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Australia's New Trade Agreements: Beneficial Liberalisation or Harmful Policy?

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Editor's Note

Welcome to the sixteenth issue of *Economic Issues*, a series published by the South Australian Centre for Economic Studies as part of its Corporate Membership Program. The scope of *Economic Issues* is intended to be broad, limited only to topical, applied economic issues of relevance to South Australia and Australia. Within this scope, the intention is to focus on key economic issues — public policy issues, economic trends, economic events — and present an authoritative, expert analysis which contributes to both public understanding and public debate. Papers will be published on a continuing basis, as topics present themselves and as resources allow.

The author of this paper is Andrew Symon, Research Associate, SA Centre for Economic Studies.

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Michael O'Neil
Director
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November 2005

Australia's New Trade Agreements: Beneficial Liberalisation or Harmful Policy?

Overview

Bilateral and regional trade negotiations are now at the centre of Australian trade policy. This thrust is a departure from the priority given by Australian governments since the 1980s to a multilateral approach to the removal of trade barriers through the General Agreement on Tariffs and Trade (GATT) forum subsequently the World Trade Organisation (WTO). However, the Government argues advances through bilateral and regional trade agreements can, in fact, stimulate multilateral liberalisation.

Australia's new agreements and negotiations are part of a wave of bilateral and regional trade endeavour in the Asia-Pacific and elsewhere in the world that began in the late 1990s. This is being caused in large part by the slow progress, and at times, impasse, in WTO negotiations. Australia, along with many other countries, while not abandoning multilateralism, has decided that trade and other international economic relationships, such as investment between countries, should also be pursued on a bilateral and regional basis, given the prospect of more speedy results. There is also the "realpolitik" argument that Australia may be left behind and be discriminated against in agreements concluded by others if it does not form its own.

Notwithstanding, free trade or regional trade agreements (RTAs) are a controversial subject. This has been very evident in the debate in Australia over the US Australia Free Trade Agreement and the proposed agreement with China. RTAs can be economically and commercially damaging. They can result in trade distortion. The benefits of whatever extra trade may be created between those parties to the agreement may be negated by trade diversion.

Trade may also suffer because of difficulty exporters and importers face in adjusting their business to a variety of different regulations between different countries and regions. RTAs may not be a bargain among equals. A stronger partner may extract greater advantages than the smaller country. RTAs may also result in a less than satisfactory agreement from an economic standpoint because they can be driven by non-economic foreign policy relations and objectives.

Trade agreements can have an enormous bearing on the country's welfare, not just in an aggregate sense, but also in terms of their impact on particular regions, industries and socio-economic groups within the country. Some industries and regions may gain and jobs created. Others may be adversely affected and jobs lost. The impact of contemporary trade agreements may be even deeper with the trade agenda going well beyond the traditional concerns over tariff and quota protection of manufactured and agricultural goods (e.g., domestic competition policy, government procurement and labour conditions, etc.). As a result, trade

negotiations and agreements impinge far more than ever before on domestic government policy and programmes and there are concerns that trade agreements may undermine national sovereignty.

Yet despite how profound an impact trade policy may now have, people are often baffled as to just what international trade agreements may mean for their regions and livelihoods. Trade negotiations are often long and tortuous, and agreements huge and complex. The devil may be in the detail – and this may only be discovered and felt years later.

So, at a time when there are trade deals and negotiations on so many fronts, is there sufficient public debate and scrutiny of trade policy in Australia? There is arguably a lack of formal participation required of the national parliament and state and territory governments. Their roles in decisions to enter into trade negotiations, determine objectives and consider and approve agreements are quite limited at best.

Agreements once signed by Australia may be pushed through quickly through parliament without sufficient time for proper examination. Only once an international agreement or treaty is signed by the national government may the national parliament play a direct role to the extent that domestic legislation must be passed to ratify and give effect to that agreement. State legislation could also be required to meet Canberra's obligations. Apart from the general implications of trade agreements for regions, state governments may also have to regulate and pass legislation to give effect to international agreements entered into by the Commonwealth.

International trade negotiations take place in an environment of Orwellian New-Speak. So-called 'free trade' agreements give one country preferential access, ahead of cheaper potential suppliers. 'Most favoured nation' clauses have the opposite effect, ensuring that all countries are treated in the same way, with no country 'most favoured.' At a deeper level, the whole notion of horse-trading about access is perverse: what is being offered as a quid-pro-quo bargaining chip (called a 'concession') is something that we should do anyway, in our own self-interest. Trade bargaining is the equivalent of saying: 'we will remove the rocks from our harbours if you remove the rocks from your harbours.' Stephen Grenville, Australian Financial Review, 23 August, 2004, Golden Straitjackets can chafe

1. Introduction

Bilateral and regional trade negotiations are now at the centre of Australian trade policy. Since 2003 Australia has signed trade agreements with Singapore (2003), Thailand (2005), and the United States (2005) and is negotiating agreements with China, Malaysia, the Association of Southeast Asian Nations (ASEAN), and the United Arab Emirates. Canberra is also investigating the feasibility of a trade agreement with Japan.

*... departure from a
multilateral approach ...*

This thrust is a departure from the priority given by Australian governments since the 1980s to a multilateral approach to the removal of trade barriers through the General Agreement on Tariffs and Trade (GATT) forum and subsequently the World Trade Organisation (WTO), which succeeded GATT in 1995. Underlining this, the Australia-Singapore FTA was the first bilateral trade agreement that Australia had entered into since the Australia-New Zealand Closer Economic Relations Agreement (CER) was signed in 1983.

Australia's new agreements and negotiations are part of a wave of bilateral and regional trade endeavour in the Asia-Pacific and elsewhere in the world that began in the late 1990s. This is being caused by in large part the slow progress, and at times, impasse, in WTO negotiations.

Free trade agreements are a controversial subject with many economists arguing that they are not in fact in the best interests of Australia or the multilateral trade system. Canberra although argues these are not contrary to commitment to the WTO and multilateral negotiation to lower and remove trade barriers. Advances through bilateral and regional trade agreements can, in fact, stimulate multilateral liberalisation.

*... scope of regional trade
agreements (RTAs) ...*

This paper describes all these bilateral agreements and agreements between groups of countries as "regional trade agreements (RTAs)." This term covers a range of agreements that differ in their scope. At one end of the spectrum are economic partnership agreements that can include not only the traditional concerns of tariff and quota barriers to goods trade but also to services trade, including recognition of foreign qualifications, investment conditions, intellectual property protection, government procurement and domestic competition policies. At the other end are trade and investment facilitation agreements that may be

precursors to more comprehensive agreements. Labels can also be misleading. What might be termed a “free trade agreement” might in fact be a preferential agreements limited to a small slice of trade between countries. On the other hand, a free trade agreement might be far more comprehensive and complex in its coverage than removal or lowering of simple obstacles to goods and services trade.

*... agreements may impinge
more than ever on ...*

Trade policy and agreements can have an enormous bearing on the country’s welfare, not just in an aggregate sense, but also in terms of their impact on particular regions, industries and socio-economic groups within the country. The impact of contemporary trade agreements may be even deeper with the trade agenda going well beyond the traditional concerns over tariff and quota protection of manufactured and agricultural goods. Services, investment, and intellectual property are commonly part of trade agreements. Other issues that have become part of trade discussions include domestic competition policy, government procurement, and standards, such as health and quarantine, labour conditions and environmental protection. As a result, trade negotiations and agreements impinge far more than ever before on domestic government policy and programmes and there are concerns that trade agreements are impinging on national sovereignty. That is to say, the devil may be in the detail – and this may only be discovered and felt years later.¹

This paper presents a guide for analysis of what may be some of the most important government decisions and undertakings shaping Australia in coming decades. The paper considers first the WTO and the multilateral trade system and why RTAs have proliferated and their implications for world trade. Touched on also are the theoretical underpinnings of the case for free trade and the evolution of Australia’s own trade policy. Australia’s present position and the implications of its RTAs cannot be judged without reference to both some theory and also the WTO. The latest developments in the current WTO Doha Round of negotiations are briefly examined. The WTO and the Doha Round continue to be important for Australia.

The paper then looks at Australia’s current and prospective RTAs and, in particular, the Australia US Free Trade Agreement (AUSFTA) and the possible Australia-China FTA. The implications for South Australia are woven throughout the different sections and discussed specifically in a later section. The paper concludes by considering whether there is sufficient participation by the national parliament and the state and territory governments in the shaping of trade agreements and scrutiny of the outcomes.

