered in making the assessment of long-term energy security.</p> <p>Recognising the importance of ensuring that Australia continues to maintain a high level of energy security, the Energy White Paper included a requirement that a review of Australia's energy security outlook be undertaken every two years taking into account global developments. The foundation review was noted by Cabinet on 13 December 2005. A second</p>

review is underway and will be submitted to Cabinet in late 2007.

Uranium resources

The Australian Government's June 2004 Energy White Paper established an integrated long-term strategy for developing Australia's abundant energy resources, including uranium. Underpinned by a strong commitment to pursue a low-emission technologies pathway, the strategy should help to enhance energy security in both domestic and global energy markets over the coming decades.

As the world's second largest uranium producer, Australia's exports of uranium are already enabling our trading partners, including key economies in the APEC region such as Japan, to pursue cost-effective energy diversification options with attendant environmental benefits.

Holding 36 percent of the world's known low-cost recoverable uranium reserves, and characterised as highly prospective, there is significant potential for Australia to increase and add value to our uranium extraction and exports.

In the context of its abundant uranium resources, the Australian Government has commissioned several initiatives to consider and report on Australia's present and possible role in the global uranium market, including opportunities to enhance its exports. These initiatives include the establishment, in August last year, of the Uranium Industry Framework (UIF) Steering Group by the Minister for Industry, Tourism and Resources, as well as the *Prime Minister's Review of Mining, Processing and Nuclear Energy (Prime Minister's Review)* announced in June this year.

In response to its remit, the UIF Steering Group recently presented the UIF Report to the Minister for Industry, Tourism and Resources which identifies opportunities for and impediments to the further development of a sustainable uranium mining industry. Recommendations in the final report address key issues under five major themes, including competitiveness and regulation.

	<p>The UIF Report is also providing useful input to the <i>Prime Minister's Review</i>. Amongst other matters, the review team has been asked to consider the capacity for Australia to increase mining and exports. As well, consideration will be given to the potential for establishing other steps in the nuclear fuel cycle (such as fuel enrichment, fabrication and reprocessing) and the possible longer term contribution of nuclear energy in Australia, along with the associated costs and benefits. A final report is expected by the end of the year.</p> <p>For further information on the <i>Review of Mining, Processing and Nuclear Energy</i> please see Annex C</p>
Q2. Kyoto Protocol	<p>Australia considers that the Kyoto Protocol is not an effective international response to climate change, primarily as the Protocol has failed to engage major emitters. Under the Protocol emissions are expected to be some 40 per cent higher in 2010 than 1990, whereas without the Protocol, emissions growth would be 41 per cent. As only some countries have obligations under Kyoto it has the danger of creating trade distortions and promoting the movement of emissions from Kyoto parties with obligations to those which have no obligations, with no overall environment benefit.</p> <p>Australia is taking practical action to address climate change. Domestically the Commonwealth has committed some AUD2 billion to practical action and Australia is set to meet the target of 108 per cent of 1990 emissions by 2012 as pledged at Kyoto.</p> <p>Internationally Australia is promoting practical approaches to climate change, particularly the Asia-Pacific Partnership on Clean Development and Climate which brings together key countries to work on pro-growth, technology focussed climate efforts.</p> <p>Multilaterally, Australia is committed to promoting a more effective and inclusive international response in the United Nations Framework Convention on Climate Change that engages all key greenhouse gas emitters.</p>
Q3. PMV, TCF	<p>Applied tariffs on passenger motor vehicles and related components were reduced to 10 percent on 1 January 2005. These tariffs will be further reduced to 5 percent on 1 January 2010. Tariffs on commercial vehicles and four wheel drive vehicles</p>

	<p>(and parts thereof) are 5 percent. This systematic reduction of tariffs provides an effective mechanism for the internationalisation of the automotive industry. The Government does not intend to accelerate this schedule of tariff reduction.</p> <p>In November 2003 the Australian Government announced its ten-year long-term plan for the TCF industry, the TCF Post-2005 Assistance Package. This Package provides the Australian TCF industry with a decade of certainty in respect of the rate of tariff and the amount of Assistance available from the Government.</p> <p>The objective of the TCF Post-2005 Assistance Package is the development of an Australian TCF manufacturing industry that it is viable and internationally competitive in a freer trading environment post-2015.</p> <p>Under this Package tariffs have been paused at 10 per cent for cotton sheeting, woven fabrics, carpet and footwear; and 7.5 per cent for sleeping bags, table linen and some footwear parts from 2005 to 31 December 2009. On 1 January 2010, these tariffs will be reduced to 5 per cent.</p> <p>Clothing and certain finished textile tariffs, which are facing the greatest level of tariff reduction, have been paused at 17.5 per cent from 2005. These tariffs will be reduced to 10 per cent on 1 January 2010 and remain at this level until they are reduced to 5 per cent on 1 January 2015. A schedule of TCF tariffs is below:</p>
Q4. STE single desk	<p>Australia has export 'single desk' marketing arrangements covering wheat, some coarse grains and rice. The relevant State Trading Enterprises (STEs) have been notified under World Trade Organisation rules (copy enclosed). GrainCorp and the Queensland Sugar Corporation no longer have statutory marketing privileges. Reforms made to statutory marketing arrangements in Australia over the past decade have eliminated preferential government funding and underwriting of STEs, at both national and state government level.</p> <p>Australia's single desk marketers are private companies, operating like any other private traders. These companies do not command an unfair market advantage in the international market and do not engage in unfair trading practices such as</p>

	<p>predatory pricing. Australia's single desk arrangements are fully transparent, operate at arms length from government and are consistent with Australia's international trade obligations. Australia's single desks provide growers with the capacity to collectively counteract the trade distorting practices of other countries' production and export subsidies.</p>
<p>Q5-6. Single desk - AWB</p>	<p>Single desk selling rights for export wheat were given to AWB (International) Ltd (AWBI) through legislation from 1 July 1999. AWBI is a wholly owned subsidiary of the grower controlled and majority owned company AWB Ltd which was formed when the former statutory Australian Wheat Board was privatised and Government involvement in its operation ceased. AWBI is responsible for export marketing of wheat and under its company constitution is required to maximize net returns to Australian wheat growers. AWB Ltd and AWBI are accountable under normal corporate law provisions and are subject to performance monitoring by the Wheat Export Authority (WEA). The WEA reports annually to growers on the performance of AWBI.</p> <p>Under Australia's wheat export single desk marketing arrangements, exports are available through application to the WEA for exports in bulk and bags and containers. The WEA only consents to wheat exports by other traders if it can show that it will not impact on AWBI or that it will benefit growers and the wider community. To ensure that the interests of Australia's growers are protected, the WEA must receive written approval from AWBI before the WEA can issue a bulk export consent. The WEA, a Government statutory authority, makes the final decision on whether to grant an export consent and under what conditions.</p> <p>The Australian Government supports a transparent international trading environment. The Australian Government supports the information services of the International Grains Council (IGC). Australia has been a long standing member of the IGC. The Australian Government also notes that AWBI operates in a competitive global marketplace, characterised by a large number of traders and transparent futures markets (such as the Chicago and Kansas City Boards of Trade). AWBI competes in this market in the same way as any other private trader.</p>
<p>Q7. Infrastructure</p>	<p>The Australian Government recognises that the efficient operation of Australia's export infrastructure, including ports, is a significant issue for the Australian economy. Australia depends almost exclusively on shipping to move its exports and</p>

imports and has the fifth largest shipping task in the world in terms of tonnes of cargo shipped and kilometres travelled.

In 2005, the Australian Government established an Exports and Infrastructure Taskforce to identify any bottlenecks of a physical or regulatory kind that may impede the full realisation of Australia's export opportunities. The Taskforce's Fisher Report concluded that there is no crisis regarding Australia's export infrastructure and that while some parts of the nation's infrastructure face immediate capacity constraints, actions already in train should help resolve these.

However, the Fisher Report noted that the greatest impediment to the development of necessary infrastructure is the way in which the current economic regulatory framework is structured and administered. It also made recommendations designed to address concerns about the timeliness and consistency of access regimes and, in relation to ports specifically, recommended that the Australian Government's AusLink Land Transport Plan be extended to include ports of national significance and their associated shipping channels.

In February 2006, the Council of Australian Governments endorsed a National Reform Agenda which encompasses a wide range of infrastructure-related reforms, including a Competition and Infrastructure Reform Agreement for achieving a simpler and consistent national system of economic regulation for nationally-significant infrastructure. Many of the reforms are designed to address concerns about the timeliness, consistency and effectiveness of infrastructure regulation, in particular third party access regimes, of the kind identified in the Fisher Report, including:

- Requiring that the states review the regulation of their ports and port authorities, handling and storage facility operations at significant ports, to ensure that where economic regulation is warranted it conforms with agreed access, planning and competition principles set out in the Agreement.
- Extending AusLink corridor strategies to include relevant capital city and associated regional ports on the AusLink National Network, and requiring that they be completed by June 2007.

The Australian Government has committed A\$ 2.3 billion to upgrade road and rail infrastructure in the current budget

	<p>(2006-07). This new funding supplements the Government's A\$12.7 billion investment in land transport infrastructure between 2004-05 and 2008-09. Port authorities around Australia are also upgrading and enlarging port facilities to keep pace with the increase in trade volume and technological advances.</p>
<p>Q8. Trade Union</p>	<p>High levels of industrial disputes in the past acted as a major disincentive to investment and adversely affected the productivity and international competitiveness of Australian business. In recent years, however, industrial disputes in Australia have declined significantly, benefiting the Australian economy.</p> <p>The downward trend in industrial disputes has coincided with the move towards enterprise bargaining and other significant labour market reforms implemented by the Australian Government. In 1991, the AIRC adopted the Enterprise Bargaining Principle (EBP) which allowed the development of enterprise bargaining agreements between parties bound by awards. Since this time, enterprise bargaining has been enshrined in legislation (firstly under the <i>Industrial Relations Reform Act 1993</i>), and had its scope expanded under the <i>Workplace Relations Act 1996</i> (WR Act).</p> <p>Comparisons between Australian industrial disputes statistics and those of other OECD nations need to be made with great care because, although the International Labour Organisation (ILO) makes general recommendations to members about what industrial disputes statistics to collect, countries compile their statistics using widely differing definitions and methods of collection. These differences tend to overstate the relative level of Australian disputes.</p> <p>Latest data from the Australian Bureau of Statistics reveals that the rate of industrial disputes in Australia during 2005-06 was a record low 22 working days lost per thousand employees (22 WDL/1000E). This is well below the 2002 OECD average of 51 WDL/1000E.</p> <p>This welcome result is characteristic of the general trend towards lower national rates of industrial disputes under the WR Act, which has seen an average annual rate of industrial disputation of 53 WDL/1000E between 1997-98 and 2005-06. This contrasts with an average annual rate of 224 WDL/1000E for the period 1985-86 to 1990-91, preceding the introduction of enterprise bargaining.</p>

	<p>The record low dispute rate of 22 WDL/1000E recorded for 2005-06 was likely facilitated by the <i>Building and Construction Industry Improvement Act 2005</i> (BCIIA) and the Australian Building and Construction Commissioner (ABCC) becoming fully operational in early 2006, as well as the Australian Government's WorkChoices reforms, which came into effect on 27 March 2006.</p> <p>Under the WR Act, the right to take protected industrial action is limited to certain instances where certified agreements are being negotiated. These legislative provisions help to prevent damaging widespread industrial disputes, whilst striking a fair and effective balance between the rights of those affected by industrial action and those taking action. In addition, the recent WorkChoices reforms have improved access to remedies for the unprotected.</p>
Q9. Foreign workers visa	<p>The Australian government does not apply numerical caps on long term temporary business residence visas. There is no requirement that employer sponsored visa applicants be in key positions. There is a requirement that the positions nominated by employers are in skilled occupations and that the visa applicants have the necessary skills to fulfil the tasks of the position.</p>
Q10. Working conditions	<p>Industrial awards may continue to provide for fixed retirement dates. In terms of annual leave, the Australian Fair Pay and Conditions Standard enables employees to request to cash out up to two weeks of their credited annual leave entitlement every 12 months (or the pro-rata equivalent for part-time employees). Further, an employer may direct an employee to take a period of paid annual leave if the employee has accumulated an annual leave credit greater than what an employee would ordinarily accrue over two years. In this situation, the employer may direct the employee to take up to one quarter of his or her accumulated annual leave credit."</p> <p><i>Initiatives to increase labour force participation, including for mature aged workers</i></p> <p>As part of the 2005-06 Budget, the Australian Government announced the Welfare to Work reforms which are aimed at making Australia's welfare system more sustainable while retaining a strong safety net. This will be achieved by encouraging increased workforce participation for those with a capacity to work.</p>

	<p>Welfare to Work includes changes to payments and work incentives, workforce participation requirements, and employment and related services. The reforms focus on four priority groups, people with a disability, parents, mature age people and the very long-term unemployed. Welfare to Work also includes strategies to work with, and assist employers in encouraging flexible working arrangements and employment of people from the priority groups.</p> <p>The Budget measures recognise job seekers aged over 50 as having the same ability to look for work as all other job seekers. The measures also introduce new services to improve employment opportunities for mature age job seekers.</p>
Q11. Prior approval threshold	The Australian Government does not have any current plans to multilateralise the changes introduced as a result of the AUSFTA. However this issue is kept under consideration.
Q12. National interest	Australia's foreign investment policy operates under the presumption that foreign investment proposals are generally in the national interest and should go ahead. However, where the Treasurer considers the matter is 'contrary to the national interest', he may reject applications under the provisions of the <i>Foreign Acquisitions and Takeovers Act 1975</i> . In examining foreign investment proposals against the national interest test, the Treasurer considers, amongst other things, whether the proposal is inconsistent with existing Government policy and law (for example, environmental regulations and competition policy), national security interests, and economic development.
Q13. Pre-establishment screening	The Australian Government has a history of continued liberalisation of its foreign investment policy. The Government is currently undertaking a review of foreign investment policy.
Q.14. Extension of preferential treatment	The Australian Government does not have any current plans to multilateralise the changes introduced as a result of the AUSFTA. However this issue is kept under consideration.
Q15. Prior consent for disputes	Australia's bilateral investment agreements provide for prior unconditional consent to arbitration in investor-state disputes.
Q16. Accession to WPPT and WCT	The Australian Government will be introducing the Copyright Amendment Bill in the Spring sittings of Parliament. This Bill will include a number of amendments to the Act including minor technical amendments to ensure that Australian law is fully compliant with the WCT and WPPT. Following the enactment of the Bill, Australia will undertake the necessary processes to accede to the WCT and WPPT. At this stage, Australia does not have a detailed schedule for accession.

<p>Q17. Copyright provisions for indigenous communities</p>	<p>The Bill will provide moral rights that give Indigenous communities a means to be attributed on works and films which draw on their traditions, observances, customs or beliefs and to prevent derogatory treatment of such works. It is proposed that 'Indigenous communal moral rights' (ICMRs) will be based on an agreement between an Indigenous community, the author and third parties with a financial interest in the work. The Bill will provide for three ICMRs: an Indigenous community's right to be identified as having an association with the work; the right to prevent its association being falsely identified; and right of integrity to prevent derogatory treatment of the work that prejudicially affects the community's honour or reputation.</p>
<p>Q18. Parallel imports of CDs</p>	<p>The Australian Government has not undertaken a review of the economic effects of the allowing the parallel importation of certain material. Prior to the introduction of the amendments to the <i>Copyright Act 1968</i>, detailed reviews of the impact of the amendments were undertaken and can be found in the regulatory impact statements of each Bill.</p> <p>A number of independent studies have been undertaken into the effects of the amendments, including a report released on 3 April 2000 by the Australian Competition and Consumer Commission entitled 'Potential Consumer Benefits of Repealing the Importation Provisions of the Copyright Act 1968 as they Apply to Books and Computer Software.' This study considered the effects of the 1998 amendment which allowed the parallel importation of sound recordings.</p>
<p>Q19. Copyright technical assistance</p>	<p>On 6 March 2000 Australia signed the WIPO-Australia Joint Statement on Cooperation for Intellectual Property Technical Assistance in the Asia and the Pacific Region to coordinate and cooperate on the provisions of technical assistance of IP in the region.</p> <p>A major project initiated under the agreement was the three-year Regionally Focused Action Plan for the Intellectual Property Development of South Pacific Forum Island countries (FIC). The objective of the Action Plan was to assist the FICs in their efforts to establish a regional IP infrastructure and to enable them to effectively use the IP system for sustainable economic development. The Action Plan formally commenced on 1 October 2001. Over the course of the implementation a broad range of activities were undertaken in areas such as modernization of IP legislation, strengthening of IP administration, copyright collective management, human resource development and awareness building. Consistently with this co-operative process, an officer of the Department and a full-time consultant were made available for expert missions in the region conducted by WIPO.</p>

Australian Government officials also collaborated with WIPO in providing technical assistance in a number of forums, including:

- March 2000 – On completion of the WIPO-IP Australia regional symposium, a delegates from Fiji, India, Kiribati, Nepal, PNG, soloman Island, South Pacific Forum, Tonga and Vanuatu held discussion in Canberra on technical assistance requirements and IP issues
- March 2000 – An Australian copyright consultant spoke at an International Law seminar in Jakarta organised by the Australian Attorney-General's Department and the Indonesian Ministry of Law and Legislation
- August 2000 – An Australian copyright consultant spoke at the Philippines E-Commerce and IP Symposium in Manila
- August 2000 – An Australian copyright consultant spoke at the WIPO Sub-regional Symposium on Copyright and related Rights for South Pacific Countries in Apia. Two representatives from Australian copyright collecting societies also attended the seminar as well as the WIPO National Workshop on Collective Management of Copyright and Related Rights at the end of August 2000.
- October 2000 – An Australian copyright consultant spoke at the WIPO National Roving Seminars on Enforcement of IP rights in Indonesia
- 17-18 December 2000 – A delegation from the Fijian Attorney-General's Chambers participated in a one day educational program hosted by the Australian Copyright Tribunal.
- 25-27 June 2001 – Australia provided support for Pacific Countries to attend a WIPO/ Australia IP & Traditional Knowledge Workshop in Brisbane.

Australia also contributed to a number of technical assistance programs in relation to industrial IP under the agreement with WIPO.

Australia also conducted a number of technical assistance programs under the auspices of other agreements. Details of these programs can be found in Australia's Report to TRIPS Council on technical cooperation activities.

Q20. Prescribed foreign countries	<p>Modified examination only applies where the patent granted in the prescribed country is in the English language. This requirement exists because Australian examiners need to ascertain with certainty whether the specification under examination in Australia is the same as the patent granted in the prescribed country. The addition of Japan to Australia's list of prescribed foreign countries for modified examination means that certified translations would need to be taken into account under modified examination. This would be a significant departure from current Australian practice and IP Australia will therefore need to further analyse the issues and consider the impacts on Australia's existing modified examination system.</p>
Q21. Patent prosecution history	<p>As part of the program for increasing the range of information available in electronic format, Australia is working towards making its e-case files accessible to other IP offices and the public over the internet. It is planned to have this program completed by the end of 2008.</p>
Q22. WTO GPA	<p>Australia currently has no plans to accede to the GPA. It is unnecessarily burdensome in terms of some of the procedural requirements it places on the conduct of procurement. Nevertheless, Australia continues to monitor the progress of the GPA so that if the GPA becomes favourable in these respects Australia is well placed to consider accession.</p>
Q23. Single window rice exports	<p>The domestic single desk for Australian rice has been removed. The export single desk will remain.</p> <p>The differentiated approach to rice marketing arrangements for NSW domestic and export markets is a result of reforms implemented under Australia's competition policy.</p> <p>All Australian governments established the National Competition Policy (NCP) in 1995 to enable fundamental reform for greater efficiency and productivity. The reforms this policy promotes are based on a pro-competitive presumption, but with competition as a means rather than an end in itself. Foremost, the NCP aims to promote the Australian public interest, with consideration of efficiency, social, environmental, equity and regional objectives in the assessment of reform options.</p> <p>Under the 2005 NCP review, it was found that the NSW single desk export arrangements produce a net public benefit and should be retained. It was also found that NSW domestic market arrangements should be amended and in November 2005 the NSW Government passed legislation to allow, from 1 July 2006, competition in the domestic market by establishing an</p>

	authorized buyer permit system for the sale of rice domestically.
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Chinese Taipei

Question No/Heading	Response
Q1. Energy Services – operational requirements	<p>As part of the new regulatory framework for the Australian energy sector, the Australian Energy Market Commission (AEMC) was established with responsibility for rule making and market development. The AEMC promotes the strategic longer-term design and development of energy markets through its functions of Rule making and market reviews.</p> <p>The Australian Energy Regulator (AER) is responsible for the economic regulation of the wholesale electricity market and electricity transmission networks in the National Electricity Market (NEM), and enforcement of the National Electricity Law and National Electricity Rules.</p> <p>These two bodies currently have responsibility for electricity transmission. From July 2007 they will also take on economic regulation of electricity distribution, and gas transmission and distribution under the new National Gas Law and National Gas Rules. From 2008 they will take on responsibility for rule making and regulation in the retail sector.</p>
Q2. Energy Services – licensing and qualification requirements	<p>For the electricity supply industry, licensing and qualification requirements for service providers intending to enter the Australian electricity industry are largely subject to State and Territory requirements. Service providers intending to operate in the National Electricity Market (Victoria, NSW, Queensland, SA and ACT) are subject to the market registration requirements outlines in the National Electricity Rules (NER), administered by the AEMC, and to State and Territory licensing requirements.</p> <p>All market participants must be registered with National Electricity Market Management Company Ltd, NEMMCO, pursuant to the National Electricity Law. The requirements for registration of participants in the National Electricity Market (NEM) are set out in Chapter 2 of the National Electricity Rules. Foreign and domestic service providers are subject to the same licensing requirements in the Australian electricity industry. Foreign service providers are required to have an Australian outlet.</p>

For natural gas pipelines, State and Territory governments issue pipeline operators' licences according to the licensing requirements of each jurisdiction.

Licensing principles are outlined in the 1997 Natural Gas Pipelines Access Agreement and include the principle that "licences to operate natural gas pipelines [are] to be unbundled from any other type of licence and open to all appropriately qualified pipeline service operators."

Under the Third Party Access Code for Natural Gas Pipeline Systems (Gas Code), Service Providers are required to establish arrangements to ring fence their pipeline businesses from any upstream or downstream gas businesses. A Service Provider in respect of a pipeline covered by the Code must "be a legal entity incorporated pursuant to the Corporations Law, a statutory corporation, a government or an entity established by royal charter" (Section 4.1 (a)).

A Code change brought into operation in November 2000 expands the definition of a Service Provider to include foreign companies that have appointed a local agent in accordance with the *Corporations Act 2001*.

All of these obligations will be continued when the Gas Code is replaced by the new National Gas Law and National Gas Rules from July 2007.

The NEM currently operates in five interconnected electrical regions that follows state boundaries. Power is transported between regions by interconnectors to meet energy demand that is higher than can be met by local generators. A proposed interconnector is subject to an Australian Competition and Consumer (ACCC)-devised regulatory test, which is used to identify the most cost-efficient option to supply electricity. NEMMCO would then assess the technical compatibility of the proposal with the existing network.

Regarding gas pipeline interconnection between States and Territories, the regulatory barriers to achieve this have been minimised through the National Energy Market reform process. As with electricity interconnectors, gas pipelines must

	comply with regulation which ensures competition and fair trade in the energy market, enforced by the ACCC. In addition to this, pipelines are also subject to standard safety and technical requirements.
Q3. APEC Investment Guidebook	Australia is the editor of the 6 th edition of the Investment Guidebook which will be published in 2007. This edition will constitute a significant break with past editions, not so much in the range of topics covered, but in shifting the focus from a format which fostered the exchange of information between government officials on each other's investment policy settings to the legal/regulatory regimes which are of far more interest to business (with whom APEC Leaders have asked APEC officials to work more closely). The new edition will also reflect the changed investment environment (particularly the proliferation of bilateral agreements). In all, Australia regards this as an important avenue of transparency for companies looking to do business in APEC economies by assisting them to better understand the regulations and procedures for doing business and investing.
Q4. Intellectual property rights	<p>In respect of counterfeit and pirated goods, Australian Customs' powers at the border are set out in the Trade Marks Act 1995, the Copyright Act 1968 and the Commerce (Trade Descriptions) Act 1905. Under the Trade Mark and Copyright provisions, Customs administers a Notice of Objection Scheme. In very broad terms, this scheme allows intellectual property right holders to file a Notice with Customs objecting to the importation of goods that infringe their rights. If infringing goods are identified by Customs they can be detained/suspended while the IP rights holder pursues civil action against the importer. All voluntarily forfeited goods or goods condemned by an Australian Court are disposed of in a manner which ensures the goods do not make their way back into commercial channels. The Commerce (Trade Descriptions) Act also provides ex officio powers in relation to seizure of imported and exported counterfeit goods.</p> <p>This framework of domestic laws enables Australian Customs to effectively restrict the import, export and transshipment of counterfeit and pirated goods. The provisions comply with the requirements of the World Trade Organisation's 'Agreement on Trade Related Aspects of Intellectual Property Rights' (TRIPs Agreement). It should be noted that due to its geographical location, the volume of transshipment cargo being routed through Australia is comparatively small.</p>

Professor Akira Kohsaka

Question No/Heading	Response
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Q1a. Flexible exchange rate

In response to terms of trade shocks

Australia has had a market-determined floating exchange rate since 1983, and a credible macroeconomic policy framework including the commitment by the Reserve Bank since 1996 to hold inflation between 2 and 3 per cent, on average, over the cycle.

- The Government does not target a particular value for the Australian dollar. The value of the Australian dollar has been influenced by factors determined by markets. These factors include commodity prices, the relative change in domestic and international price levels, the current account deficit and interest rate differentials. The relative importance of each factor in determining the value of the dollar varies over time.
- The benefits of floating exchange rate regimes are widely recognised internationally and these benefits were emphasised at recent meetings of the International Monetary Fund. Australia's adoption of a floating rate has been acknowledged as contributing to the resilience of our economy, including during the Asian financial crisis and the recent world economic downturn.

The consequence of these institutional arrangements is that at times when commodity prices are rising strongly, or are anticipated to do so, the exchange rate is likely to appreciate significantly. The exchange rate plays the role of a shock absorber, reducing the expansionary effects of the terms of trade rise on the overall economy.

- The exchange rate plays its shock-absorber role primarily by imposing significant restraint on the export and import-competing sectors, including parts of the manufacturing sector, which are not experiencing strongly rising prices for their output or are not directly exposed to the booming sectors of the economy.

Australia has recently experienced an upswing in our terms of trade of around 30 per cent. Notwithstanding this rise, the impact on the economy has not been destabilising, because of our macroeconomic policy framework and institutional arrangements.

We have had one of the longest sustained periods of strong economic growth in our history, with average annual growth of around 3½ per cent over the past decade.

- This extraordinary growth performance has been accompanied by low and stable inflation, with average annual

inflation of 2½ per cent over this period. Perhaps most importantly, these outcomes have delivered employment growth averaging around 2 per cent, helping us to reduce our unemployment rate to an historic low of 4.9 per cent.

Australia’s flexible exchange rate and monetary policy framework has been a crucial factor in this.

- Should the terms of trade fall at some time in the future, there will be adverse implications for some sectors of the economy. However, the institutional frameworks currently in place enhance the prospects that an end to the terms of trade boom need not derail Australia’s economic growth performance.

In response to asset market fluctuations

The medium-term inflation target and floating exchange rate regime have improved the resilience of the Australian economy in coping with asset market fluctuations including large and unexpected international financial flows.

- The floating exchange rate has provided the Reserve Bank with improved operational flexibility, as the Reserve Bank is no longer obliged to buy or sell foreign exchange at a given price.

Australia’s floating exchange rate, along with other reforms and the establishment of consistent medium-term frameworks for monetary and fiscal policy, has contributed to lower volatility in domestic financial markets.

- There has been a well documented decline in macroeconomic volatility in Australia after the floating of its exchange rate. Inflation and interest rates have been considerably less volatile.

Australia’s medium-term inflation target has served as a useful framework within which to manage the effects of external financial shocks such as the Asian financial crisis and the policy response to the capital flow.

- The floating exchange rate helped the Australian economy adapt to the Asian crisis. This reduced any disruption to the domestic economy and, most importantly, did not compromise the setting of monetary policy.

When capital flows suddenly change, the exchange rate is free to move to absorb at least part of the shock, and the Reserve Bank is able to decide how much of the shock should be transmitted in the short term.

Q1b. external debt

In response to high net foreign debt

Australia's net foreign debt was \$493.8 billion, or 51.3 per cent of GDP, in the June quarter 2006.

Almost all of Australia's net foreign debt is owed by the private sector, with only 1.0 per cent attributable to the public sector in the June quarter 2006.

- Financial corporations accounted for 80.5 per cent of net foreign debt in the June quarter 2006, while non-financial corporations accounted for 18.4 per cent. Financial corporations play a crucial role as intermediaries between foreign lenders and private domestic borrowers.

Private sector foreign debt is the result of considered decisions by private individuals and businesses.

Australia's capacity to service its foreign debt is sound.