2. Economic Theory and Free Trade

*... perfect world and the
real world*

The case for free trade is one of the cornerstones of mainstream economics. Yet free trade policies have rarely been put into place without debate and controversy. Protection of local industry from foreign competitors has long been a common feature of government policy around the world, including Australia's. Australia only undertook substantial trade liberalisation after 1983 after initial steps in the mid 1970s. In a perfect world, the advantages of free trade are clear. But for governments operating in a real world of nation states, national interest, uneven levels of economic development, and the dislocating impact economic forces may have on communities, moving fully to a free trade regime is usually not easy. This is especially so as the free trade agenda moves beyond the more traditional and simpler issues of tariffs and quotas on goods to more complex questions to do with freedom of services trade, investment, intellectual property, domestic competition policy, government procurement, and standards, such as health and quarantine, labour conditions and environmental protection.

The key policy argument for trade liberalisation is that overall a country will be better off in terms of economic welfare and that the losses to certain industries and interests will be less than the total gains. As a result of this, governments must also be obligated to provide appropriate adjustment schemes to compensate those who are disadvantaged by new economic forces given that there is more economic cake overall than there was before.

*... trade, specialisation,
absolute or relative
advantage to maximise
welfare ...*

The basic economic theory, as first expounded in the early nineteenth century by English economist, David Ricardo, building on the work of Scotsman, Adam Smith, is that countries' economic welfare will be maximised by specialising in the production of goods and services in which they are most efficient. Through trade they can then increase their consumption possibilities and so increase their economic welfare. Countries do not need to have an absolute advantage in the production of any good or service to gain from trade, that is, producing and trading something that another country does not produce at all. Rather, because countries have different endowments of the factors of production – land, capital, labour – countries can gain from trade by specialising in those products in which they have a comparative or relative advantage over another country. Under a free trade regime, countries will maximise their economic welfare, as they will export those goods and services in which they have a comparative advantage and import those that they do not.

Mainstream economic theory therefore rejects industry protection by countries through tariffs on imports, import quotas and other measures.² In the same way that protectionist barriers to trade between Australian states would generally be agreed by Australians these days as damaging welfare in individual states, as well as the national economy as a whole, so too do barriers to trade between countries. Economists argue that even if other countries maintain their barriers, a country will still gain by

unilaterally lowering and removing its own trade restrictions. Resources will shift to their most internationally competitive uses, consumers will benefit from lower prices, and producers, including exporters will benefit from lower cost inputs. As a result, free traders fear that today's approach to trade liberalisation, where the emphasis is on achieving reciprocal advantage through the bargaining of concessions between countries, is not the best approach. Rather governments should focus first of all on the domestic benefits of liberalising home markets. This is what Australia did in the 1980s – unilaterally reducing protection without it being tied to export market access elsewhere. The problem now, the purists argue, facing free trade is that in the current climate of reciprocal bargaining, there is a tendency towards mercantilist thinking: a government's focus is on achieving export access, a good thing, while import access, a bad thing, is only to be given away in exchange for export advantage.

*... trade and long-term
economic development ...*

Champions of free trade argue that the benefits of free trade are manifold. Free trade not only provides more choice of goods and services at lower prices but also stimulates long-term economic development through economies of scale, encouragement of investment, and transfer of technology and skills. These dynamic gains, harder to measure at first, are the real bonanza from trade liberalisation. And not simply is it a matter of economic welfare. Open international commerce can bring better understanding between peoples and thereby encourage more peaceful international relations: “there is no more certain way of uniting people,” wrote one of free trade's mid 19th century English advocates, Richard Cobden. Finally, at the philosophical foundation of free trade, there are the values of individual freedom and choice. “Freedom, prosperity, security: this trinity lies at the heart of the case for free trade,” writes commentator and political economist, Razeen Sally, of the London School of Economics³

But in practice, international trade since the early nineteenth century has rarely been truly free and there have been and continue to be a host of arguments against or at least tempering free trade economic theory.⁴ Governments at different times and places have put in place tariffs, import quotas, export subsidies and other measures to protect and encourage local industries. One basic reason for tariffs has been simply to gain revenue when other forms of taxation are inadequate. This continues to be important for governments in poorer developing countries where the income and corporate tax system is weak. If trade liberalisation is to succeed in the developing world then there is need for earmarked aid from the World Bank and others to compensate for this loss of revenue as well as to assist in the adjustment of industries and regions to new economic forces. Adjustment assistance may similarly be needed in developed countries but national and regional governments should have the will and capacity to do this.

As far as government economic development policy is concerned, protection has been argued as necessary to encourage industries at early or infant stages of development. This was indeed the argument used in Australia for protection up until the 1970s. Once industries reach a bigger scale and become more economically efficient, the protection can be done away with. Both employment and wider long run economic development through the growth of significant industries are the goals of government.

Mainstream economic orthodoxy fears though that this “infant industry” protection rarely works as governments are not usually good at picking which industries can become internationally competitive. Industries enjoying protection do not have real incentive to become more efficient. As a result, infant industries never grow up.⁵

*... balancing the social cost
against international
competition ...*

Yet governments may not be able to lower and remove protection simply because the social cost of business closure and unemployment that may come from trade competition for a particular industry and region may be unacceptable. This is at the heart of European resistance to the lowering of protective barriers to its agriculture. “Any significant cutback in the Common Agricultural Policy would ... result in serious damage to the social and economic fabric of rural areas across Europe,” Ireland’s Prime Minister, Bertie Ahern says.⁶ And new sources of international competition may promote further calls for protection of industries, as is the case in many countries today whose industries are being challenged by China’s manufacturing juggernaut.

Economists argue that the overall economic cost for a society will be greater by maintaining the protection. By removing protection a country’s overall economic welfare will be increased. There will be greater gain than loss. But, while this may be true over the longer term, in the real world there can still be significant human cost as a result of economic downturn and loss of jobs in particular towns and regions because of heavy reliance on formerly protected industries now unable to match competition from abroad. Production line workers do not become information technology or biomedical technicians and professionals or financiers overnight. And while capital may be able to move relatively easily from old protected industries to more internationally competitive industries, these may not be in the same region or the same country.

The question then is how can governments can best assist industries and regions adjust to change? If one believes in a compassionate, equitable society, government must provide appropriate welfare and unemployment benefit schemes and subsidise where necessary education and training, both to equip new entrants into the labour force for new industries as well as assist those already in the workforce to move to new jobs. But what else can governments do? Employment is one of the most important concerns of governments. Few governments survive for too long when unemployment is high. But if protectionist policy is argued to be costly and wrong, is there any industry policy that governments can pursue

beyond ensuring appropriate infrastructure, research and development and education and training? This is a problem that state governments, such as South Australia, have especially faced given their lack of taxing power and the limit of their policy instruments compared with the Commonwealth government.

3. International Trade, the World Trade Organisation and Multilateralism

Until the recent proliferation of RTAs, international trade negotiation since World War II has been largely managed within the multilateral government framework of the General Agreement on Tariffs and Trade (GATT) and its successor, the Geneva-based World Trade Organisation (WTO), which was established in 1995. In reaction to the sharp increase in trade barriers that came with the Depression of the 1930s, the allied governments at the end of the war hoped that multilateral processes could be established to foster open trade. In 1948, 23 governments, including Australia, signed the GATT under which they would reduce tariffs on a multilateral basis. This was to have been a provisional measure before creation of an International Trade Organisation (ITO) to complement the World Bank and the International Monetary Fund. But the ITO, which had an ambitious charter, was stillborn. The ITO charter was not ratified by sufficient national legislatures, most critically, the US Congress, even though the US government had been one of its main proponents.

*... interdependent
international economy
favouring multilateralism ...*

Nevertheless, through the GATT, advances were made, mainly in reduction of tariffs on manufactured goods, through eight rounds of trade negotiations beginning in 1947 and ending with the Uruguay Round in 1994. Later rounds expanded the focus from tariff reductions to also include anti-dumping and non-tariff measures. GATT covered only goods trade. While trade in all goods was in theory covered, in practice agriculture was largely excluded until the Uruguay Round in the 1980s.

Participating countries grew from 23 in 1947 to 62 in the Kennedy Round of 1964-67, 102 in the Tokyo Round of 1973-79 and 123 for the Uruguay Round of 1986-1994. In 1995, as a result of the Uruguay Round agreement, the GATT was incorporated within the responsibilities of the newly created WTO. The WTO has 148 members accounting for over 97 per cent of world trade. China became a member in 2002. About 30 others, including Russia, are negotiating membership. In Asia, the most economically important country seeking admission is Vietnam. Major conferences of trade ministers are held every two years.

The scope of the WTO is much broader and its authority much greater than the old GATT. As well as goods trade, the WTO is concerned with services trade, intellectual property, investment, dispute settlement and enforcement and trade policy reviews of members. Member governments must make their trade policies transparent by notifying the WTO of laws

in force and measures adopted. Regular reports are made by the WTO secretariat of countries' trade policies.