- The debt servicing ratio — the percentage of export earnings required to meet Australia's debt servicing payments — was 9.5 per cent in the June quarter 2006, down from a peak of 20.0 per cent in the September quarter 1990 and 11.3 per cent in the March quarter 1996.
- Australia has a world-class financial sector regulatory regime that maintains stability, prudence and integrity. Australia's financial sector regulation is designed to prevent systemic failure and continues to support capital inflows from overseas.

Organisations that regularly assess the Australian economy do not seem to be concerned about Australia's vulnerability to external shocks.

- In its 2005 Article IV report on Australia, the International Monetary Fund (IMF) noted that Australia's vulnerability to adverse external shocks remains low and the economy remains well placed to manage adverse external shocks.
- In a press release issued on 9 May 2006, Standard & Poor's noted that: 'the budget is projected to remain in surplus, maintaining the Australian government's extremely strong fiscal position, which underpins its 'AAA' rating'. It also noted that the establishment of the Future Fund and Australia's new net debt free status 'combined with the [budget] surplus ... will also serve to mitigate the effects of the high external debt ...'.

In response to currency realignment issues

	<p>While short-term exchange rate variability should not be seen as being a serious problem for internationally exposed sectors, medium-term misalignment in the exchange rate can become a more serious potential problem.</p> <p>However, this is less likely to occur with a freely floating exchange rate. Allowing market forces to move the exchange rate makes currency misalignment over an extended period, much less likely.</p>
Q1c. financial health	<p>The Australian financial system has demonstrated itself to be efficient and resilient, and the Government considers that the existing regulatory framework continues to serve Australia well. Australia's recent FSAP assessment, shortly to be considered by the IMF Executive Board, confirms that the banking system is robust, with low levels of problem loans, while the regulatory framework is sound, and in some areas at the forefront of world best practice. The assessment has identified a number of risks requiring continued vigilance – in particular, the potential for macroeconomic shocks; significant exposure to a highly leveraged household sector; significant dependence on wholesale funding; increased competitive pressure; and the limited scope for diversification – and the importance of preserving the regulators' capacity to respond to these issues. It is supportive of work the Council of Financial regulators is undertaking to strengthen crisis management arrangements in the financial sector.</p>
Q2a. Structural reforms and productivity	<p>The Productivity Commission, in its 'Review of National Competition Policy Reforms' released in February 2005, estimated that national competition policy and other microeconomic reforms had, over the previous decade, improved Australia's productivity performance and delivered significant benefits to the community. It referred to modeling which indicated that productivity improvements in the selected infrastructure services have boosted Australia's GDP by 2.5 per cent and observed that, as the modeling did not account for all reforms and their impacts, it is likely that this figure is considerably higher.</p>
Q2b. Reform priorities	<p>In February 2006, the Council of Australian Governments (COAG) agreed to continue efforts to lift Australia's productivity and workplace participation through a new National Reform Agenda (NRA). The NRA identifies reform initiatives in a range of areas, including human capital (health, education and training, participation), energy, transport, infrastructure regulation and reducing the regulatory burden. COAG has tasked the Productivity Commission to develop a methodology for measuring the potential benefits of the NRA.</p>
Q3. Role of public sector	<p>With respect to Australia's government-owned enterprises operating as commercial entities, such enterprises are subject to competitive neutrality principles/process under National Competition Policy and to a certain extent, are subject to our</p>

	<p>competition law (Trade Practices Act).</p> <p><u>Competitive Neutrality</u></p> <p>The public sector’s role in external trade is assessed under the <i>Competition Principles Agreement 1996</i> as agreed to by Council of Australian Governments in 1994.</p> <p>The objective of CN policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities. CN requires that government business activities should not enjoy net competitive advantages over their private sector competitors simply by virtue of public sector ownership.</p> <p>Each government is required to report annually on their compliance with the <i>Competition Principles Agreement 1996</i>.</p> <p><u>Trade Practices Act 1974</u></p> <p>The <i>Trade Practices Act 1974 (TPA)</i> is the primary legislative instrument that governs the application of competition law in Australia. Part IV of the <i>TPA</i> aims to procure and maintain competition in trade and commerce. Part IV of the Act binds the Australian plus State and Territory governments, unless a specific exception is provided for under Section 51 of the <i>TPA</i>.</p>
<p>Q4. Infrastructure development</p>	<p>The Australian Government recognises the importance of promoting efficient investment in, and use of, infrastructure and is actively pursuing a range of initiatives to this end — both unilaterally and through the Council of Australian Governments (COAG). A key focus of these initiatives is the promotion of national markets and nationally consistent approaches to regulation in key infrastructure areas. The Australian Government is also making its own significant contribution to investment in Australia’s infrastructure. Further details on developments in some specific sectors are provided below, by way of example.</p> <p><i>Transport</i></p> <ul style="list-style-type: none"> • In June 2004, the Australian Government announced its strategic long-term land transport policy, AusLink. The policy seeks to address Australia’s future land transport infrastructure needs through a coordinated approach to the

long-term planning and funding of road and rail networks (primarily directed at projects of national significance).

- In the 2006-07 Budget, the Government announced significant additional funding for road and rail infrastructure (\$2.3 billion).
 - This funding increase brings the Government's commitment to land transport infrastructure under AusLink to \$15 billion between 2004-05 and 2008-09.
- Under the first AusLink five-year plan from 2004-05 to 2008-09, the Government has committed:
 - \$9.3 billion to projects on the AusLink National Network;
 - \$1.79 billion to the Roads to Recovery programme and \$220.0 million to the Strategic Regional Programme to improve regional and local roads;
 - \$178 million to the Federal Road Safety Black Spots programme to reduce the risk of crashes at dangerous road locations; and
 - together with the Australian Rail Track Corporation, more than \$2.0 billion to be spent on Australia's mainline rail infrastructure, signalling and communications technology.
- As part of the new National Reform Agenda, agreed by COAG in February 2006, it was agreed that the Productivity Commission would be asked to review the optimal methods and possible implementation timeframes for achieving efficient pricing of road and rail freight infrastructure. The Commission will be reporting to COAG by the end of 2006.
- The new National Reform Agenda includes a Competition and Infrastructure Reform Agreement, to provide for a simpler and consistent national system of economic regulation for nationally-significant infrastructure, including for ports, railways and other export-related infrastructure.

Electricity

- Also as part of the National Reform Agenda, COAG agreed to the establishment of a high-level, expert Energy Reform Implementation Group, to report back to COAG before the end of 2006 with proposals for:
 - achieving a fully national electricity transmission grid;
 - measures to address structural issues affecting the efficiency and competitiveness of the electricity sector; and
 - measures to improve financial markets that support energy markets.

	<p><i>Water</i></p> <ul style="list-style-type: none"> • The Australian Government has made significant investments in water infrastructure through the \$2 billion Australian Government Water Fund (AGWF). The AGWF funds projects that help to achieve the objectives of the National Water Initiative (NWI). <ul style="list-style-type: none"> – To date, around \$460 million has been spent on a range of projects. – In the 2006-07 Budget, the Government announced additional funding of \$500 million to the Murray-Darling Basin Commission, taking total Government investment in the Murray-Darling river system to around \$2 billion since 1996. <p><i>Telecommunications</i></p> <ul style="list-style-type: none"> • On 21 September 2006, the Australian Government announced that it will invest up to \$600 million in rural, regional and remote Australia to encourage private sector rollouts of broadband internet infrastructure, under its <i>Broadband Connect</i> program. <ul style="list-style-type: none"> – Broadband Connect is one of four programs being delivered under <i>Connect Australia</i>, the Government’s \$1.1 billion regional telecommunications package. • This funding will support a small number of large scale infrastructure projects and leverage additional funding from the private sector and State and Territory Governments to extend the reach of broadband across rural, regional and remote Australia. <p>Applications for funding close on 30 November 2006.</p>
Q5. Work place reform	<p>Since the mid 1990s, the Australian Government’s workplace relations reforms have contributed to a stable and low inflationary climate. Combined with higher productivity, this has ensured increasing real wages and the lowest unemployment rate in nearly thirty years.</p> <p>The Australian Government’s workplace relations and workforce participation reforms are aimed at ensuring more people have access to employment, and that the labour market is sufficiently productive and flexible.</p>

WorkChoices

The Government recently introduced major reforms to Australia's federal workplace relations system through the 'WorkChoices' amendments to the *Workplace Relations Act 1996*.

The WorkChoices amendments draw on a combination of constitutional powers to cover up to 85 per cent of employees and employers in Australia, including those that were previously in a state workplace relations system.

Prior to the recent introduction of the WorkChoices reforms, minimum wages in the federal workplace relations system were fixed by the Australian Industrial Relations Commission (AIRC). The AIRC undertook an adversarial process to set and adjust wages based on competing positions from unions, employer representatives and governments.

The Australian Fair Pay Commission (Fair Pay Commission) has been established as part of the WorkChoices reforms to set and adjust minimum wages for workers in the federal workplace relations system. The Fair Pay Commission is a statutory body that is independent of the Australian Government.

Under section 23 of the *Workplace Relations Act 1996*, the objective of the Fair Pay Commission in performing its wage setting function is to promote the economic prosperity of the people of Australia having regard to the following:

- (a) the capacity for the unemployed and low paid to obtain and remain in employment;
- (b) employment and competitiveness across the economy;
- (c) providing a safety net for the low paid; and
- (d) providing minimum wages for junior employees, employees to whom training arrangement apply (i.e. trainees and apprentices) and employees with disabilities that ensure those employees are competitive in the labour market.

These legislative parameters encourage the Fair Pay Commission to provide a safety net for the low paid while bearing in mind the employment needs of the low paid and unemployed.

The recent legislative changes represent a further move to a system focused on agreement making between employees and employers at the workplace and enterprise level. Indeed, Subsection (d) of the principal object of the *Workplace Relations Act 1996* seeks to promote the economic prosperity of the people of Australia through ensuring that, as far as possible, the primary responsibility for determining matters affecting the employment relationship rests with the employer and employees at the workplace or enterprise level.

The most recent statistics show that in 2004, only 20 per cent of employees were paid at the award rate set by the AIRC.

It is the Government's view that the best way of improving the prosperity and welfare of Australians is through cooperative arrangements between employers and employees at the workplace level. Collective and individual agreements allow for more choice and flexibility for both parties through the negotiation of mutual benefits.

Welfare to Work

The Welfare to Work reforms announced in the 2005-06 Budget came into effect on 1 July 2006. The reforms are designed to respond to the challenges faced by the ageing of the Australian workforce and the subsequent expected fall in labour force participation in the future.

The key focus of these reforms is on increasing the workforce participation of individuals who have been traditionally outside the labour market - parents, mature age job seekers, people with disability and the very long-term unemployed, while maintaining a strong safety net for those who need it.

They cover all aspects of the welfare system for working age Australians and represent a substantial investment in moving people from welfare to work.

The new measures cover all aspects of the welfare system for working age Australians and represent a substantial investment in moving people from welfare to work. They include a combination of changes to income support arrangements and participation requirements and improved employment services. These are supported by a new Job Capacity Assessment to better assess and connect people with services, and a new compliance framework to provide better incentives for people to participate.

There is also a supporting employer strategy to promote the involvement of employers and industry groups to better match job seekers to employment opportunities and help people with the transition from welfare to work.

People with disabilities with a requirement to look for part-time work will have access to uncapped places in Disability Open Employment Services and Vocational Rehabilitation as well as Job Network.

There will be a new service called 'Employment Preparation' provided through the Job Network to provide tailored services to eligible parents, carers and mature age job seekers.

Very long term job seekers making a genuine effort to find full time work may be eligible for a new wage subsidy option called 'Wage Assist'. There will also be Full Time Work for the Dole activities for very long term unemployed people with a full time work capacity who have demonstrated a pattern of work avoidance. The above measures will be supported by a new Job Capacity Assessment to better assess and connect people with services.

To assist principal carer parents seeking part-time work, the Australian Government announced over \$260 million for an additional 86,000 child care places in the 2005/06 Budget. These places will be available from 1 July 2006 and will provide the additional outside school hours child care necessary to reduce barriers parents face in moving from welfare to work, as well as addressing the current high demand for places.

Future issues

	<p>Future issues to tackle will focus on the successful implementation of the workplace relations and workforce participation reforms and measuring the outcomes from these reforms. The Australian labour market continues to perform strongly, suggesting that recently policy reforms have had a positive impact.</p>
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Dr Daniel Schwanen

Question No/Heading	Response
<p>Q1. Impact of adjustment packages</p>	<p>The Automotive Competitiveness and Investment Scheme (ACIS) is a transitional assistance scheme to encourage new investment and innovation in the Australian automotive industry in the context of a reduction in the automotive tariff on passenger motor vehicles and automotive components. The Productivity Commission released a 'Review of Automotive Assistance' in August 2002.</p> <p>The impacts of automotive assistance were found to be:</p> <ul style="list-style-type: none"> • <i>Reductions in assistance to date have contributed to the rationalisation of the automotive industry, encouraged a stronger focus on export markets and provided incentives for higher productivity. Consumers and business users have benefited significantly.</i> • <i>The automotive industry continues to receive tariff protection above the average for manufacturing as a whole and significantly greater budgetary assistance than any other sector. This has benefited the industry, as well as some other related activities.</i> • <i>The rationale for ACIS is to provide transitional support in the context of trade liberalisation rather than to inhibit rationalisation that may be in the long term interests of the industry. To date, it appears that ACIS, which is widely supported by the industry, has generated additional investment in plant and equipment and R&D in a manner consistent with its objectives.</i> <p><i>Review of Automotive Assistance – Inquiry Report 25, 30 August 2002,</i></p>

	<p>The Productivity Commission will undertake a second review of automotive assistance in 2008. http://www.pc.gov.au/publications/index.html</p>
Q2. Ship Building Innovation Scheme	<p>The Bounty (Ships) Act 1989 was phased out from June 1999. To assist with this phase out, the Shipbuilding Innovation Scheme operated until 30 June 2003 with claims against the Scheme able to be made until 30 June 2004. The Scheme was reviewed in June 2003 and the review found that there were no compelling reasons to justify a sector specific innovation program. The shipbuilding industry could avail itself of the existing Government assistance measures across industry for research and development.</p>
Q3-4. FDI	<p>Australia is committed to pursuing trade liberalisation and has progressively opened its markets to international competition by reducing tariffs across all sectors. In conjunction with tariff reductions, the Australian Government has implemented structural adjustment packages and phased tariff reductions to assist both the passenger motor vehicle (PMV) industry and the textile, clothing and footwear (TCF) industry adjust to a lower tariff environment. These measures will assist these industries become globally competitive as they transition to reduced tariff protection, with tariffs for PMVs and TCF items stepping down to Australia's general tariff rate of 5 per cent by 2010 and 2015 respectively.</p> <p>In regards to facilitating the operation of foreign enterprises in Australia, the Australian Government encourages investment in the Australian economy, from both foreign and domestic firms by maintaining sound policy settings that foster a low inflation, high growth environment and through microeconomic reforms to enhance competition in product, capital and labour markets.</p> <p>In addition, the Government's investment agency, Invest Australia, facilitates inward investment through the provision of specialised advice services. Invest Australia also operates programmes to encourage investment in major projects in Australia, by both foreign and domestic businesses:</p> <ul style="list-style-type: none"> • The Strategic Investment Coordination process enables the Government to provide investment incentives to attract to Australia projects with significant net economic and employment benefits that would otherwise have located offshore. • Major Project Facilitation status provides prospective investors with a single contact point within the Commonwealth

	<p>Government that supplies the proponent with information, advice and support to assist with necessary government approvals.</p> <p>The Australian Government has also put in place measures to reduce business input costs for Australian based industries.</p> <ul style="list-style-type: none"> • The tariff concession scheme allows business inputs that do not have a domestically produced substitute to be imported duty free. • The Enhanced Project Expanded By-laws Scheme allows duty free entry of eligible capital goods for major investment projects in the mining, resource processing, food processing, food packaging, manufacturing, agriculture and gas supply industries. • The Tradex Scheme reduces costs for exporters by providing up-front exemptions from duty and GST on imported goods that are intended for export or used in the manufacture of other goods exported later on. <p>The Australian Government also has measures in place to facilitate foreign persons conducting business in Australia. For instance, the foreign source income of temporary residents is exempt from income tax and only capital gains on some Australian assets are taxed. Gains or losses they make on employee shares or rights are disregarded unless they relate to employment in Australia and interest paid to foreign lenders by temporary residents is exempt from withholding tax.</p> <p>The Australian Government is also committed to the establishment of a competitive and efficient transport market. For example, in February 2006 the Australian Government and its State and Territory counterparts agreed to a new National Reform Agenda which includes a series of transport initiatives and reforms to the regulation of transport-related infrastructure. It is also continuing its significant investment in transport infrastructure under its strategic, long-term national land transport plan, AusLink.</p>
Q5. Media and Telecommunications liberalisation	Under the <i>Telstra Corporation Act 1991</i> (the Act) Telstra is subject to ownership restrictions that limit foreign groups to 35 per cent of Telstra's listed capital and a maximum holding of 5 per cent for individual foreign entities. There are no changes to the above mentioned Act in regard to the foreign ownership provision proposed at this stage or expected in the foreseeable future.
Q6. Banking sector	The Treasurer's policy statement dated 9 April 1997 substantially liberalised foreign investment policy with regard to the banking and financial sector, by removing the previous sector specific foreign ownership restrictions. The definition of

	<p>what might constitute a “large scale transfer of... the financial system to foreign hands” and the national interest are matters to be determined by Government in the context of a specific foreign investment proposal and the circumstances applying at that time. In practice, the Government notes that the Australian financial system has grown and diversified to include a wide range of institutions and service providers other than banks. Government policy allows foreign ownership of domestic financial institutions, and since 1997, there have been over 275 foreign investment proposals decided in the sector with no objections. Around ¼ of the total equity of the Australian banking and general insurance sectors is now owned by non-residents, including 39 foreign owned banks.</p>
Q7. National Reform Agenda	<p>The Council of Australian Governments (COAG) new National Reform Agenda, agreed in February 2006, embraces human capital, competition and regulatory reform streams. The new competition policy agenda will further boost competition, productivity and the efficient functioning of markets, by focusing on further reform in the areas of energy, transport and infrastructure regulation. These reforms should benefit all agents participating in these markets and the broader economy. COAG's reform commitments do not address the specific issue of access to Australian markets by foreign investors and suppliers. These issues are being dealt with in other fora.</p>
Q8. State/Territory competition policy	<p>No; not applicable.</p> <p>The Trade Practices Act 1974 is applied throughout the States and Territories by way of a legislative scheme, for constitutional reasons. In April 1995, the Commonwealth and all of the States and Territories signed the Competition Code Agreement, under which the States and Territories of Australia agreed to submit legislation (known as the ‘competition code’ of the States and Territories) to implement the restrictive trade practises provisions of Pt IV of the Trade Practices Act. This extends the operation of the restrictive trade practices provisions of the Trade Practices Act to all sectors of the community, specifically to those areas of trade and commerce over which the Australian Government does not have constitutional power to legislate.</p> <p>In relation to the merger laws in the Trade Practices Act 1974, there is no difference between it and the competition codes of the States and Territories.</p>
Q9. Common approach	<p>This comment relates to Australia’s position at base year in 1996. State and Territory Governments are now invited to</p>

Government procurement	participate in relevant free trade agreements.
Q10. WTO GPA	Australia currently has no plans to accede to the GPA. It is unnecessarily burdensome in terms of some of the procedural requirements it places on the conduct of procurement. Nevertheless, Australia continues to monitor the progress of the GPA so that if the GPA becomes favourable in these respects Australia is well placed to consider accession.
Q11. Handling of Government procurement complaints	Procurement decisions by Australian Government departments and agencies are subject to administrative or judicial review: <ul style="list-style-type: none"> • <i>Administrative</i> mechanisms comprise two main avenues. Firstly, agencies are required by the Commonwealth Procurement Guidelines to have to ensure fair, equitable and non-discriminatory processes for review of supplier complaints. Secondly, the Commonwealth Ombudsman is empowered to investigate procurement decisions and processes. <p><i>Judicial</i> mechanisms include avenues such as the ability to initiate legal proceedings on the basis of breach of contract where relevant.</p>
Q12. Deregulation/Regulatory Review	The Government's best practice regulation principles require all regulation to meet the dual goals of effectiveness and efficiency. Options to address a perceived policy problem are ranked according to their net economic and social benefits. <p>More recently, in its response to the report of the Taskforce on Reducing Regulatory Burdens on Business, the Government endorsed six principles of good regulation. This reaffirmed the principle that the policy option that generates the greatest net benefit for the community (taking into account economic, social, environmental and equity impacts) should be adopted.</p> <p>Australia has a policy of adopting international standards consistent with our WTO TBT Agreement obligations. The Council of Australian Governments has prepared the following document: <i>Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies</i> (copy enclosed)</p>

ABAC 1

Question No/Heading	Response
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Q1. Bananas

The Australian Government is a signatory to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement). The SPS Agreement preserves the right of each Member to determine its appropriate level of sanitary and phytosanitary protection. The SPS Agreement also preserves the right of Members to adopt and enforce measures necessary to protect human, animal and plant life or health from risks arising from additives, contaminants, toxins, pests, diseases, and disease-carrying or disease-causing organisms. Australia's SPS measures are based on a rigorous and transparent scientific risk analysis process. This process ensures that Australia's SPS measures protect the health of Australia's people, environment and agricultural industries, whilst being the least-trade restrictive possible and consistent with obligations under the SPS Agreement.

Australia has unique flora and fauna, valuable agricultural industries and is relatively free from many serious pests and diseases that occur in other countries. As such, Australia maintains and implements a range of quarantine measures that are commensurate with the quarantine risks in order to manage the sanitary and phytosanitary risks associated with imports of agricultural products.

In compliance with the SPS Agreement, Australia bases its measures on international standards developed by the Codex Alimentarius Commission (Codex), the World Organization for Animal Health (OIE), and the International Plant Protection Convention (IPPC) where they exist and achieve Australia's appropriate level of protection. However, where such standards do not achieve Australia's appropriate level of protection, or relevant standards do not exist, Australia exercises its right under the SPS Agreement to impose appropriate measures, based on a risk assessment and justified on scientific grounds.

Biosecurity Australia undertakes technical and scientific investigations, and makes policy recommendations for use by the Director of Animal and Plant Quarantine in determining policy on the import of agricultural and other products. The Australian Quarantine and Inspection Service is responsible for implementing quarantine policy that may include inspection and clearance of imported products.

	<p>Biosecurity Australia is currently undertaking an import risk analysis (IRA) for bananas from the Philippines, following an application from the Philippines Government. This IRA is a rigorous scientific assessment of the quarantine risks associated with the import of bananas from the Philippines. Under Australia's quarantine regime, the IRA must be completed before Australia could allow the importation of bananas from the Philippines. Even extreme circumstances such as the current high prices or shortfall in domestic banana production brought about by the March 2006 cyclone do not obviate the need for an IRA and cannot compromise Australia's commitment to a rigorous, scientific risk assessment process.</p>
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ABAC 2

Question No/Heading	Response
Q1. Enhance the benefits for the local procurement	Not clear what is meant.
Q2. Reduction of corporate income tax and import duties	This does not relate to the IAP, but happy to arrange a briefing on taxation matters during the visit if required.
Q3. Support for foreign investment	The Automotive Competitiveness and Investment Scheme (ACIS) is a transitional assistance program designed to complement tariff reductions by encouraging competitive investment by firms in the automotive industry in order to achieve sustainable growth. ACIS assistance is provided to companies based on production, investment and research and development activity in the form of transferable import duty credits up to a maximum of 5 percent of sales. ACIS commenced on 1 January 2001 and will cease on 31 December 2015
Q4. Support for exports	The Export Market Development Grants (EMDG) scheme (http://www.austrade.gov.au/australia/layout/0%2C%2C0_s2-1_2z17-2_-3_-4_-5_-6_-7_%2C00.html) is the Australian

	<p>Government's principal financial assistance program for aspiring and current exporters. The scheme is administered by Austrade and is aimed at encouraging small and medium sized Australian businesses to develop export markets by reimbursing up to 50 per cent of eligible export promotion expenses above a threshold of \$15,000.</p>
<p>Q5-6. Fostering engineers</p>	<p>The Australian Government recognises that Australia's productivity and success in the highly competitive global market is increasingly reliant on science, engineering and technology (SET) skills. The Australian Government provides extensive support for SET in Australia. The Backing Australia's Ability (BAA) initiative was introduced by the Australian Government in 2001 to promote science and innovation. The initiative was the largest (\$3 billion over the 5 years 2001-02 to 2005-06) and most comprehensive set of measures ever put in place by any Australian Government in support of science and innovation.</p> <p>In 2004, the Prime Minister announced <i>Backing Australia's Ability - Building Our Future through Science and Innovation</i> package building on the initial BAA investment and together these packages represent a commitment of \$8.3 billion over the 10 years to 2010-11.</p> <p>Australia is however not complacent about SET skill formation as it is vital that Australia has the skill sets to facilitate continued development of knowledge intensive industries and to this end it commissioned an Audit of science, engineering & technology skills which reported in July 2006. That Audit identified that employers are having difficulties in recruiting engineers in comparison with other skill sets and that these skills were in worldwide demand. The audit provides a valuable evidence base for further consideration of practical solutions to meeting Australia's current and future SET skills needs and the Australian Government will act appropriately on its findings.</p> <p>Backing Australia Ability has significantly increased incentives for business to undertake R&D through reformed R&D tax concessions which allows companies to deduct up to 125 per cent, and in certain circumstances 175 per cent, of qualifying expenditure incurred on R&D activities.</p>
<p>Q7. Reduce TCF, PMV,</p>	<p>In November 2003 the Australian Government announced its ten-year long-term plan for the TCF industry, the TCF Post-2005 Assistance Package. This Package provides the Australian TCF industry with a decade of certainty in respect of the rate of tariff</p>

<p>electric machinery tariffs</p>	<p>and the amount of Assistance available from the Government.</p> <p>The objective of the TCF Post-2005 Assistance Package is the development of an Australian TCF manufacturing industry that it is viable and internationally competitive in a freer trading environment post-2015.</p> <p>Under this Package tariffs have been paused at 10 per cent for cotton sheeting, woven fabrics, carpet and footwear; and 7.5 per cent for sleeping bags, table linen and some footwear parts from 2005 to 31 December 2009. On 1 January 2010, these tariffs will be reduced to 5 per cent.</p> <p>Clothing and certain finished textile tariffs, which are facing the greatest level of tariff reduction, have been paused at 17.5 per cent from 2005. These tariffs will be reduced to 10 per cent on 1 January 2010 and remain at this level until they are reduced to 5 per cent on 1 January 2015. A schedule of TCF tariffs is below:</p> <p>Applied tariffs on passenger motor vehicles and related components were reduced to 10 percent on 1 January 2005. These tariffs will be further reduced to 5 percent on 1 January 2010. Tariffs on commercial vehicles and four wheel drive vehicles (and parts thereof) are 5 percent. This systematic reduction of tariffs provides an effective mechanism for the internationalisation of the automotive industry. The Government does not intend to accelerate this schedule of tariff reduction.</p> <p>There are no electricals with tariffs above 5%, except where they are input to auto industry.</p>
<p>Q8. Remove tariff on photographic film and paper</p>	<p>No change planned at this stage.</p>
<p>Q9. Remove tariff on spark plugs</p>	<p>The Australian customs applied tariff rate for sparking plugs is currently 10 percent and will be reduced to 5 percent in 2010. This is consistent with the applied rate on passenger motor vehicles and related components and amounts to 50 percent reduction in tariff rates over a very short timeframe. This systematic reduction of tariffs provides an effective mechanism for the internationalisation of the automotive industry. The Government does not intend to accelerate this schedule of tariff reduction.</p>

	<p>With respect to the concession tariff, the Australian Government abolished the 3 percent tariff on business inputs with no domestic substitutes imported under the tariff concession scheme effective from 11 May 2005. Therefore the effective rate of Sparking Plugs (8511.10.00) imported under Tariff Concession 9910459 receives a zero tariff rate.</p>
<p>Q10. Remove anti-dumping duty on thick steel plates</p>	<p>Anti-dumping measures are legitimate trade remedies against injurious dumped imports. Current anti-dumping measures on hot rolled plate steel were imposed in 2004 following an investigation by the Australian Customs Service and are due to expire in 2009.</p>
<p>Q11. Remove fumigation requirement for wooden pallets Q12. Remove fumigation requirement for packing materials</p>	<p>Australian application of International Phytosanitary Standard ISPM15 – Guidelines for Regulating Wood Packaging Material in International Trade.</p> <p>Imports</p> <ul style="list-style-type: none"> • ISPM15 is an international standard of the Commission on Phytosanitary Measures (CPM) designed to regulate wood packaging material in international trade through requirements for fumigation or heat treatment. • ISPM15 has been adopted by a number of countries. Japan has signalled its intention to commence enforcement on 27 April 2007. • After notifying the CPM of its intentions Australia began phasing in ISPM 15 in September 2004, with its application to sea cargo in the first instance, and began enforcing mandatory treatment requirements for all imported wood packaging on 1 May 2006, through the expansion of ISPM 15 to include air and break bulk cargo. <ul style="list-style-type: none"> □ AQIS provides some flexibility by continuing to accept wooden packaging that is not ISPM15 compliant, provided it is accompanied by a fumigation certificate or an official government phytosanitary or heat treatment certificate for an approved heat treatment. □ Timber packaging that is not ISPM15 compliant or has not received an AQIS acceptable treatment may be fumigated upon arrival in Australia, re-exported or destroyed at the importers expense. <p>Exports</p> <ul style="list-style-type: none"> • In response to the international adoption of ISPM 15, AQIS has developed the Australian Wood Packaging Certification Scheme (AWPCS).