As well as the General Agreement on Tariffs and Trade, other important agreements include a General Agreement of Trade in Services (GATS), and Agreement on Trade Related Aspects of Intellectual Property (TRIPS). The later is contentious with argument that protection of intellectual property can in fact stifle the spread of knowledge and creativity and may be used by software, pharmaceuticals and entertainment and media companies to unfairly prolong monopoly positions. Furthermore, stricter intellectual property protection may unfairly restrict access of poorer income people and countries to all sorts of products that have wide social benefits, from agricultural improvements to medicines and schoolbooks.

The GATT/WTO sets down a rule based trading system, dedicated, as the WTO describes it, "to open, fair and undistorted competition."⁷ WTO agreements allow countries to introduce changes gradually. Developing countries are usually given longer to fulfil their obligations.

*... non-discrimination
between trading partners.*

The key principle of the GATT and subsequently WTO agreements is the "most favoured nation (MFN)" rule. This means that countries cannot normally discriminate between trading partners. If a WTO member grants another a lower tariff rate on its goods or opens up its market for services from another country so these measures must be provided for all WTO members. Trade rules are extended to all members of the WTO without discrimination.

Another basic principle underlying WTO agreements is "national treatment." In the case of goods, for example, this means imported goods and the same kinds of locally produced goods must be treated equally once the imported goods have passed the border. This application to goods trade has been straightforward and not contentious. For services and investment, however, it can be more problematic, for example in determining acceptance of foreign professional qualifications and the desire of governments for foreign companies operating in their countries to divest to local ownership over time or to minimise foreign employees or to source a certain amount of inputs locally.

Some exceptions are allowed under WTO rules, including RTAs or preferential trade agreements under certain conditions. Developing countries can be given special access to developed country markets. A country can raise barriers against products that are considered to be traded unfairly from specific countries. In services, countries are allowed, in limited circumstances, to discriminate. Some believe in fact that the extent of these exceptions undermines the effectiveness of WTO. RTAs are a case in point.

*... limits and benefits
arising to third parties from
an RTA ...*

As far as RTAs are concerned, under WTO rules, a member country can establish preferential trade agreements that apply only to goods and services with another country or countries in a region that are not provided to others. The country or group of countries cannot though increase barriers others face. The RTA must remove barriers on substantially all trade and non-members of the RTA must not find that their trade with those party to the RTA more restrictive than before the RTA came into force. This exception to the MFN, included in the original GATT, was argued as consistent with the objectives of fostering more open global trade as freer trade between pairs of countries and groups of countries were considered important steps towards the greater goal. Up until the 1980s, the most important development under this exception was the formation of the European Community and then European Union.

The multilateral government framework for achieving more open trade is an institutional response to political realities. Although economic theory argues that the best approach is for countries to unilaterally reduce and remove trade barriers even if other countries are protectionist, governments often find it difficult to convince their electorates of this unless they can argue there also are reciprocal opening for their countries' exports to others.

*"The political logic of the GATT/WTO is that because liberalisation harms certain interests that will inevitably oppose trade liberalisation, it is necessary to liberalise in a coordinated way with concession for concession, thus making it easier to defeat protectionists. Once trade barriers have been lowered, a framework of agreements makes it quite difficult to raise them again."*⁸

*"What does the WTO do? The broad answer is that it helps provide the international public good of open markets. In practice, this good has largely been provided by economies that possess the biggest markets, foremost among them the US and the EU, which provide roughly 40 per cent of the world's total markets for imports (excluding intra-EU trade). Such large players have entered into reciprocal commitments to liberalise trade whose benefits have been spread worldwide through the principle of non-discrimination. The combination of reciprocity with non-discrimination has created a liberal, law-governed trading system, on the basis of co-operation among sovereign states, each acting in its own perceived self-interest. Economists are right to argue that the calculus underlying the WTO is mercantilist. But they also agree that this disarmament treaty for mercantilists has worked."*⁹

WTO trade negotiating rounds consider measures across industries and sectors. As the ambit of the WTO shows, the scope of the trade agenda is much wider and deeper than in earlier times. As well as the traditional concerns with goods tariffs and other barriers, trade negotiations may include services, investment, intellectual property protection, government procurement, competition policy, health and quarantine standards,

environment and labour conditions. Barriers to agricultural trade remain though an unresolved problem preventing progress on other issues. The greatest obstacle is the protection and assistance given to agriculture by the EU and the US. This not only limits market access for cost efficient producers elsewhere, but through subsidies may lead to exports from the EU and the US which depress world prices.

The multilateral trade negotiation process is complex and advances usually slow. Agreements, usually in the form of a package of sub agreements covering a variety of subjects, require a consensus of all members. Countries cannot cherry pick. So what then, in fact, is the attraction of membership of the WTO, especially for new countries seeking membership, as the process is onerous and can take many years? Countries wanting to join must comply with WTO rules and also face additional requirements from individual existing members in return for support for their application. In China's case, its accession to the WTO took 14 years of negotiation and a raft of trade commitments.

*... benefits of WTO
framework and membership*

...

The case for WTO membership is that it guarantees countries access to export markets on an unconditional and non-discriminatory MFN basis. WTO rules provide member countries with rights against protectionist efforts of more powerful countries. These rights are given legal force by dispute settlement mechanisms. Under the WTO, the dispute-settlement system has become both more potent and more legalistic than ever before. A judicial panel may be set up if necessary to rule on WTO law. No longer can a party to a dispute block the adoption of a panel finding. Penalties for non-compliance under the dispute settlement mechanism are still largely limited to the threat of trade sanctions, which disadvantages small countries, especially many developing countries. However developed countries have largely complied with dispute decisions that gone against them. Small countries can win over big countries. But it can be a slow, bureaucratic process.

Nevertheless, membership of the WTO allows members to work out conflicts in an orderly and containable manner. Through membership countries are able to pursue and protect their trade interests in WTO negotiations. Smaller countries can achieve arguably more in alliance with countries of similar size and interests in the WTO than they could individually. As trade and inward investment become more important for a country's economic growth and development so membership of the WTO becomes more important.

*... WTO: a victim of its own
success? ...*

Yet the WTO now seems a victim of its own success.¹⁰ The much greater scope of the WTO compared with the old GATT, combined with a much larger membership, almost universal, like the United Nations, has, though, made further progress to liberalise trade difficult. The complexity now of the trade liberalisation agenda, its implications for a wider range of domestic policy concerns, and a greater diversity of country positions, has increasingly politicised negotiations. Further, complicating the work of the WTO is the often-emotional attacks on

trade liberalisation processes by groups worried about social dislocation and damage of “globalisation.”

Large and sometimes violent anti-globalisation demonstrations marked WTO ministerial meetings in Seattle in 1999 and Genoa in 2001. So despite all the arguments for the WTO, international trade relationships are now being shaped increasingly by RTAs.

*... the fate of the Doha
Round ...*

The test now for multilateral processes is the fate of the current round of negotiations under the WTO framework which was launched in November 2001 at Doha, Qatar. The round includes negotiations for reduction of barriers to trade in manufactured goods, agricultural products, as well as investment, competition and environment related policies. A prime goal is to increase the benefits of trade for developing countries, what is known as the Doha Development Agenda. This was declared in part as a response to the anti-globalisation protestors who marred the Seattle ministerial meeting in 1999. But the Doha Round has stumbled. Ministerial talks broke down in Cancun, Mexico, in 2003. Momentum was regained somewhat in July 2004 in Geneva with ministerial agreement on a work programme when problematic topics were dropped from the negotiations. Critical to the revival of the round was the offer by the EU to phase out its agricultural export subsidies. But its level of tariff protection remains at issue. Apart from the EU, the key countries leading negotiations over agriculture are the US, itself heavily protecting its agriculture, and India, Brazil and Australia.

*... EU and US must agree to
reduce agricultural
subsidies ...*

Agricultural protection policies of the EU and US are possibly the most serious obstacles to WTO members agreeing to a package of reforms. Agricultural exporters in the developing and developed worlds are not likely to agree to liberalising industrial markets and other trade conditions, which may also be very sensitive from their point of view, unless they at least gain in terms of reduction of EU and US agricultural protection. As already noted, the problem is that any agreement must be comprehensive, that is, under the Doha negotiating rules, it is not possible to settle for deals on one subject without companion agreements on the others. Progress depends greatly on the EU and the US achieving a common position in agriculture. Australia, one of the world’s great agricultural exporters, has a major stake in agricultural trade liberalisation

The Doha Round was set for completion in January 2006 although now the hope is that there can be a successful conclusion later in 2006. Crucial to further progress is the meeting of WTO trade ministers in Hong Kong in December 2005. If the Doha Round is not to come adrift, an interim agreement will need to be reached in Hong Kong.