	<ul style="list-style-type: none"> • The AWPCS is a certification scheme for treatment providers (heat and methyl bromide fumigators) and manufacturers of wooden packaging material. • Accredited third parties audit treatment providers and wooden packaging manufacturers to determine if they are able to meet the requirements specified in ISPM 15. <p>Applicants who demonstrate compliance are authorised by AQIS to apply the internationally recognised mark wood packaging material they produce for use in export trade.</p>
Q13. Remove payroll tax	<p>These remarks do not relate to the IAP, but happy to arrange a briefing on taxation matters during the visit if required.</p>
Q14. Reduce FBT rate	
Q15. Reduce GST	
Q16. Exclude machine tools from GST	
Q17. Transfer pricing	
Q18. Guidelines for transfer pricing	

Q19. Expand FBT deductible items for expatriates	
Q20. Deductions for medical, housing, education, transport	
Q21. Reduction of personal income tax	
Q22. Expedite assessment period for projects	
Q23. Superannuation contributions 457 visa	
Q24. Withdrawal of superannuation contributions	

<p>Q25. Medicare benefits for Japanese expatriates</p>	<p>The visas 412, 413, 414 and 418 were part of the old Skills Transfer Scheme for bringing in skilled people for executive, business and academic employment. These visas carried Medicare entitlements. Medicare eligibility for these visas ended in 1995, in line with Government policy of restricting Medicare to permanent residents of Australia. Medicare entitlements had previously been removed from all other temporary visa classes in 1989.</p> <p>Any foreign workers in Australia who are not entitled to Medicare may have the Medicare Levy refunded in their annual tax returns. This is arranged through the Levy Exemption Unit in Medicare Australia.</p> <p>DIMA requires that all those on business visas, such as the subclass 457 visa, to have adequate health insurance to cover them for the duration of their stay in Australia.</p>
<p>Q26. Visa applications</p>	<p>The Department of Immigration and Multicultural Affairs (DIMA) endeavours to facilitate the entry of business people to Australia by completing visa processing as quickly as possible. Application processing and lodgement is facilitated by online application and electronic notification of decision. Online processing has enabled processing staff to be located in global processing, leading to greater efficiency without increasing processing times. In most cases, complete applications for long stay business residence can be processed within 4-6 weeks and in some cases in less than two weeks.</p>
<p>Q27. Skilled workers visa</p>	<p>The Australian government does not apply numerical caps on long term temporary business residence visas. There is no requirement that employer sponsored visa applicants be in key positions. There is a requirement that the positions nominated by employers are in skilled occupations and that the visa applicants have the necessary skills to fulfil the tasks of the position.</p>
<p>Q28. Labour costs</p>	<p>The Government recently introduced major reforms to Australia's federal workplace relations system through the 'WorkChoices' amendments to the <i>Workplace Relations Act 1996</i>.</p> <p>The WorkChoices amendments draw on a combination of constitutional powers to cover up to 85 per cent of employees and employers in Australia, including those that were previously in a state workplace relations system.</p> <p>Prior to the recent introduction of the WorkChoices reforms, minimum wages in the federal workplace relations system were fixed by the Australian Industrial Relations Commission (AIRC). The AIRC undertook an adversarial process to set and adjust wages based</p>

on competing positions from unions, employer representatives and governments.

The Australian Fair Pay Commission (Fair Pay Commission) has been established as part of the WorkChoices reforms to set and adjust minimum wages for workers in the federal workplace relations system. The Fair Pay Commission is a statutory body that is independent of the Australian Government.

Under section 23 of the *Workplace Relations Act 1996*, the objective of the Fair Pay Commission in performing its wage setting function is to promote the economic prosperity of the people of Australia having regard to the following:

- (e) the capacity for the unemployed and low paid to obtain and remain in employment;
- (f) employment and competitiveness across the economy;
- (g) providing a safety net for the low paid; and
- (h) providing minimum wages for junior employees, employees to whom training arrangement apply (i.e. trainees and apprentices) and employees with disabilities that ensure those employees are competitive in the labour market.

These legislative parameters encourage the Fair Pay Commission to provide a safety net for the low paid while bearing in mind the employment needs of the low paid and unemployed.

The recent legislative changes represent a further move to a system focused on agreement making between employees and employers at the workplace and enterprise level. Indeed, Subsection (d) of the principal object of the *Workplace Relations Act 1996* seeks to promote the economic prosperity of the people of Australia through ensuring that, as far as possible, the primary responsibility for determining matters affecting the employment relationship rests with the employer and employees at the workplace or enterprise level.

The most recent statistics show that in 2004, only 20 per cent of employees were paid at the award rate set by the AIRC.

	<p>It is the Government's view that the best way of improving the prosperity and welfare of Australians is through cooperative arrangements between employers and employees at the workplace level. Collective and individual agreements allow for more choice and flexibility for both parties through the negotiation of mutual benefits.</p>
<p>Q29. Working conditions</p>	<p>All full-time and part-time employees covered by the federal workplace relations system are entitled to annual leave.</p> <p>Under the Australian Fair Pay and Conditions Standard, full-time employees accrue four weeks of paid annual leave each year. Part-time employees accrue paid annual leave on a pro-rata basis. Casual employees are not entitled to annual leave. Shift workers (as defined in the Workplace Relations Act) are entitled to accrue one week of annual leave each year in addition to the minimum four weeks in the Standard.</p> <p>Employees may request to cash out up to two weeks of their credited annual leave entitlement every 12 months (or the pro-rata equivalent for part-time employees).</p> <p>An employer may direct an employee to take a period of paid annual leave if the employee has accumulated an annual leave credit greater than what an employee would ordinarily accrue over two years. In this situation, the employer may direct the employee to take up to one quarter of his or her accumulated annual leave credit.</p>
<p>Q30. Mining licence and native title</p>	<p>Oral briefing can be arranged on this issue during the visit, if required.</p>
<p>Q31. Endorsed suppliers status</p>	<p>The question may refer to a previous version of the Endorsed Supplier Arrangement (ESA). A summary of the ESA is reproduced below:</p> <p>The ESA's requirements</p> <p>It is ESA policy to provide endorsement to businesses that have the capacity to enter into contracts and to also hold insurances. To guide a business on what this means, the following definition applies.</p>

For the purposes of ESA, a business is: *'a separate legal entity (person, partnership or corporation), which carries on a business and has the legal capacity to enter into contracts relevant to the ESA'*.

ESA endorsement rules

The Chief Executive Officer (CEO), Managing Director or equivalent is required to agree to the ESA endorsement rules, which are specific to the applicant's business sector. The endorsement rules seek to ensure that suppliers are aware of, and agree to meet, their obligations as an Endorsed Supplier. If an applicant does not agree to all endorsement rules they will not be granted Endorsed Supplier status.

Some examples of the ESA endorsement rules include, but are not limited to, that Endorsed Suppliers:

- advise the ESA Team of any changes to the Endorsed Supplier's legal or financial status;
- must comply with the relevant regulatory and industry standards appropriate to the business sector in which the applicant operates;
- accept that the Department reserves the right to suspend the Endorsed Supplier status for a specified period, or revoke it indefinitely, for non-compliance with the endorsement rules;
- take responsibility for products and services provided to Government through outlets of the Endorsed Supplier;
- obtain and maintain an Australian Business Number (ABN), available through the Australian Tax Office, and complying with the associated rules;
- provide a commitment to adhere to the terms and conditions of the ESA Head Agreement (for suppliers of IT & MOM only); and
- commit to adhere with certain Australian Government policies.

	<p>ESA conditions for participation</p> <p>The conditions for participation are listed on the ESA website. Businesses applying for endorsement will be assessed against the ESA's conditions for participation for each business sector. These conditions include:</p> <ul style="list-style-type: none"> • the financial viability of the business; • adequacy of insurance coverage; • a successful track record of delivery (favourable referee reports); • a commitment to adhere with agreed product and service industry standards and certain Australian Government policies; • adherence to the endorsement rules; and • an appropriately signed Head Agreement (for suppliers of IT & MOM only). <p>Assessment of financial viability aims to ensure that the Australian Government will be dealing with a financially viable legal entity with a reasonable expectation of being able to continue trading in the foreseeable future. This assessment is outsourced under contract to an independent financial viability expert.</p> <p>Applicants in all industries must obtain and maintain the required insurance coverage. In the IT & MOM industries, applicants must have the relevant required levels of insurance coverage as specified in the ESA Head Agreement, being:</p> <ul style="list-style-type: none"> • public liability insurance of a minimum of AUS \$10 million per claim; • product liability insurance of a minimum of AUS \$10 million per claim; and • professional indemnity insurance of a minimum of AUS \$5 million per claim.
Q32. Sign WTO GPA	Australia currently has no plans to accede to the GPA. It is unnecessarily burdensome in terms of some of the procedural requirements it places on the conduct of procurement. Nevertheless, Australia continues to monitor the progress of the GPA so that if the GPA becomes favourable in these respects Australia is well placed to consider accession.
Q33. NSW	High school education in Australia is a state government responsibility. There is no requirement under migration regulations for

tuition fees	school fees to be paid by the dependants of Temporary Business residents.
Q34. Visa-related penalties	<p data-bbox="427 248 2022 368">Under Australian law, international carriers entering Australia from overseas must comply with certain obligations in relation to their vessels and persons on board their vessels. It is the responsibility of the carrier to ensure that a passenger is properly authorised to travel to Australia.</p> <p data-bbox="427 427 2022 547">Where a carrier brings an inadequately documented passenger, an undocumented passenger to Australia, they may be liable, upon conviction, to a fine of \$10,000. As an alternative to prosecution carriers may elect to pay a prescribed penalty of \$5,000 for an offence (an infringement notice).</p> <p data-bbox="427 606 2022 726">The Department maintains this policy to deter carriers from failing to confirm passengers' immigration status before they board a plane to come to Australia. Any such oversight on the part of a carrier has scope to seriously compromise Australia's border security.</p> <p data-bbox="427 785 2022 865">The Infringement regime is a key component of a range of initiatives undertaken by DIMA to promote Australia's border integrity and support airlines in ensuring the immigration status of passengers.</p> <ul data-bbox="450 924 2022 1359" style="list-style-type: none"> <li data-bbox="450 924 2022 1043">• Airlines have been provided with systems such as the Advance Passenger Processing System (APP) to assist airlines in checking that all passengers hold the appropriate authority to travel to Australia. The introduction of APP has seen a significant decline in the number of infringement notices issued to airlines on an annual basis. <li data-bbox="450 1102 2022 1182">• The Entry Operations Centre provides a 24 hour 7 days a week help desk facility and is able to provide airline staff with information about the immigration status of individuals intending to travel to Australia. <li data-bbox="450 1241 2022 1359">• Australian Airline Liaison Officers (ALOs) are strategically located at key hub international airports with direct flights to Australia and/or last ports of embarkation to assist airlines in resolving issues with incorrectly documented passengers intending to travel to Australia.

- Australia's entry requirements are provided to airlines through our entry in the Travel Information Manual (TIM) and Entry Requirements documentation provided to airlines by DIMA .

DIMA officers therefore apply the infringement rule strictly in relation to airlines who fail to ensure that a passenger is properly documented.

These initiatives have contributed to a significant decrease in infringement notices issued over recent years, since 1999-00 the number of infringement notices has decreased by 80%.

In determining whether an infringement notice should be served, DIMA airport staff require evidence that the airline has acted with due care and in good faith when allowing the passenger to board. This includes examining departmental systems to determine what has occurred at check-in in regards to checks conducted by the airline, for example APP checks.

Infringement notices served on airlines may be withdrawn by a delegated officer if it is established that the carrier, acting with due care and in good faith, had reason to believe that the passenger was adequately documented.

The ACCC's approach to the LTIE test for declaration inquiries

The following explanation of the ACCC's approach to assessing the Long Term Interests of End-Users (LTIE) test is predominantly described with respect to the application of the LTIE test in determining whether a particular telecommunications service should be declared. However, the considerations outlined here are consistent with those for any arrangements considered by the ACCC pursuant to Part XIC of the TPA.

The access regime

Part XIC of the TPA sets out a telecommunications access regime. The Commission may determine that particular carriage services and related services are declared services. Once a service is declared, carriage service providers (CSPs) are required to comply with standard access obligations (SAOs) in relation to supply of the declared service. The SAOs facilitate the provision of access to declared services by service providers in order that service providers can provide carriage services and/or content services. In addition to its SAOs, a carrier, CSP or related body must not prevent or hinder access to a declared service.

The Commission must decide whether declaring the service would promote the LTIE of carriage services, or of services supplied using carriage services ('listed services').

Section 152AB of the TPA provides that, in determining whether declaration promotes the LTIE, regard must be had only to the extent to which declaration is likely to result in the achievement of the following objectives.

- promoting competition in markets for listed services
- achieving any-to-any connectivity in relation to carriage services that involve communication between end-users
- encouraging the economically efficient use of, and the economically efficient investment in, the infrastructure by which telecommunications services are supplied.

Section 152AB also provides further guidance in interpreting these objectives.

The three objectives are discussed below.

Promoting competition

Subsections 152AB(4) and (5) provide that, in interpreting this objective, regard must be had to, but is not limited to, the extent to which the arrangements will remove obstacles to end-users gaining

access to listed services. The Explanatory Memorandum to Part XIC of the TPA states that: ...it is intended that particular regard be had to the extent to which the...[declaration]... would enable end-users to gain access to an increased range or choice of services.¹

This criterion requires the Commission to make an assessment of whether or not declaration would be likely to promote competition in the markets for listed services.

The concept of competition is of fundamental importance to the TPA and has been discussed many times in connection with the operation of Part IIIA, Part IV, Part XIB and Part XIC of the TPA.

In general terms, competition is the process of rivalry between firms, where each market participant is constrained in its price and output decisions by the activity of other market participants. The Trade Practices Tribunal (now the Australian Competition Tribunal) stated that:

In our view effective competition requires both that prices should be flexible, reflecting the forces of demand and supply, and that there should be independent rivalry in all dimensions of the price-product-service packages offered to consumers and customers.

Competition is a process rather than a situation. Nevertheless, whether firms compete is very much a matter of the structure of the markets in which they operate.²

Competition can provide benefits to end-users including lower prices, better quality and a better range of services over time. Competition may be inhibited where the structure of the market gives rise to market power. Market power is the ability of a firm or firms profitably to constrain or manipulate the supply of products from the levels and quality that would be observed in a competitive market for a significant period of time.

The establishment of a right for third parties to negotiate access to certain services on reasonable terms and conditions can operate to constrain the use of market power that could be derived from the control of these services. Accordingly, an access regime such as Part IIIA or Part XIC addresses the *structure* of a market, to limit or reduce the sources of market power and consequent anti-competitive conduct, rather than directly regulating conduct which may flow from its use, which is the role of Part IV and Part XIB of the TPA. Nonetheless, in any given challenge to competition, both Parts XIB (or IV) and XIC may be necessary to address anti-competitive behaviour.

¹ Trade Practices Amendment (Telecommunications) Act 1997 (Cth) Explanatory Memorandum.

² Re Queensland Co-operative Milling Association Ltd; Re Defiance Holdings Ltd (1976) ATPR 40-012, 17,245.

To assist in determining the impact of potential declaration on downstream markets, the Commission will first need to identify the relevant market(s) and assess the likely effect of declaration on competition in each market.

Section 4E of the TPA provides that the term 'market' includes a market for the goods or services under consideration and any other goods or services that are substitutable for, or otherwise competitive with, those goods or services. The Commission's approach to market definition is discussed in its *Merger Guidelines*, June 1999 and is also canvassed in its information paper, *Anti-competitive conduct in telecommunications markets*, August 1999.

The second step is to assess the likely effect of declaration on competition in each relevant market. As noted above, subsection 152AB(4) requires that regard must be had to the extent to which declaration will remove obstacles to end-users gaining access to listed services.

The Commission considers that denial to service providers of access to necessary upstream services on reasonable terms is a significant obstacle to end users gaining access to services. In this regard, declaration can remove such obstacles by facilitating entry by service providers, thereby providing end users with additional services from which to choose. For example, access to a mobile termination service may enable more service providers to provide fixed to mobile calls to end-users. This gives end-users more choice of service providers.

Where existing market conditions already provide for the competitive supply of services, the access regime should not impose regulated access.³ This recognises the costs of providing access, such as administration and compliance, as well as potential disincentives to investment. Regulation will only be desirable where it leads to benefits in terms of lower prices, better services or improved service quality for end-users that outweigh any costs of regulation.

In the context of considering whether declaration will promote competition, it is therefore appropriate to examine the impact of the proposed service description on each relevant market, and compare the state of competition in that market with and without declaration. In examining the market structure, the Commission considers that competition is promoted when market structures are altered such that the exercise of market power becomes more difficult; for example, because barriers to entry have been lowered (permitting more efficient competitors to enter a market and thereby constrain the pricing behaviour of the incumbents) or because the ability of firms to raise rivals' costs is restricted.⁴

³ Trade Practices Amendment (Telecommunications) Act 1997 (Cth) Explanatory Memorandum.

⁴ See also *Re Sydney International Airport* [2000] ACompT 1 at paragraph 106 for discussion on when competition is promoted.

Any-to-any connectivity

Subsection 152AB(8) provides that the objective of any-to-any connectivity is achieved if, and only if, each end-user who is supplied with a carriage service that involves communication between end-users is able to communicate, by means of that service, or a similar service, with other end-users whether or not they are connected to the same network. The reference to ‘similar’ services in the TPA enables this objective to apply to services with analogous, but not identical, functional characteristics, such as fixed and mobile voice telephony services or Internet services which may have differing characteristics.

The any-to-any connectivity requirement is particularly relevant when considering services that involve communications between end-users.⁵ When considering other types of services (such as carriage services that are inputs to an end-to-end service or distribution services such as the carriage of pay television), the Commission considers that this criterion will be given less weight compared to the other two criteria.

Efficient use of, and investment in, infrastructure

Subsections 152AB(6) and (7) provide that, in interpreting this objective, regard must be had to, but not limited to, the following:

- whether it is technically feasible for the services to be supplied and charged for, having regard to:
 - the technology that is in use or available
- whether the costs that would be involved in supplying, and charging for, the services are reasonable
- the effects, or likely effects, that supplying, and charging for, the services would have on the operation or performance of telecommunications networks
- the legitimate commercial interests of the supplier or suppliers of the service, including the ability of the supplier or suppliers to exploit economies of scale and scope
- the incentives for investment in:
 - the infrastructure by which the services are supplied; and
 - any other infrastructure by which the services are, or are likely to become, capable of being supplied:
- in determining the extent to which a particular thing is likely to encourage the efficient investment in other infrastructure, the Commission must have regard to the risks involved in making the investment.

⁵ Trade Practices (Telecommunications) Amendment Act 1997 (Cth) Explanatory Memorandum.

These matters are interrelated. In many cases, the LTIE may be promoted through the achievement of two or all of these criteria simultaneously. In other cases, the achievement of one of these criteria may involve some trade-off in terms of another of the criteria, and the Commission will need to weigh up the different effects to determine whether declaration promotes the LTIE. In this regard, the Commission will interpret long-term to mean the period of time necessary for the substantive effects of declaration to unfold.

Economic efficiency has three components.

Productive efficiency refers to the efficient use of resources within each firm such that all goods and services are produced using the least cost combination of inputs.

Allocative efficiency refers to the efficient allocation of resources across the economy such that the goods and services that are produced in the economy are the ones most valued by consumers. It also refers to the distribution of production costs amongst firms within an industry to minimise industry-wide costs.

Dynamic efficiency refers to the efficient deployment of resources between present and future uses such that the welfare of society is maximised over time. Dynamic efficiency incorporates efficiencies flowing from innovation leading to the development of new services, or improvements in production techniques.

The Commission will need to ensure that the access regime does not discourage investment in networks or network elements where such investment is efficient. The access regime also plays an important role in ensuring that existing infrastructure is used efficiently where it is inefficient to duplicate investment in existing networks or network elements.

The technical feasibility of supplying and charging for particular services

This incorporates a number of elements, including the technology that is in use or available, the costs of supplying, and charging for, the services and the effects on the operation of telecommunications networks.

In many cases, the technical feasibility of supplying and charging for particular services given the current state of technology may be clear, particularly where there is a history of providing access. The question will be more difficult where there is no prior access, or where conditions have changed. Experience in other jurisdictions, taking account of relevant differences in technology or network configuration, will be helpful. Generally the Commission will look to an access provider to demonstrate that supply is not technically feasible.

The legitimate commercial interests of the supplier or suppliers, including the ability of the supplier to exploit economies of scale and scope

A supplier's legitimate commercial interests encompass its obligations to the owners of the firm,

including the need to recover the cost of providing services and to earn a normal commercial return on the investment in infrastructure. The Commission considers that allowing for a normal commercial return on investment will provide an appropriate incentive for the access provider to maintain, improve and invest in the efficient provision of the service.

A significant issue relates to whether or not capacity should be made available to an access seeker. Where there is spare capacity within the network, not assigned to current or planned services, allocative efficiency would be promoted by obliging the owner to release capacity for competitors.

Paragraph 152AB(6)(b) also requires the Commission to have regard to whether the access arrangement may affect the owner's ability to realise economies of scale or scope. Economies of scale arise from a production process in which the average (or per unit) cost of production decreases as the firm's output increases. Economies of scope arise from a production process in which it is less costly in total for one firm to produce two (or more) products than it is for two (or more) firms to each separately produce each of the products.

Potential effects from access on economies of scope are likely to be greater than on economies of scale. A limit in the capacity available to the owner may constrain the number of services that the owner is able to provide using the infrastructure and thus prevent the realisation of economies of scope associated with the production of multiple services. In contrast, economies of scale may simply result from the use of the capacity of the network and be able to be realised regardless of whether that capacity is being used by the owner or by other carriers and service providers. Nonetheless, the Commission will assess the effects of the supplier's ability to exploit both economies of scale and scope on a case-by-case basis.

The impact on incentives for investment in infrastructure

Firms should have the incentive to invest efficiently in infrastructure. Various aspects of efficiency have been discussed already. It is also important to note that while access regulation may have the potential to diminish incentives for some businesses to invest in infrastructure, it also ensures that investment is efficient and reduces the barriers to entry for other (competing) businesses or the barriers to expansion by competing businesses.

There is also a need to consider the effects of any expected disincentive to investment from anticipated increases in competition to determine the overall effect of declaration on the LTIE. The Commission will be careful to ensure that services are not declared where there is a risk that incentives to invest may be dampened, such that there is little subsequent benefit to end-users from the access arrangements.

Foreign investment requirements and limitations

For all foreign investors	For U.S. investors
Prior approval/notification requirement for all activities:	
<p>Acquisitions of substantial interests in existing Australian businesses with total assets over \$A 50 million, or where the proposal values the business at over \$A50 million; takeovers of offshore companies whose Australian subsidiaries or assets are valued at over \$A 50 million.</p>	<p>Acquisitions of substantial interests in existing Australian businesses with total assets over \$A800 million in 2005 (increased to \$A831 million in 2006) (except for businesses within prescribed sensitive sectors)..</p> <p>Acquisitions of substantial interests in existing Australian businesses within the following prescribed sensitive sectors: media, telecommunications, transportation, supply of goods and services to the Australian Defence Force or other defence forces, goods or technology that has military applications, encryption and security technologies, the extraction of uranium or plutonium and the operation of nuclear facilities with total assets of more than \$A50 million (increased to \$A52 million in 2006).</p> <p>Acquisitions of substantial interests in existing Australian financial institutions subject to screening under the <i>Financial Sector (Shareholdings) Act 1998</i> (FSSA) are exempt from screening under the Financial Sector Shareholdings Act.</p>
<p>New businesses involving a total investment of \$A 10 million or more.</p>	<p>New business proposals by U.S. investors, except an entity controlled by the U.S. Government, do not require notification, but remain subject to other relevant policy requirements.</p>
<p>Direct investment by foreign governments or their agencies irrespective of size.</p>	<p>Same as for all other foreign governments and their agencies.</p>
<p>Acquisitions of interests in urban land (including interests that arise via leases, financing and profit sharing arrangements and the acquisition of interests in urban land corporations and trusts) that involve: developed non-residential commercial real</p>	<p>Same as for all foreign investors, except that a threshold of \$A800 million (annually adjusted to \$A831 million in 2006) applies to US acquisitions of developed non-residential commercial real estate (other than acquisitions by entities controlled by the US Government).</p>

For all foreign investors	For U.S. investors
estate, where the property is subject to heritage listing, valued at \$A 5 million or more; developed non-residential commercial real estate, where the property is not subject to heritage listing, valued at \$A50 million or more; accommodation facilities irrespective of value; vacant real estate irrespective of value; residential real estate irrespective of value.	
Proposals where any doubt exists as to whether they need to be notified.	Same as for all foreign investors.
Sector-specific foreign investment restrictions	
Banking	
Foreign investment to be consistent with the Banking Act 1959, the Financial Sector (Shareholdings) Act 1998 (FSSA), and banking policy, including prudential requirements. Foreign takeover or acquisition of Australian banks considered on a case-by-case basis.	US investments in authorised deposit taking institutions (as well as authorised insurers and their respective holding companies) are exempt from FATA screening where these are screened under the FSSA. Banking policy, including prudential requirements, continues to apply.
Civil aviation	
Up to 100% equity in an Australian domestic airline (other than Qantas), and up to 49% in an Australian international carrier (other than Qantas). Aggregate foreign ownership in Qantas restricted to 49%, aggregate ownership by foreign airlines restricted to 35%, and individual foreign ownership restricted to 25%. National interest criteria (relating to the nationality of Board members and operational location of the enterprise) apply.	Same as for all foreign investors.
Airports	
Aggregate foreign ownership limited to 49%, with a 5% limit on airlines (regardless of nationality) and 15% cross-ownership limits between Sydney airport (together with Sydney West) and Melbourne, Brisbane and Perth airports.	Same as for all foreign investors.
Shipping	
For a ship to be registered in Australia, it must	Same as for all foreign investors.

For all foreign investors	For U.S. investors
be majority Australian owned, unless is designated as chartered by an Australian operator.	
Media	
Prior approval required for portfolio investment in the media of 5% or more, and all non-portfolio investment, irrespective of size. Foreign persons may not have control for a commercial television licence, or have company interests in such a licence exceeding 15%, or 20% in aggregate held by two or more foreign persons. Up to 20% of directors may be foreign persons. Up to 20% individual share, and 35% aggregate share, of any subscription TV broadcaster.	Same as for all foreign investors.
Limited ownership in mass circulation newspapers. Case-by-case examination of foreign acquisition of more than 5% in an existing newspaper or to establish a new newspaper. Up to 30% aggregate foreign investment in national and metropolitan newspapers, with any individual foreign shareholder limited to a maximum 25% (in which case unrelated foreign interests may hold a further 5%). Up to 50% aggregate foreign investment in provincial and suburban newspapers.	Same as for all foreign investors.
Telecommunications	
51.8% of Telstra owned by the Government. Of the privatised equity, up to 35% aggregate foreign ownership, and up to 5% individual foreign ownership is permitted.	Same as for all foreign investors.

Source: Foreign Investment Review Board (2006), *Summary of Australia's Foreign Investment Policy*, January. USTR, *Final Text of the U.S. – Australia Free Trade Agreement: Annex I – Services/Investment Non-Conforming Measures*. Available at: http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Australia_FTA/Final_Text/asset_upload_file350_3425.pdf [09 March 2006].

Energy Security

Australia enjoys a very high level of energy security, with access to domestic energy sources (primarily black coal, brown coal, and natural gas) amongst the best in the developed world. Australia has sufficient resources to meet its stationary energy needs (electricity and heating) for hundreds of years, as well as significant petroleum resources. Australia encourages the operation of effective energy markets to attract investment in large scale energy supply systems.

The Liquid Fuels Emergency Response Plan is in place to deal with short term disruptions to production and distribution of liquid fuels. A similar plan for the gas sector is being developed in co-operation with state and territory governments. In addition the Critical Infrastructure Advisory Council monitors energy security and regularly assesses system vulnerabilities and methods of threat mitigation.

The potential contribution of uranium and nuclear energy to Australia's future energy strategy is being reviewed. The Australian Government has established a Taskforce to undertake an objective, scientific and comprehensive review into uranium mining, processing and nuclear power. The review will be fact based and have regard to economic, environmental, health, safety, and security issues. The Taskforce's findings will assist the Australian Government and the public to better understand the nuclear fuel cycle and the role that nuclear power could play in meeting Australia's future energy demand. This will further inform the Australian Government's approach to issues such as energy security, uranium mining, uranium export and radioactive waste disposal. The Taskforce is scheduled to submit its report by the end of 2006.

The Australian Government places no restrictions on uranium mining activities. Like other forms of mining, uranium mining is largely the responsibility of state governments. Some state governments, such as Western Australia, have in place policies that ban uranium mining. Under the Environmental Protection and Biodiversity Conservation Act (EPBC Act), uranium mining can not be undertaken without a rigorous environmental assessment and approval process.