4. Regional Trade Agreements

An unprecedented wave of bilateral and regional free trade or preferential trade agreements and negotiations has arisen around the world since the late 1990s.

Of the 300 RTAs notified to GATT/WTO as at October 2004, 176 were notified after January 1995, and 150 in force. By 2007, the WTO estimates the total number enforced would approach 300.¹¹ There are now dedicated websites providing information on bilateral trade agreements and negotiations worldwide www.bilaterals.org, www.ftawatch.org

This growth is a response to the slow progress of further liberalisation under WTO auspices. While there have been bilateral and regional trade agreements since the establishment of GATT in 1947, most significantly in western Europe among countries forming the European Economic Community and then the European Union, they have generally been established between countries sharing borders or in the same geographical proximity. This, combined with political links and social and cultural ties, makes agreements logical and they can be consistent with effort to achieve worldwide liberalisation under the GATT/WTO frameworks.

Apart from the EU, other examples are the Australia and New Zealand Closer Economic Relations Agreement of 1983, an expansion of an earlier agreement, and Southeast Asia's ASEAN Free Trade Area (AFTA) launched in 1992, building on an earlier preferential trading arrangement, and the US-Canada Free Trade Agreement of 1989. This was expanded to the North American Free Trade Agreement with the inclusion of Mexico in 1992. In South America, the Southern Common Market, the Mercosur, was formed between Argentina, Brazil, Uruguay and Paraguay in 1991. In contrast, much of the current RTA endeavour is between countries distant from each other.

A catalyst for the new wave of RTAs has been the US, which turned to bilateral approaches to trade after the failure of the Seattle WTO meeting in 1999. This is an important policy shift for the US, which, apart from its Canadian and Mexican agreements, and one with Israel (1985), had eschewed bilateral trade deals in favour of multilateralism. The US now has RTAs or is negotiating RTAs with countries worldwide. The RTA with Australia was the first of the trade agreements made by the US with a major trading partner. The latest, the Dominican Republic-Central America Free Trade Agreement ratified by Congress in July 2005, having been signed by the governments in 2004. US trade negotiators have a very clear agenda which is shaped in part and endorsed by the Congress and prominently features "beyond the border" matters, such as intellectual property protection, services trade, competition policy, and government procurement.

... policy shift in US trade negotiations to advance other agendas ...

In the Asia-Pacific region, until recently countries opted for an open non-discriminatory multilateral approach to trade under the Asia-Pacific Economic Co-operation (APEC) forum umbrella, consistent with the WTO framework. APEC countries vowed at the leaders meeting in Bogor in Indonesia in 1994 to pursue the goal of free and open trade in the Asia-Pacific with barriers removed between developed countries by 2010 and for all by 2020. But the landscape now is very different with an array of RTAs of various shapes and sizes in force, in negotiation and proposed (see Table 1: RTAs in the Asia-Pacific Region).

RTAs may contain agreements well beyond what has been agreed multilaterally under WTO. On the other end of the spectrum are very selective agreements, focused on goods with much exclusion, restrictive rules of origin, and not concerning themselves with these “beyond the border” subjects.

... potential for trade distortion and diversion arising from RTAs ...

RTAs are a controversial subject. Many economists argue that they can be, in fact, economically and commercially damaging. They can result in trade distortion because as preferential agreements between pairs or groups of trading partners, they favour these agreement signatories over the rest of the world. The benefits of whatever extra trade may be created between those party to the agreement may be negated, in part, or more, by trade diversion. Beneficial trade creation is where low-cost production in one country pushes out high-cost production in another. Trade diversion is where the RTA agreement results in a country or countries taking imports from the high-cost country partner(s) rather than low cost countries outside of the agreement. A simple example is European countries trading agricultural products produced from within the EU rather than importing cheaper products from without. But entry of these agricultural products from outside of the EU are restricted by high tariffs and quotas.

... and compounded by rules of origin (ROO) ...

Trade may also suffer because of difficulty exporters and importers face in adjusting their business to a variety of regulations and standards for trade between different countries and regions. “Rules of origin (ROO)” governing content of goods that may be subject to low or zero tariffs between countries under a bilateral agreement, may, in fact, restrict exporters, who, in the age of globalisation, source a large proportion of their components from third countries. Complex rules of origin requirements may in fact deter business. Despite the apparent benefits under an RTA exporters may face various costs if they wish to take advantage of promised new market access. It may be difficult in the first instance to comply with the ROO given where an exporter wants or needs to source components for this product. There are administrative and documentary requirements. Exporters must keep separate records for non-identical goods and separate records for each RTA, especially if the RTA ROO or documentary requirements are different. Records required may vary from RTA to RTA.

Table 1
Recent Trade Agreements and Negotiations in the Asia-Pacific Region¹

Country	Partners	Nature of Agreement	Status
Australia	ASEAN	EPA	Under negotiation
	China	EPA	Under negotiation
	Japan	EPA	Under study
	Malaysia	EPA	Under negotiation
	Singapore	EPA	Agreement in force
	Thailand	FTA	Agreement in force
	UAE	EPA	Under study
	US	EPA	Agreement in force
	New Zealand	EPA	Agreement in force since 1983
China	ASEAN	EPA	EHP in force
	Thailand	PTA	Agreement signed
	Australia	EPA	Under negotiation
	India	BIPA	Under study
	Hong Kong	EPA	Agreement signed
	Macau	EPA	Agreement signed
	New Zealand	EPA	Under negotiation
	Chile	EPA	Under negotiation
	SACU	FTA	Proposed
ASEAN	China	EPA	EHP in force
	India	EPA	EHP in force
	Japan	EPA	Framework agreement signed
	S.Korea	EPA	Joint declaration signed
	US	TIFA	Under negotiation
	Australia	EPA	Under negotiation
	CER	EPA	Under study
EU	TREATI	Proposed	
Brunei	Singapore/New Zealand/ Chile	EPA	Negotiations completed
Malaysia	Japan	EPA	Under negotiation
	US	TIFA	Signed
	Australia	EPA	Under negotiation
	New Zealand	EPA	Under negotiation
	EU	FTA	Under study
	S. Korea	EPA	Proposed
	India	EPA	Under study
Pakistan	FTA	Proposed	
Philippines	Japan	EPA	Agreement signed
	US	EPA	Under study
Singapore	Australia	EPA	Agreement in force
	Canada	EPA	Under negotiation
	Egypt	EPA	Proposed
	EFTA	EPA	Agreement in force
	EU	EPA	Proposed
	India	EPA	Agreement signed
	Japan	EPA	Agreement in force
	Jordan	EPA	Agreement in force
	S. Korea	EPA	Agreement signed
	Mexico	EPA	Agreement signed
	New Zealand	EPA	Agreement in force
	Sri Lanka	EPA	Under negotiations
	US	EPA	Agreement in force
	Qatar	EPA	Agreement signed
	Peru	EPA	Under negotiation
	Panama	EPA	Under negotiation
	Kuwait	EPA	Under negotiation
	Bahrain	EPA	Under negotiation
	Brunei/Chile/New Zealand	EPA	Negotiations completed

Table 1 (continued)
Recent Trade Agreements and Negotiations in the Asia-Pacific Region¹

Country	Partners	Nature of Agreement	Status
Thailand	Australia	FTA	Agreement signed
	Bahrain	FTA	Agreement signed
	China	PTA	Agreement signed
	India	EPA	PTA in force
	Japan	EPA	Under negotiation
	S. Korea	EPA	Under study
	New Zealand	FTA	Under study
	Peru	PTA	Agreement signed
	S. Africa	PTA	Under study
	US	EPA	Under negotiation
	BIMSTEC	FTA	Framework agreement signed
Vietnam	US	BTA	Agreement signed
	Japan	FTA	Under negotiation
	Sri Lanka	EPA	Agreement signed
	S. Korea	FTA	Proposed
India	ASEAN	EPA	Framework agreement signed
	China	BIPA	Proposed
	S. Korea	FTA	Agreement signed
	Singapore	EPA	Agreement signed
	Sri Lanka	EPA	FTA in force
	Thailand	PTA	Framework agreement signed
	BIMSTEC	FTA	Framework agreement signed
	SACU	FTA	Framework agreement signed
	COMESA	FTA	Framework agreement signed
	MERCOSUR	FTA	Framework agreement signed
	Mauritius	EPA	Under negotiation
	Japan	EPA	Proposed
	Malaysia	EPA	Under study
	Brazil/S. Africa	FTA	Proposed
	GCC	EPA	Framework agreement signed
Chile	PTA	Under negotiation	
Egypt	PTA	Under negotiation	