In 2005 the Australian Government established an industry leaders group to prepare Australia's Uranium Industry Framework. The framework will identify opportunities for, and impediments to, the development of the uranium industry in the short, medium and longer term. The Group will report to the Australian Government in September 2006.

With regard to exports, Australian uranium may be used only for peaceful, non-weapons and non-military purposes. There are three basic conditions for the supply of nuclear material originating from uranium exported by Australia, known as Australian obligated nuclear material (AONM). Receiving states must:

- Be party to and comply with the Non Proliferation Treaty (NPT)
- Have a bilateral safeguards agreement with Australia
- In the case of a non-nuclear-weapon state, have an additional protocol with the IAEA (International Atomic Energy Agency).
- Australia's bilateral safeguards agreements apply specific conditions, additional to IAEA safeguards, for AONM:
- Australian uranium may be used only for exclusively peaceful non-military purposes
- coverage by IAEA safeguards for the full life of the material or until it is legitimately removed from safeguards
- fallback safeguards in the event that IAEA safeguards no longer apply for any reason
- prior Australian consent is required for any transfer of AONM to a third party, for enrichment beyond 20 per cent of uranium-235 and for reprocessing
- physical security requirements.

Australia retains the right to be selective as to the countries with which it is prepared to conclude safeguards arrangements. Australia currently has 19 bilateral safeguards agreements, covering 36 countries and Chinese Taipei. The Australian Safeguards and Non-Proliferation Office (ASNO) is responsible for administering Australia's uranium export legislation.

Australia's approach to uranium enrichment and nuclear electricity generation will be informed by the uranium and nuclear energy review. These activities are not permitted under the EPBC Act.

The storage and disposal of radioactive waste is also a matter being considered by the uranium and nuclear energy review. Australia is currently establishing a radioactive waste management facility in the Northern Territory to deal with low-level radioactive waste resulting from Australian Government activities. State governments are responsible for their own waste management. There are no plans to establish facilities to handle spent nuclear fuel.

The review will consider the following matters:

Economic issues

- (a) The capacity for Australia to increase uranium mining and exports in response to growing global demand.
- (b) The potential for establishing other steps in the nuclear fuel cycle in Australia, such as fuel enrichment, fabrication and reprocessing, along with the costs and benefits associated with each step.
- (c) The extent and circumstances in which nuclear energy could in the longer term be economically competitive in Australia with other existing electricity generation technologies, including any implications this would have for the national electricity market.
- (d) The current state of nuclear energy research and development in Australia and the capacity for

Australia to make a significantly greater contribution to international nuclear science.

Environment issues

- (a) The extent to which nuclear energy will make a contribution to the reduction of global greenhouse gas emissions.
- (b) The extent to which nuclear energy could contribute to the mix of emerging energy technologies in Australia.

Health, safety and proliferation issues

- (a) The potential of 'next generation' nuclear energy technologies to meet safety, waste and proliferation concerns.
- (b) The waste processing and storage issues associated with nuclear energy and current world's best practice.
- (c) The security implications relating to nuclear energy.
- (d) The health and safety implications relating to nuclear energy.

Issues Paper

This paper is intended to highlight the types of questions that the Taskforce will consider and to stimulate thinking about such questions.

The paper covers the following:

1. Economic issues
2. Environmental issues
3. Health, safety and proliferation issues

1. Economic issues

Uranium mining and export capacity

Global demand for uranium

- What is the existing global demand for uranium?
- How has demand varied over time?
- Which countries are the current importers of uranium?
- What is the global outlook for Uranium demand to 2050 and 2100?
 - What is the likely demand from countries which have safeguards agreements with Australia and countries which do not?

Australian uranium mining industry

- What is the existing Australian production of uranium and recent trends?
- What is the level of employment in the industry?
- What is the current value of Australian uranium exports and recent trends?
- What is the royalty/taxation revenue from uranium mining in Australia?
- Which mines/companies are the Australian suppliers of uranium?

- What are Australia's existing proven economic reserves?
- What is the outlook for additional reserves to be found in Australia and what are the likely costs of mining those reserves?
- What is our existing capacity to expand uranium production?
- What is the outlook for Australian suppliers to increase production in the short-, medium- and long-term?

Global supply of uranium

- Which countries are the main global suppliers of uranium?
- What are their shares of global trade?
- What is their existing production capacity?
- What is the outlook for existing suppliers to increase production?
- Are there likely to be global supply constraints on uranium? If so, when and where?
- What is the outlook for uranium prices?
- What proportion of the projected total requirements for nuclear power generation is likely to come from uranium and from secondary supplies (highly enriched uranium)?
- Will conventional reserves be sufficient, or would non-conventional sources of uranium (e.g. extracted from seawater) be economic to exploit?

Impediments to growth in Australian uranium exports

- What are the impediments to increased production and exports? For example land access, shipping, safeguards, future prices, alternative energy sources, access to technology, access to trained personnel, regulations, etc
- What is the case against further expansion of uranium mining in Australia?

Alternatives to uranium

- What is the outlook for demand for alternative nuclear fuels such as thorium?
- Which countries are the likely buyers of such fuels?
- What are the global reserves for alternative nuclear fuels?
- What are the Australian reserves for alternative nuclear fuels?

Other components of the nuclear fuel cycle

Uranium conversion, enrichment, fabrication and reprocessing

- What is the existing demand for enriched uranium and likely future demand?
- What is the existing supply of enriched and reprocessed uranium?
- Where, are the existing conversion, enrichment, fuel fabrication and reprocessing plants?
- What are their capacities?
- Are there supply constraints, now or expected?
- What are the economic prospects for Australia from the uranium conversion, fuel enrichment, fuel fabrication, and reprocessing stages of the nuclear fuel cycle?
- What, if any, are the economic and technical synergies between the conversion, enrichment, fuel fabrication, and reprocessing stages of the fuel cycle?
- What is the international experience for value-adding to uranium ore?
- What are the legal and regulatory constraints/controls on conversion, enrichment, fuel

fabrication and reprocessing activities in Australia?

- Are there any commercial or political limitations in obtaining transfers of sensitive nuclear technologies from other countries?
- What are the potential employment implications for Australia of an expanded role in the nuclear fuel cycle?
- Could our existing education and training system meet the demand for people with the appropriate skills sets?
- Are our existing research skills appropriate for entry into other stages of the fuel cycle?
- Would an expanded nuclear industry make a significant contribution to the national economy?
- Are there likely to be implications for other parts of the Australian resources sector?

Nuclear waste management

- What is the global history of nuclear waste management?
- What is the current state of the technology for nuclear waste management?
- What has Australia's nuclear waste management experience been?
- What have been the experiences of other countries?
- What are the prospects for an Australian role?
 - Which countries/companies are active players in this area?
 - What are the training and skills needs?
 - What are Australia's competitive strengths and weaknesses?

Nuclear power

The economics of nuclear electricity generation

- What has been the history of nuclear energy in Australia?
- What is the current international experience with nuclear power plants?
- Does overseas experience and decision making translate to Australia's situation?
- How might international costs translate if applied to Australia?
- What are the key factors that might have an impact on the costs of construction, operation and closure of nuclear power plants in this country?
- What are the projected costs for nuclear power in Australia?
- How are the costs distributed over the lifecycle of reactor existence?
- What are the barriers to nuclear power generation plant development in Australia? For example, construction access, grid access, support infrastructure, plant cooling, construction capabilities and related industrial opportunities (such as desalination).

Competitiveness of nuclear power

- How do projected costs for nuclear power in Australia compare with the costs for existing electricity generation technologies in this country?
- How might any cost differentials vary over time?
- To what extent could recognising externalities (eg CO₂, NO_x, SO_x and particulate emissions) affect the economic framework in which nuclear power and related industries might operate in Australia?

- What are the likely developments in relation to future nuclear power plants (Generation III and IV)?
- What are the cost implications of these developments in the medium to long term?
- What are the implications for Australia?

Australian electricity demand

- What is Australia's electricity supply and demand outlook?
- What, if any, are the implications for the national electricity market of nuclear power use in Australia?
- How might any implications be addressed?
- What other factors might drive the need for nuclear energy in Australia? For example, desalination or hydrogen production for transport uses might be such factors.
- What might the time frame be for such non electricity uses?
- What other non-market factors might influence the demand for nuclear power in Australia? For example, non-market factors could include environmental benefits, energy security, and research spillovers.

Nuclear research and development

- What are the key areas of international nuclear energy R&D activity (fusion, fission across the full fuel cycle)?
- Where are the existing centres of research activity?
- What international partnerships exist?
- What is the nature and scope of Australia's existing nuclear energy and nuclear related R&D activity, including in the field of nuclear medicine?
- What is the existing level of funding for nuclear R&D in Australia and overseas?
- Where does Australia's existing R&D occur?
- Are there areas where Australia currently has a leadership role?
- To what extent does our existing R&D link in with international efforts?
- Are there areas where there is scope for greater international collaboration?
- What, if any, are the implications of a greater role for nuclear power in Australia for the research sector?
- What, if any, are the implications for the research sector of an expanded Australian role in other stages of the nuclear fuel cycle?
- What are our current educational and training capabilities in the nuclear field?
- What are the education and training implications of an expanded Australian role in the nuclear fuel cycle?

2. Environmental issues

Greenhouse implications of nuclear power

- What are the current and projected greenhouse implications of nuclear power use globally?
- How are greenhouse emissions distributed over the nuclear fuel cycle?
- What might be the potential impact on our greenhouse emissions, over time, of nuclear

power use in Australia?

- What might be the potential impact on global greenhouse emissions of Australia supplying foreign markets with nuclear fuel?

Other environmental implications of involvement in the nuclear fuel cycle

- What non-greenhouse environmental implications are associated with nuclear power?
- What is their nature and scale?
- How do these effects compare to the environmental impacts of existing electricity generation technologies?
- What are the environmental implications for Australia of involvement in other stages of the nuclear fuel cycle, including mining, fuel enrichment, fabrication and reprocessing, power production, and waste management?
- What has been the Australian and overseas experience in these areas?

3. Health, safety and proliferation issues

The health and safety implications of nuclear energy

- What are the health and safety implications (for all stages of the nuclear fuel cycle, including nuclear power stations)?
- What has been the overseas health and safety experience across the entire fuel cycle?
- What has been Australia's health and safety experience in the uranium mining industry?
- What are the health and safety implications of next generation nuclear energy technologies?
- What are the comparative health risks associated with non-nuclear power production methods?
- What is the current and potential future role of nuclear medicine in Australia?
- Do we have sufficient trained health and safety professionals in nuclear disciplines?
- If not, how might demand for personnel be met?

Nuclear waste processing and storage issues

- What is the state of play internationally and in Australia with regard to radioactive waste management (for low, medium and high level waste)?
- Are there examples of world's best practice in this area?
- Are there areas where Australia has particular expertise or a particular role to play?
- What has been the experience with existing reprocessing and waste storage facilities overseas?
- What are forecast levels of radioactive waste from next generation reactors?
- Is there a business case for acquisition and management of radioactive by-products generated outside Australia?
- In which ways does radioactive waste management compare to, or differ from, the task required for the by-products of other power generation processes?

National security implications relating to nuclear energy

- What are the domestic and international security implications of any expanded role for Australia in one or more stages of the nuclear fuel cycle?
- What are the implications of nuclear power for energy security in Australia?

Nuclear proliferation issues

- What are the current global and Australian approaches to nuclear non-proliferation?
- What are Australia’s obligations under the international nuclear non-proliferation regime?
- How will proposals to limit the spread of sensitive nuclear technology (including fuel leasing and fuel supply assurances) affect development of the nuclear fuel cycle in Australia and our region?
- How might Australia’s safeguards policy be affected by any expansion of the nuclear fuel cycle in Australia?
- What constraints or disciplines are imposed by the various nuclear treaties in force?
- What will be the impact of next generation nuclear energy technologies in this area?

Appendix 3

IAP Peer Review Team

Australia

Moderator	Singapore
Expert*	Daniel Schwanen Director of Research, Center for International Governance Innovation, Canada
	Akira Kohsaka Professor of Economics, Osaka School on International Public Policy, Osaka University, Japan
APEC Secretariat	Geoffrey Woodhead Director (Finance)

List of Persons/ Organizations Consulted During the In-Economy Visit

Australia's IAP Peer Review
In-Economy Visit Program
(4-5 October 2006)

Wednesday, 4 October (Day 1)

Time	Programme	Participants
Session 1 (Casuarina Room, 4th Floor, Department of Foreign Affairs & Trade)		
09.30 – 10.30	Trade and Industry Policy (incl FTAs)	Chris De Cure (APEC Taskforce, Dept of Foreign Affairs & Trade (DFAT)) Steve Moran (APEC Taskforce, DFAT) Mohan Mathews (APEC Taskforce, DFAT) Ken Miley (Dept of Industry, Tourism & Resources) Richard Hunt (Australian Customs Services) Lorraine Fietz (Office of Trade Negotiations, DFAT) Angela Hilton (Office of Trade Negotiations, DFAT) Michael Cutts (Office of Trade Negotiations, DFAT)
10.30 – 11.30	Legal Services and Dispute Mediation	Arjuna Nadaraja (Attorney-General's Department) Pru Gordon (Office of Trade Negotiations, DFAT)
11.30 – 12.30	Intellectual Property Rights	Karen Tan (IP Australia) Emma Williams (Attorney-General's Department) Bala Chettur (Office of Trade Negotiations, DFAT) Katrina Gunn (Office of Trade Negotiations, DFAT)
12.45 – 14.00	Lunch: Hosted by Amb David Spencer	

Session 2 (Casuarina Room, 4th Floor, Department of Foreign Affairs & Trade)		
14.00 – 15.00	Services, including Tourism	Ken Miley (Dept of Industry, Tourism & Resources) Michael Cutts (Office of Trade Negotiations, DFAT)
15.00 – 16.00	Business Mobility and Employment	Ruth Kovacic (Dept of Immigration & Multicultural Affairs) Jason Potkins, (Dept of Employment & Workplace Relations) Mark Roddam, (Dept of Employment & Workplace Relations) Marie Grealy, (Dept of Employment & Workplace Relations) Pru Gordon (Office of Trade Negotiations, DFAT)
16.00 – 17.00	Telecommunications Policy	Caroline Greenway (Dept of Communications, Information Technology and the Arts) Bill Scott (Dept of Communications, Information Technology and the Arts) Leslie Kelety (Dept of Communications, Information Technology and the Arts) Richard Desmond (Dept of Communications, Information Technology and the Arts) Joshua Meltzer (Office of Trade Negotiations, DFAT)

Thursday, 5 October 2006 (Day 2)