- Notes: ¹ This excludes the ASEAN Free Trade Agreement between the 10 members of ASEAN. Nature of agreement in dependent on the stated objectives of these agreements when proposed – EPA: Economic Partnership Agreement (comprehensive agreement covering goods, services, investment, intellectual property etc); FTA: Free Trade Agreement (aims for complete liberalisation of trade in goods and in some cases, services); PTA: Preferential Trade Agreement (aims for preferential tariff reduction only for a few goods traded); TIFA: Trade and Investment Facilitation Agreement (as a precursor to a possible PTA/FTA); BIPA: Bilateral Investment Promotion Agreement (precursor to a possible PTA/FTA); BTA: Bilateral Trade Agreement (as Vietnam is not yet a WTO member); EHP: Early Harvest Provisions whereby countries provide initial concessions on certain goods ahead of fuller liberalization
- BIMSTEC: Bay of Bengal Initiative for Multi-sectoral Technical and Economic Co operation - Bangladesh, India, Myanmar, Sri Lanka, Thailand, Nepal and Bhutan.
- MERCOSUR: South American Common Market – Argentina, Brazil, Uruguay, Paraguay.
- EFTA: European Free Trade Association – Switzerland, Liechtenstein, Norway, Iceland.
- SACU: South African Customs Union – South Africa, Botswana, Lesotho, Namibia, Swaziland.
- COMESA: Common Market of Eastern and Southern Africa – Angola, Barundi, Comoros, Congo Democratic Republic, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, Zimbabwe
- GCC: Gulf Cooperation Council: Saudi Arabia, Kuwait, Bahrain, Qatar, the United Arab Emirates, Oman

Source: Raul Sen, New Regionalism in Asia, and author.

A multilateral approach under “most favoured nation (MFN)” conditions, that is, where trade liberalisation offered between partners is offered to all, remains the best policy. The overriding concern of trade economists is that the RTAs will destroy the MFN principle. In its place will be discriminatory trade arrangements, revolving around US, EU and China

hubs. Larger countries will not suffer greatly, but smaller countries in the developing world especially, without economic and political bargaining power, will be denied preferential access to major markets.

RTAs can result in a stronger partner extracting greater advantages than the smaller country in negotiation and that these gains for the stronger country impinge on the smaller country's sovereignty. This concern is magnified now because bilateral and regional trade deals usually feature agreements over subjects far beyond the traditional negotiations over tariffs on manufactured and agricultural goods. Services, investment, and intellectual property are commonly part of trade agreements. Other issues that have become part of trade discussions include domestic competition policy, government procurement, and standards, such as health and quarantine, labour conditions and environmental protection. As a result, trade negotiations and agreements impinge far more than ever before on domestic government policy and programmes. Liberalisation of tariffs and quotas at the border is relatively simple compared with trade related institutional reforms behind the border. Important social and cultural goals of government programmes may be affected by trade agreements. This concern featured in much of the debate in Australia over the Australia-US Free Trade Agreement, which came into effect on January 1, 2005.

Box 1
A Dangerous Mix of Politics and Trade

“The free-trade deals that the US has been making with political allies such as Australia and China's deals with sundry Asian neighbours, confuse trade and geopolitical issues. Such confusions will come to haunt the global trading system, which the United States led for so long and which had such a beneficial impact on the world.

“Such deals, done in the name of extending free trade, are creating a confusing system of preferences and regulations. They threaten the complex, decentralized, logistics-driven manufacturing systems and international division of labour, which have been at the heart of global trade growth, in Asia, in particular. These systems have brought huge manufacturing productivity gains and have helped export industries spread to poor countries such as Bangladesh. They cannot work without common rules as well as low tariffs. Nowhere is this fact better recognized than in Hong Kong, a global trade hub, where crucial WTO ministerial talks will be held in December.

The excuse that is often given for bilateral trade deals is the slow progress of the current round of trade talks, known as the Doha Round. But whatever happens to the Doha Round, most bilateral deals are neutral at best and more often reduce or divert than create trade.”

Philip Bowring, *International Herald Tribune*, May 23, 2005

Another criticism is that RTAs may be driven, at least in part, by non economic foreign policy relations and objectives with the result being a less than satisfactory agreement from an economic standpoint. A country with a large and strong economy may therefore seek trade agreements with other countries, offering economic “carrots” in exchange for political and security gains. This, in turn, may disadvantage other

countries not so politically favoured. Similarly, those countries not in line with the major countries foreign policies or offending in some way may be denied trade access.

5. Australia and International Trade

... Australia's average applied tariff is 3.5 per cent ...

Australia now has very low, if not zero, tariffs on almost all manufactured and agricultural goods, with the exception of motor vehicles and textiles, clothing and footwear as a result of policy change that began in the 1980s. This combined with investment and finance sector policies makes Australia one of the world's most open economies. Australia's average applied tariff is 3.5 per cent with more than 85 per cent of Australian rates varying between zero and five per cent. Where rates exceed this, mainly textiles clothing and footwear and motor vehicles and components, policies are in place to reduce these further.

Table 2
Australia's Applied Tariffs 2005
(where RTAs not applying)

	Simple Average Tariff (Per cent)	Ratio of Free Tariff Items to All Items (Per cent)
Agriculture	1.4	72.4
Fish and fish products	0.0	99.1
Wood, pulp, paper and furniture	3.8	25.4
Textiles and clothing	9.1	15.1
Leather, rubber, footwear & travel goods	5.6	17.8
Chemical & photographic supplies	1.9	63.8
Transport equipment	4.4	30.5
Non-electric machinery	3.1	43.8
Electric machinery	2.9	49.1
Manufactured articles n.e.s.	1.9	65.7
Mineral products, precious stones & metals	1.6	68.7
Petroleum	0.0	100.0
Metals	3.4	34.5
Total	3.5	47.6

Source: Department of Foreign Affairs and Trade.

The dismantling of protection is one of the historic changes to Australia in the last two decades. For 80 years Australia protected manufacturing and some agricultural industries less internationally competitive than the export oriented wool, meat and grains industries. Even though Australia was a founder signatory of the General Agreement on Tariffs and Trade (GATT), established in 1947 to reduce barriers to trade worldwide on a multilateral basis, the first real steps towards an open trade regime between Australia and the rest of the world were only taken in 1973. Sustained lowering of protection began in the early 1980s on a unilateral basis, that is, Australia did so not in the context of any reciprocal opening of markets elsewhere, and this has been sustained since then.

Table 3
Australia's Declining Industry Protection, 1968-2001
Average Effective Rates of Assistance (per cent)¹

Year	Manufacturing	Agriculture
1968-69	36	n.a.
1969-70	36	n.a.
1970-71	36	28
1971-72	35	21
1972-73	35	14
1973-74	27	13
1974-75	28	8
1975-76	28	9
1976-77	27	9
1977-78	26	13
1978-79	24	10
1979-80	23	7
1980-81	23	8
1981-82	25	9
1982-83	25	17
1983-84	22	11
1984-85	22	10
1985-86	20	12
1986-87	19	19
1987-88	19	11
1988-89	17	8
1989-90	16	7
1990-91	15	13
1991-92	13	11
1992-93	12	10
1993-94	10	11
1994-95	9	11
1995-96	8	n.a.
1996-97	6	n.a.
1997-98	6	n.a.
1998-99	6	n.a.
1999-2000	5	n.a.
2000-01	5	n.a.

Note: ¹ Effective protection rates are a measure of total protection taking into account not only the nominal or applied tariff protection of the final product but also the impact of tariff protection on inputs used in production. Low tariffs on intermediate goods combined with high tariffs on final goods can mean high effective protection of an industry. Nominal protection rates may understate actual protection.

Source: Richard Snape et al, *Australian Trade Policy 1965-1997*.

*... on-going, institutional
change, decline in
protectionism ...*

The earlier protectionist regime dates from the late nineteenth century when some of the self-governing colonies instituted their own tariffs. After Federation in 1901, protection became one important pillar in a distinctive approach to national and economic development taken by Australia. Others were centralised industrial arbitration and wage determination, immigration programmes, and the "White Australia" policy. But like trade policy, all these have profoundly changed or disappeared in contemporary Australia.

The country could afford protection because of buoyant prices for the main agricultural exports, and later mining. Manufacturing protection was argued on largely an infant industry basis. Manufacturing development was a key policy goal intertwined with others, including full employment, population expansion through (white) immigration and urban development. Australia could not only rely on agriculture and mining to underpin national development. Manufacturers accepted centralised wage fixing because their profits were protected from foreign import competition. Households would accept higher consumer prices because of union wage protection.

Illustrating this earlier outlook, the Commonwealth Minister for Trade and Industry, and Leader of the National Party, John McEwen, told Parliament in 1965, “there are significant differences between the economy of Australia and the economies of the mature industrial countries... Australian industrialisation has not yet reached the stage where our industries can compete on a free-trade basis with the long established, high volume industrial powers. If it had, we would not have the protective duties.”¹²

*... the courage to argue the
need for reform ...*

Twenty-five years later, the view was totally reversed. In March 1991, the Labour Party Prime Minister, Bob Hawke, declared: “Tariffs have been one of the abiding features of the Australian economy since Federation ... and the supposed virtues of this protection became deeply embedded in the psyche of the nation. But what in fact was the result? Inefficient industries that could not compete overseas; and higher prices for consumers and higher costs for our efficient primary producers. Worse still, tariffs are a regressive burden – that is, the poorest Australians are hurt more than the richest ...”¹³

The major steps in the 1980s to dismantle trade protection were, in turn, part of much wider changes in Australia. Governments accepted the case that the costs of protection were too high. The best approach for the country was to become more open to international forces. A unilateral lowering of protection was accompanied by removal of barriers to capital flows and a floating of the exchange rate. Australia became more integrated with the international economy. This new economic policy was one aspect of profound change to Australian society since the 1960s. The White Australia policy had been dismantled and Australia’s population had become much more diversified. This helped promote a more outward and less traditional outlook. Also driving policy change was the emergence of East Asia as an increasingly important market for Australian exports.

Decisions to cut tariffs and quotas were made on a unilateral basis, that is, they were not tied to GATT undertakings. But the shift in policy also resulted in Australia becoming a much more enthusiastic participant in GATT than it had been before. Australia played a prominent role in the Uruguay Round, especially in the context of its initiative in forming a group of agricultural producing countries, the Cairns Group, to lobby

against agricultural protectionism. Australia also sought to foster complementary open multilateral trade regime in the Asia-Pacific region through the formation of the Asia-Pacific Economic Co-operation (APEC) forum, which it encouraged, in 1989. The aim of APEC has been to ensure that bilateral and regional trade deals in the Asia-Pacific were not discriminatory. How effective APEC can now be as RTAs proliferate remains to be seen.

The impact on South Australia of the national government's shift from protection to a much more open trade policy has been marked. After World War II, the State was very successful in attracting manufacturing industries, especially motor vehicles and white goods. Given that national protection made manufacturing attractive or attractive than otherwise, the State government was then successful in luring investment to South Australia by providing various additional incentives in competition with other States. This in turn helped provide jobs in South Australia to migrants in the 1950s and 60s.

... on-going globalisation of industries and markets ...

But with the sustained lowering of protection from the 1980s, older manufacturing in South Australia was seriously challenged. Many firms, no longer as shielded from international competition, were forced to close or contract. This has taken place at a time when competition with producers elsewhere in the world has grown as a result of advances in communications and transport technologies. No longer are firms in Australia as naturally protected by distance and the transport costs from overseas producers. This "globalisation" of more industries and markets does though provide opportunities for local producers to find new markets and/or new lower cost suppliers to make their own products more competitive. As a result, some manufacturing firms in the State have been able to adjust to a more competitive environment without protection selling into domestic and expanding into foreign markets. A good example is the motor vehicle and parts industry in South Australia.¹⁴

6. Australia's Regional Trade Agreements

As noted earlier, Australia has signed bilateral free trade agreements with Singapore (2003), Thailand (2005), and the United States (2005) and is currently negotiating free trade agreements (FTAs) with China, Malaysia, the Association of Southeast Asian Nations (ASEAN), and the United Arab Emirates. The feasibility of an FTA with Japan is also being investigated.

Canberra argues that its efforts to fashion RTAs are not contrary to a commitment to the WTO and multilateral negotiation to lower and remove trade barriers. Advances through bilateral and regional trade agreements can contribute to multilateral liberalisation, the government argues.

The FTA push has prompted debate as to whether it will distort Australia's trading relationships and disadvantage Australia economically. Also there are fears that Australia may compromise social and cultural policies and programmes in order to meet the terms of FTAs. These later criticisms have been most evident in the case of the Australia-US free trade agreement.¹⁵

The Australian government's position is that Australia is open to concluding regional or bilateral agreements that deliver substantial gains to Australia and which cannot be achieved in a similar timeframe elsewhere. The Department of Foreign Affairs and Trade says RTAs "that are comprehensive in scope and coverage can complement and provide momentum to our wider multilateral trade objectives. It is expected that any progress in regional trade liberalisation will be multilateralised in due course through WTO negotiations."¹⁶

... RTAs may still lead to discrimination and disadvantage ...

Many argue that Australia now has little choice but to pursue bilateral and regional RTAs when increasing numbers of other countries that are major markets for Australian exports or are major export competitors are forming preferential agreements. If Australia does not secure its own RTAs it will find itself being discriminated against in key markets. Australian exports may face high tariffs in these markets while competitors secure preferential treatment via bilateral and regional RTA. For example, an agreement between a wheat importing country and a wheat exporting country might lower or reduce protection on imported wheat from the exporting country under a bilateral RTA, but would maintain the earlier higher tariffs for wheat from other countries, such as Australia, which are not party to the agreement. This would be consistent with WTO rules as the tariff on non-party countries is not being increased. But as it stands it would clearly disadvantage Australia and other wheat exporters outside of the agreement. Therefore, while continuing to pursue multilateral trade liberalisation, Australia, many argue, must be sure to protect its interests through RTAs. As one commentator says "... the prospect of Australia becoming disadvantaged worldwide is not just distant speculation but is apparent in a number of markets ... Australia is currently facing actual discrimination in many key markets."¹⁷

One prominent critic of the RTA development is economist, Professor Ross Garnaut.

... critics favour renewed effort to achieve multilateral outcomes ...

Garnaut, of the Australian National University, was instrumental in the shaping of Australian trade policy in the 1980s and early 1990s. While Garnaut argues that it is too late to hold back the RTA tide, he says the question now is how can it be directed in such a way that progress in multilateral trade liberalisation, which is favourable for Australian economic growth, is not set back or reversed.

... evidence of
discrimination from
Australia-USA RTA ...

“... it will be important to make sure that the content and structure of any RTAs such that ultimately it contributes towards regional (and ultimately global) trade liberalisation and integration, rather than becoming an obstacle to the same...One problem derives from Australia, through the FTA with the US, placing itself in an unusual position in world trade – a position that history demonstrates to be unsustainable. It introduced systematic discrimination in Australian import policy in favour of one country that is a major trading partner and against others of comparable importance. An associated problem is that several of Australia’s major trading partners have recently begun to discriminate against Australia in their import policies, most important so far in the ASEAN-China FTA. Recognition of the potential for problems in these developments has helped to give impetus to Australian efforts to secure new FTAs in Asia.”¹⁸

The following outlines Australia’s present RTAs and those under negotiation or proposed, provides data on the relative sizes of merchandise trade between Australia and the countries or regions where agreements are in place or under discussion. More detail of the Australia US Free Trade Agreement and the proposed Australia China trade agreement are in the next sections.

Agreements in effect:

- **Australia New Zealand Closer Economic Relations Agreement (CER), 1983** – This is a revision of earlier arrangements. The WTO describes the CER as one of the world’s most comprehensive, effective and multilaterally compatible free-trade agreement. By 1990, five years ahead of schedule, all tariffs and quantitative restrictions had been removed from trans-Tasman goods trade.
- **Singapore-Australia Free Trade Agreement, 2003** – The agreement entered into force in July 2003. Singapore already had few if any tariff barriers. The agreement guarantees increased market access for Australian exporters of services, particularly education, environmental, telecommunications, and professional services. It provides a more open and predictable business environment across a range of areas, including competition policy, government procurement, intellectual property, electronic commerce, customs procedures and business travel. Singapore is in the forefront of the new RTA wave, having signed or concluded agreements with countries from the US to South America and the Middle East as well as in Asia.
- **Thailand-Australia Free Trade Agreement, 2005:** The agreement entered into force in January 2005. The agreement is reasonably comprehensive on trade in goods, but has much less implication for other areas such as investment and services trade. It is Thailand’s first FTA with a developed country. Thailand has eliminated tariffs on 78 per cent of imports from Australia with tariffs on a further 17 per cent to be removed by 2010. Nearly all-

remaining tariffs will come down to zero by 2015 or 2020. Some agricultural projects such as beef, pork, butter cheese, milk powder, sugar and potatoes, have until 2020 before tariffs disappear. Skimmed milk powder and liquid milk and cream have a transition period under 2025, with expanding tariff rate quotas (with lower in quota tariffs) in the interim. Australia has already eliminated tariffs covering 83 per cent of its imports from Thailand with the rest to be phased out by 2010 and 2015. In investment, Thailand has relaxed the 49.9 per cent foreign ownership limited in some sectors, offering full ownership to Australian investors in distribution, construction and management consultancy services and majority ownership (up to 60 per cent) in major hotels and restaurants, tertiary education, maritime-cargo services and mining. Australia has not liberalised its services market to Thai suppliers beyond its WTO Doha offer. But the Australian services market is already quite liberal, much more so than Thailand's.