Time	Participants
Session 3 Treasury Department	
For all sessions	Kim Salisbury, Jong-Soon Kang (APEC Secretariat, Treasury) Steve Moran (APEC Taskforce, Dept of Foreign Affairs & Trade)
9:00 – 9:45	Macroeconomic overview and fiscal policy
	Andrew Thomas (Domestic Economy Division); Russell Campbell (Macroeconomic Policy Division); Jason McDonald (Budget Policy Division):
9:45 – 10:15	Competition Policy and Regulatory Reform
	James Chisholm, Jason Collins, Glen McCrea, Karen Wood, Scott Rogers, Aidan Storer (Competition and Consumer Policy Division)
10:15 – 10:30	Coffee Break
10:30 – 11:00	Financial Services
	Andrew Sellars, Bede Fraser, Matthew Brine, Ruth Smith (Corporations & Financial Services Division); Shaun Anthony, Veronica Glanville, Tamara Hartwich (Financial System Division); Nigel Murray & Stephen Kiley (Superannuation, Retirement and Savings Division)
11:00 – 11:30	Investment
	Ian Beckett, Jane Benson, John Hill (Foreign Investment & Trade Policy Division); Troy Sloan (Industry, Environment & Defence Division)
11:30 – 12:00	Taxation Policy
	Scott Bartley (Tax Analysis Division)



Asia-Pacific
Economic Cooperation

2007/SOM1/008anx3
Agenda Item: III

Presentation by Australia on Its 2006 Individual Action Plan

Purpose: Consideration
Submitted by: APEC Secretariat



**First Senior Officials' Meeting
Canberra, Australia
18 January 2007**



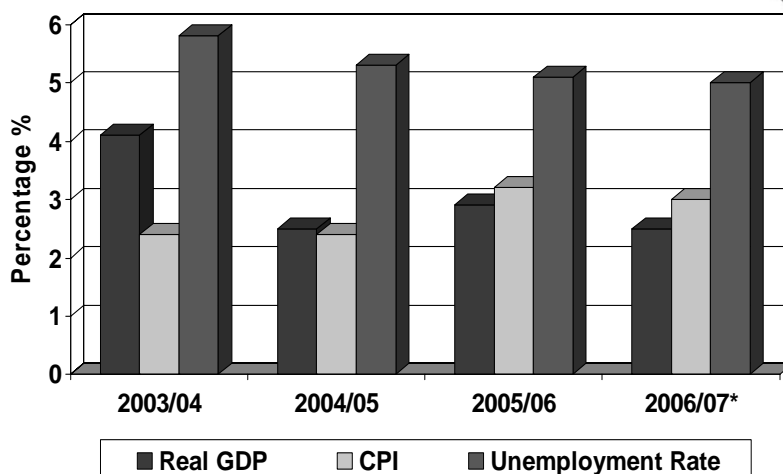
APEC IAP PEER REVIEW

PRESENTATION BY AUSTRALIA ON ITS 2006 INDIVIDUAL ACTION PLAN

16 January 2007



Key Economic Indicators



Source: Australian Treasury

* = forecast



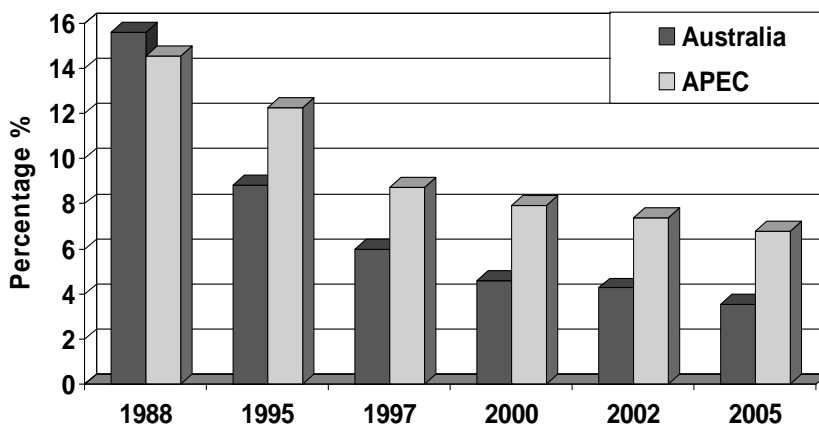
Economic Reform



- Strong economic performance underpinned by economic reforms
- Major recent reforms to workplace relations and taxation
- Future reforms planned to education and training; energy; transportation; and infrastructure.
- Also focus on reducing regulatory burden on Australian business



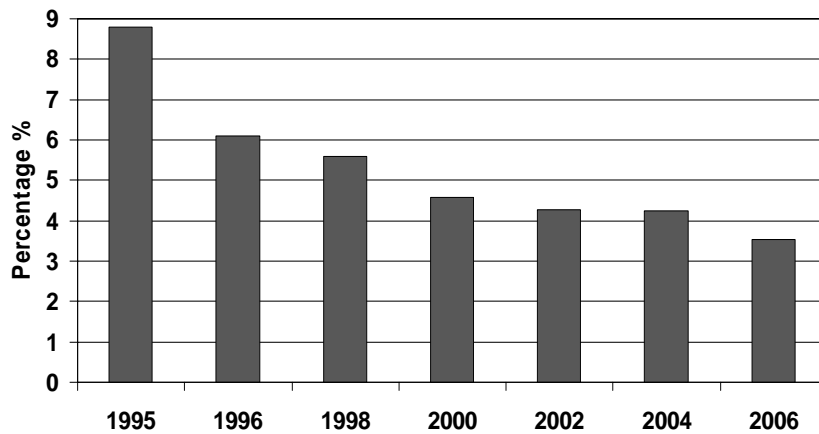
Australian and APEC Simple Average Applied Tariffs



Source: Data drawn from UNCTAD, IAPs from APEC members, and the WTO



Australia's Simple Average Applied Tariff Rate



Foreign Affairs and Trade



Australian Government
Department of Foreign Affairs and Trade

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Domestic Liberalisation



- Commitment to implementing Bogor Goals
- Simple average applied tariff of 3.5%
- Over 86% of all MFN tariffs at 5% or below
- Duty-free, quota-free access for LDCs
- PMV tariffs legislated to fall to 5% in 2010, with a review scheduled for 2008
- TCF tariffs legislated to fall below 5% in 2015

Foreign Affairs and Trade



Australian Government
Department of Foreign Affairs and Trade

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Domestic Liberalisation (cont.)



- Limited use of non-tariff measures
- On quarantine, reforms to the Import Risk Analysis process
- Significant services liberalisation, including to telecoms, transport, and financial and legal services
- Open and transparent foreign investment regime



Structural Reform



- Australia committed to continuing structural reform, both at and behind the border
- Competition Policy – National Reform Agenda to boost competition, productivity and functioning of markets
- Deregulation – further reforms including in the energy, transport, telecoms, rice and barley sectors
- Government Procurement – guided by “Value for Money” principle and decentralised at Commonwealth level
- Intellectual Property – strong system of IP protection



Trade Policy



- **Multilateral:** highest trade priority is to complete the Doha Round to deliver commercially meaningful outcomes.
- **Regional:** focus on delivering the Bogor Goals and strengthening regional trade and economic cooperation
- **FTAs/RTAs:**
 - Existing FTAs: NZ, Singapore, Thailand and the US
 - Under Negotiation: China, Malaysia and ASEAN (with NZ)
 - Talks to Begin Soon: Japan, the Gulf Cooperation Council and Chile



Trade Facilitation



- Business Mobility – streamlined temporary entry through APEC Business Travel Card and electronic visa issuing systems
- Customs Procedures – integrated IT system to streamline customs and business processes
- Standards and Conformance – relatively high level of alignment of our standards with international standards
- Rules of Origin – administered in a consistent, uniform and impartial manner



Capacity Building and Trade Advocacy



Foreign Affairs and Trade

- Extensive trade-related technical assistance and capacity building in the region
 - Valued at over A\$90 million
- Trade advocacy a high priority



Australian Government
Department of Foreign Affairs and Trade

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Asia-Pacific
Economic Cooperation

2007/SOM1/008anx4
Agenda Item: III

Written Questions Received at the Individual Action Plan (IAP) Peer Review of Australia

Purpose: Consideration
Submitted by: APEC Secretariat



**First Senior Officials' Meeting
Canberra, Australia
18 January 2007**

Written Questions Australia IAP as at 2007-01-16

Malaysia

1. Malaysian exporters have voiced concerns that standards are onerous to comply. Does Australia provide avenues to facilitate the process?

2. Standards set on food requirements are high – e.g. heat treatment renders product unfit for use.

Malaysia imports unprocessed/ raw meat from Australia and re-exports in processed form. In re-exporting, the processed products have to undergo Australian stringent standard conformance. Ways to facilitate this?

Canada

Australia has implemented a high standard government procurement chapter in its free trade agreement with the United States that included procedural requirements that are of a similar standard to the revised WTO Agreement on Government Procurement (GPA) text that has recently been negotiated.

Given its existing obligations under the US – Australia FTA and the development of a new GPA text, could you please advise if Australia considered forward with its accession to the GPA?

Indonesia [This question is for the experts]

As far as we know, Australia established some kind of monopolistic management in wheat flour exports/ marketing to other countries.

Do you find that arrangement as contrary to market efficiency principles at the expense of importing countries of Australian wheat?

Thailand [please also send response to bhuthongt@dtm.go.th]

1. Open and Effective Competition

Mandatory Procurement Procedures

Definitions of which procurements are covered by the MPPs are contained in the CPGs, however, they are generally non-construction contracts with a value greater than A\$80,000. The MPPs generally require that covered procurement processes involve an open approach to the market, however, selective tendering and direct sourcing is permitted under certain circumstances.

Thailand would like to know under what circumstances would Australian authorities allow selective tendering and direct sourcing to take place, since this will affect fair competition?

2. Food Standards

To overcome inconsistencies between State and Territory Food Legislation and ensure national uniformity, the states and territories of Australia have implemented Food Acts based upon the agreed National Model Food Act.

Does this mean that current food standard regulations in all States and Territories of Australia are all governed by the same Food Act, or are different States and Territories allowed to issue and apply their own regulations?

Singapore

CHAPTER 1: TARIFFS

1. Tariff rates on certain textile, clothing and footwear (TCF) products will remain as high as 10% in 2010, and Passenger Motor Vehicles (PMV) tariffs will remain as high as 5%; there is no indication from Australia that it intends to eventually eliminate these tariffs. Separately, Australia continues to impose TRQs on selected cheese products.

Question: Does Australia have any plans for further reduction of applied and bound tariffs and elimination of TRQs, to attain "free and open trade" or does it feel that its current regime already meets the Bogor Goals?

CHAPTER 2: NON-TARIFF MEASURES

2. Exporters have given feedback that ornamental fish imported into Australia are subject to further post-arrival quarantine up to 21 days depending on the species¹. This is on top of the 14 days pre-export quarantine period exporting countries are required to impose. Ornamental Fish exporters have asked if it is possible for Australia to reduce the length of post-arrival quarantine, or at least waive the 7-day requirement for "other freshwater ornamental fish."

Question: Is Australia considering a review of the quarantine requirements for ornamental fish imported into Australia? The current requirement for up to 21 days of quarantine is onerous, especially given that this is on top of the 14 days pre-export quarantine period and acts as an effective barrier to exports of such fish to Australia.

3. AQIS requires meat, fish and dairy products imported into Australia to be accompanied by veterinary certificates. The current Australian health certificate requirement for import into Australia is not a standardised format (e.g like the EC). Under the current AQIS system, an import permit would be issued to the Australian importer, with information on the import requirement and health certification attestation required for that particular product. The attestation requirement may differ from product to product i.e not standardised to product category, and this is rather confusing.

Question: Under the current AQIS system, attestation requirements for the issuance of health certificates for the import of fish, meat and dairy products differ from product to product. There is not a standardised format. Is Australia considering a review of the system, to accord greater transparency and predictability?

¹ Goldfish for 21 days, Gouramis and cichlids for 14 days, and all other freshwater ornamental fish for 7 days.

CHAPTER 3: SERVICES

4. Question: Does Australia plan to further liberalize sub-sectors under maritime transport services in its efforts to work towards the Bogor Goals, and if so, to what extent, taking into account its reservations in areas related to ship registration in Australia, Australian representation for international liner cargo shipping services, cabotage and offshore transport services for the maritime transport sector at GATS?
5. Question: What is the Australian Government's initial response to the inquiry report on Part X of the Trade Practices Act, which describes the conditions under which international liner operators are permitted to operate conferences to provide services for Australian exporters and importers while providing safeguards against the abuse of conference power? The inquiry report has recommended for Part X to be repealed and proposed a series of amendments if Part X was to be retained.
6. Question: Australia stated in their submission on Transport Services - Air that "Capacity and route rights available to foreign airlines serving Australia will be addressed as implementation of the Australian Government's international aviation policy continues through agency bilateral negotiations." We note Australia's progressive stance towards the liberalisation of air services, and invite Australia to share with the APEC economies its approach towards the liberalisation of foreign carriers' access to and beyond Australia.

CHAPTER 4: INVESTMENT

7. Question: With respect to Transfers of Capital Related to Investment and under Settlement of Disputes, by stating that Australia's model IPPA provides for the measures as related, does it imply that an investor originating from an economy that has no IPPA with Australia could face restriction on the transfer of capital and earnings and on access to the same courts and tribunals as domestic investors?

CHAPTER 5: STANDARDS AND CONFORMANCE

8. Comment: Singapore recognises the participation of Australia in Part I, II and III of the APEC Mutual Recognition Arrangement on Conformity Assessment of Electrical and Electronic Equipment (APEC EE MRA). Singapore also recalls the leadership that Australia has provided at the Adhoc Expert Product Working Group for Electrical and Electronic Equipment resulting in the drafting and subsequent endorsement of the APEC EE MRA in 1999.

Singapore noted the report of Australia that there was "no improvements implemented since the last IAP" in the participation in plurilateral recognition arrangements of conformity assessment in the regulated sector. In this regard, Singapore noted the absence of representative from the Australian regulators of electrical and electronic equipment in the JAC (Joint Advisory Committee) Meetings since 2004.

The APEC JAC has in its last meeting in Hanoi, Vietnam, reiterated the importance that the JAC must be attended by regulators of Member Economies. Singapore is looking to Australia to support the implementation of the APEC EE MRA by having its regulator(s) attend and contribute in the JAC meetings.

CHAPTER 6: CUSTOMS PROCEDURES

9. Question: Australia mentioned that with the implementation of the Cargo Management Re-engineering (CMR) project, it would provide industry with "greater flexibility in doing business with Customs through various communication options together with flexible processes to benefit low-risk clients". Could Australia elaborate on this, e.g. what it entails?

10. Question: As one size does not fit all, how does Australia facilitate the different needs of sectors in its customs procedures, such as in dealing with perishables with respect to minerals?

11. Question: To what extent is the Australian customs clearance process paperless? If it is fully paperless, can Australia please elaborate on its clearance process, for all modes and containerised/conventional cargo? A related question is – is Australia using electronic carnets for temporary admission of goods?