- **Australia-United States Free Trade Agreement, 2005:** The agreement entered into force on January 1, 2005 (see Section 7).

Under negotiation and proposed

- **Australia-Malaysia** – In April 2005, the two governments agreed to launch negotiations for an FTA. First round of negotiations has taken place.
- **Australia-ASEAN** – In November 2004, Australia, New Zealand and ASEAN announced that negotiations would commence on a free trade agreement (FTA) between them. Negotiations began in February 2005. The agreement would be comprehensive, covering trade in goods and services, and investment, and that it should build on individual members' commitments in the WTO. The aim is complete negotiations within two years and to implement the agreement fully within 10 years.
- **Australia-China** – The two governments decided to proceed with negotiations for a comprehensive FTA in March 2005 after completion of a joint FTA feasibility study. The first round of negotiations was launched in Sydney in May 2005. A second round held in Beijing in August 2005.
- **Australia-United Arab Emirates** – In March 2005, the two governments announced that they would commence negotiations for a free trade agreement. The agreement is to cover goods, services and investment consistent with WTO rules and principles. The UAE is Australia's second largest market in the Middle East. Australian exports to the UAE, have historically been mainly commodities such as wheat and meat. They now include cars, wheat, professional services, construction services and processed food. Between 2003 and 2004, merchandise exports grew by an impressive 15 per cent, from \$1.1 billion to \$1.3 billion. Services exports grew by 55 per cent to \$472 million, over the same period. Canberra considers there could be gains for both countries

especially through liberalisation of investment and expansion of tourism and education exchanges.

- **Australia-Japan** – In April 2005, the two governments announced an FTA feasibility study would be undertaken. Japan has been Australia's largest trading partner and main export market for almost forty years. Japan remains one of the most important importers of Australian agricultural, mineral and energy commodities. Japan is also the second largest source of tourists for Australia with over 700,000 Japanese visiting Australia in 2004.

7. Australia-United States Free Trade Agreement

The Australia-United States Free Trade Agreement (AUSFTA), which came into effect in January 2005, has generated more debate than any other Australian RTA or WTO agreement. Magnifying the debate was the timing of the agreement's presentation to the public and the passage of enabling legislation ahead of the October 2004 Federal election. Discussion of the merits and shortcomings of the agreement became intertwined in wider political debate, including the nature of Australia's political and security relationship with the US and Australia's support for the US-led invasion of Iraq in 2003.

... debating the benefits and implications ... the need for more RTAs ...

Positions have been extreme. On one hand there are those who have heralded it as giving Australian business unprecedented access to 300 million people and markets in the world's largest economy. The US, with an annual GDP of nearly US\$12 trillion, dwarfs Australia's US\$620 billion. Yet others criticise the agreement as conceding far more to American interests than the gains achieved for Australian consumers and exporters. Furthermore, they say, Canberra accepted excessively restrictive intellectual property terms and made concessions that undermine important environmental, social and industry development programmes. Economic modelling has been contentious with different models producing widely different outcomes, ranging from significant benefit to only marginal benefit. A major policy criticism, as outlined by Garnaut above, is that the agreement disadvantages Australia because it threatens to divert trade away from lower cost producers and other export markets especially in Asia. To redress this, Australia is forced to seek RTAs with other major Asian trading partners.¹⁹

The agreement entered into force on January 1, 2005. Negotiations on the AUSFTA were completed in February 2004 after 11 months of negotiations. The agreement was signed by the two governments in Washington on 18 May 2004. Enabling legislation for the AUSFTA was passed by the Australian Parliament on 13 August 2004 and the treaty received Royal Assent on 16 August 2004 enabling it to be ratified.

Table 4
Australian Goods and Services Trade
(12 months to August 2005)

Goods by Region/ Country	Exports 2004-05 Value	Total (Per cent)	Percentage Change August 2004-05	Imports 2004-05 Value	Total (Per cent)	Percentage Change August 2004-05
Africa	2,834	2.2	46.5	1,699	1.1	70.5
Americas	13,240	10.4	-5.9	25,369	17.0	2.6
Canada	1,895	1.5	-41.6	1,904	1.3	-14.4
US	9,460	7.5	-9.5	21,271	14.2	2.7
Latin America	1,796	1.4	61.9	1,902	1.3	43.5
East Asia	70,251	55.4	22.0	71,999	48.2	16.4
China	12,996	10.2	49.3	19,812	13.3	20.7
Hong Kong SAR	2,708	2.1	-18.2	1,210	0.8	6.9
Japan	24,931	19.7	20.7	17,158	11.5	6.5
S. Korea	9,717	7.7	3.3	5,004	3.3	2.9
Taiwan	4,884	3.9	38.9	3,612	2.4	7.5
ASEAN	14,965	11.8	19.4	25,183	16.8	24.4
Indonesia	3,406	2.7	0.9	3,318	2.2	19.0
Malaysia	2,582	2.0	-8.1	5,920	4.0	4.1
Philippines	869	0.7	-23.8	699	0.5	4.7
Singapore	3,361	2.7	14.2	7,268	4.9	42.5
Thailand	3,900	3.1	120.8	4,202	2.8	35.3
Europe	14,025	11.1	-4.2	36,201	24.2	16.2
EU 25	13,807	10.9	-2.2	35,085	23.5	15.9
France	1,002	0.8	0.0	4,436	3.0	16.7
Germany	1,315	1.0	12.8	8,646	5.8	10.9
Italy	1,544	1.2	-13.5	4,495	3.0	2.8
Netherlands	1,791	1.4	33.1	1,261	0.8	-2.5
UK	4,822	3.8	-26.4	5,934	4.0	43.6
Middle East	5,360	4.2	15.7	3,485	2.3	-43.1
Saudi Arabia	1,808	1.4	0.0	1,409	0.9	-30.9
Oceania	11,349	2.2	-7.0	7,448	5.0	34.4
New Zealand	9,152	7.2	-11.5	5,339	3.6	12.9
South Asia	7,116	5.6	43.4	1,503	1.0	2.2
India	6,053	4.8	67.6	1,220	0.8	2.6
Total	126,773		14.2	149,504		13.1
Composition Goods and Services						
Primary products	77,704	47.6	16.7	24,008	12.8	24.7
Unprocessed food	8,349	5.1	-17.8	1,440	0.8	21.2
Processed food	14,978	9.2	-6.1	5,517	2.9	10.6
Other rural	5,220	3.2	-6.2	1,476	0.7	-18.3
Minerals	19,810	12.1	36.3	471	0.3	47.6
Fuels	29,357	18.0	32.9	15,104	8.0	35.6
Manufactured goods	35,201	21.6	10.1	122,791	65.4	9.9
Simply transformed	10,410	6.4	2.5	12,566	6.7	16.4
Elaborately transformed	24,791	15.2	13.4	110,225	58.7	9.2
Other (incl gold)	13,868	8.5	10.6	2,705	1.4	71.6
Services	36,524	22.4	5.1	38,236	20.4	5.5
Total	163,297		12.2	187,740		11.6

Note: ¹ Compares figures for month of August 2004 against the month of August 2005.

Source: Department of Foreign Affairs and Trade and Australian Bureau of Statistics.

The AUSFTA is considered by Canberra to be a “WTO-plus” agreement. That is, while consistent with existing WTO rules and agreements by the two countries, it goes well beyond existing WTO undertakings by the two countries in several areas. As well as dealing with tariff and non-tariff barriers to goods trade, commitments are made over trade in services, investment, government procurement, intellectual property, electronic commerce and competition policy. One commentator says it might better be described as an economic integration agreement.²⁰ Application of the agreement is likely to evolve over time as various aspects are reserved for further discussion and negotiation. As a result AUSFTA has been described as a “living” agreement. There are concerns however that joint official committees set up under the agreement as mechanisms for

information exchange, discussion and trade facilitation may result in Australian policy and government programmes being compromised in the face of US pressure.

*... too early to tell but goods
exports fall, goods imports
rise ...*

It is too early to make any definitive judgement about the impact of the agreement. But trade data so far is yet to reveal any growth in Australian goods exports to the US. Australian goods exports to the US in fact fell by 6.1 per cent in the twelve months from July 2004 to July 2005, while overall exports grew by 21.1 per cent, due largely to the mineral export boom, driven in turn by Chinese demand. Goods imports from the US to Australia rose by 7.9 per cent, higher than the overall increase of goods imports of 3.2 per cent.

The following surveys the main features of the AUSFTA, and notes key issues and concerns. The complete agreement and other related information can be found on the DFAT website and more lengthy analysis of the agreement's merits and shortcomings in reports by several parliamentary committees.²¹

Manufacturing: The agreement removes 97 per cent of US tariff lines, already mostly low. This excludes textiles and clothing. The remaining tariffs are to be phased out by 2015. However, rules of origin governing content may negate apparent advantage to Australian exporters. For US exports to Australia, the agreement removes tariffs (already low) on almost all US exports of manufactured goods into Australia.

Manufactured goods account for 93 per cent of all US goods exports. A joint trade in goods committee is established to consider future tariff and non-tariff issues, rules of origin and customs administration.

For motor vehicles, US duties on all automotive vehicles and parts are removed including a 25 per cent US tariff on light commercial vehicles. Australian duties on passenger motor vehicles will be phased out by 2010. Australian tariffs on other automotive goods including parts and commercial vehicles are removed.

For textiles and clothing, about 30 per cent of US tariffs on textiles and clothing are removed with the remainder phased out by 2015 years. Textiles must be made using Australian or US yarn to gain preference.

Rules of origin: Only those goods substantially made or transformed in Australia and the US benefit from the agreement. Rules of origin (ROO) are determined by a product specific methodology as opposed to a more general approach as in the Australia-New Zealand Closer Economics Relations agreement where a good is considered as domestically made providing at least the last process of manufacture should have occurred in the trade agreement countries and at least 50 per cent of value added takes place in the countries.

Pharmaceuticals: One of the most contentious aspects of the agreement is its possible impact on Australia's Pharmaceutical Benefits Scheme (PBS), a 50 year old system which provides Australians with lower prices for key prescription drugs than otherwise. The Commonwealth government's Pharmaceutical Benefits Advisory Committee (PBAC), an independent committee of experts, recommends which drugs should be listed under the scheme on the basis of its cost and medical value weighted against other therapies. The government then negotiates directly with pharmaceutical companies to achieve lower prices than otherwise. Overall, the scheme is a cost to the Commonwealth treasury and therefore taxpayers, but the result is that consumers pay lower prices for medicines and the total cost of medicines is lower because of the Commonwealth's role which in effect is as if it were a wholesale purchaser. The Commonwealth subsidises 80 per cent of all prescription drugs in Australia. Non-listed drugs may still be prescribed and sold at whatever price the suppliers determine. State governments also benefit from the scheme as they are major purchasers of drugs for public hospitals.

... further work to be undertaken on market access and PBS ...

The US argued though that the PBS might unfairly restrict market access for US pharmaceutical companies, which include most of the largest pharmaceutical companies in the world. As a result, Australia and the US are setting up a joint Medicines Working Group of government officials for ongoing discussion of this and other issues. Australia also undertook to establish what is described as an independent process to consider companies' request to review decisions by the PBAC not to list new drugs. The government has responded to fears that this will erode the PBS and lead to higher prices by affirming that the price of medicines will not be affected and that decisions as to which drugs are listed will remain the prerogative of the PBAC and the Minister for Health.

Pharmaceuticals are also affected by intellectual property aspects of the agreement with Australia strengthening measures to prevent the marketing of pharmaceutical products that infringe patents. This has also caused debate with argument that this may unfairly restrict the supply of low priced generic drugs, that is, low cost versions of drugs formerly produced by a monopoly supply under patent protection, but which may then be freely copied, manufactured and supplied once patents expire.

... an example of restrictions in an RTA not present under MFN clause ...

Agriculture: Barriers to Australia's agricultural exports were lowered beyond what has been achieved under WTO agreements. However, market opening for Australian produce is uneven. Most Australian agricultural tariffs were already zero or very low and the agreement removes all Australian tariffs on US agricultural imports. Absent from the agreement is a Most Favoured Nation clause, meaning that should the US grant better access for agricultural exporters in agreements with other countries, these conditions will not be provided to Australian exporters.

For Australian exporters, sugar restrictions remain with Australia's current quota access as agreed under the GATT/WTO Uruguay Round. Other major agricultural exports benefit to varying degrees through phased in tariff and quota reductions.

For beef, the tariff rate within the quota is removed and the quota in turn increased, beginning within three years, and then expanding over an 18-year period from the start of the agreement. From years 9-18 the above quota tariff will be gradually removed. After the transition period, a price-based safeguard is available to US producers should they face sharply dropping import prices of high-quality beef as a result of Australian imports. Tariffs on most lamb and sheep meat are removed.

For dairy, a number of products are subject to quotas, some of which already entered the US under a quota regime as under WTO agreement. Under the AUSFTA there is an increase in the quota volumes over 18 years for a variety of dairy products with the in quota tariff removed immediately. Tariffs on all non-quota dairy products will be gradually removed over the 18 years.

For fresh horticultural exports, most tariffs are removed immediately. This includes oranges. Tariffs on remaining fresh horticultural products are removed over a transition period of four, 10 or 18 years. For some products, US producers during the transition period will be able to call a safeguard mechanism in the event of low priced Australian imports. Wine tariffs are reduced over 11 years.

For seafood, tariffs on all fish and fish products are removed, including a 35 per cent tariff on canned tuna.

Sanitary and phytosanitary (quarantine) barriers: The agreement incorporates WTO rules, including dispute settlement procedures, governing the quarantine systems of Australia and the US, which aim to protect human, animal, and plant life and health. In addition, two joint Australia US government committees are to be set up to facilitate resolution of trade quarantine issues. In Australia, whether a product may be imported is determined after a scientific and import risk analysis of the product undertaken by the government's Biosecurity Australia. Some in Australia are concerned that the committees may lead to a weakening of Australia's quarantine standards. The government says that they will not do so as they are consultative, information sharing mechanisms, not decision-making committees.

Services: Under the agreement all services industries are open to providers from the two countries unless specifically reserved, with both countries according the other country's citizens national or MFN treatment. This contrasts with the current approach under WTO rules where countries list those services open to trade, that is, a "positive" list, as opposed to the "negative" list approach of the AUSFTA. Barriers

still remain, however, where different jurisdictions and industries do not recognise the standards and qualifications of foreign service providers. A professional services working group is set up to report within two years how there can be greater harmony in the mutual recognition of standards and other criteria.

Film and television: The question of Australian local content was at issue with the US seeking greater market access for US films and television programmes. Under the agreement, Australia maintains the existing 55 per cent local transmission content on free-to-air television and 80 per cent local content in television advertising. For subscription television Australia maintains a 10 per cent expenditure requirement on Australian drama. Having set down regulatory levels, under the agreement Australia is unable to increase them further. The US does not have tariff or local content barriers to film and television.

Investment: Significant foreign direct investment in Australia, both new investment and acquisitions is examined by the Foreign Investment Review Board (FIRB) to determine whether it is in the national interest. The FIRB prior to the agreement, must review all proposals by foreign investors for substantial interests in Australian companies valued at more than A\$50 million and all proposals by foreign interests to establish new businesses in Australia valued at A\$10 million or more. The FIRB may recommend to the Treasurer to block the proposal, a power rarely used. Under the agreement, all US investment in new businesses is exempted from screening, while thresholds for acquisitions by US investors are raised from A\$50 million to \$800 million. More broadly, the agreement provides investors from both countries with national treatment, (that is the same treatment afforded domestic investors) or most-favoured nation treatment, if this is more advantageous.

... investment thresholds increased substantially ...

Both Australian and US governments are also not allowed under the agreement to require companies investing and operating in each others' country to meet performance requirements, such as import or export content, local content, preference for local inputs, and transfer of intellectual property, or require senior managers or board members to be of Australian or American nationality. There are some exceptions to the agreement coverage, such as the preservation in Australia of existing non conforming measures by state and territory governments and limits on US investment and other foreign investment in media, Telstra, Qantas, airports and urban land.

Government procurement: Australia gains non-discriminatory access to the procurement of most US federal agencies as well as certain government enterprises. While Australia's government procurement process is already relatively open, the US is removing legislation that has restricted Australian companies supplying goods and services to the US government. US suppliers are granted rights to bid on contracts to supply Australian government departments and enterprises. Tenders must be

open as opposed to selective or invited tenders. There is concern in Australia though that it handicaps government industry development programmes as governments cannot require suppliers to provide offsets, for example, local content or local manufacturing requirements, as a condition of their contracts. Excepted though are schemes favouring procurement from small and medium sized firms. The defence industry is also excluded from the agreement. States in either country are not included in the agreements immediate coverage although the national governments seek to extend the agreement to the state level. A review of procurement provisions is to take place every two years.

Intellectual property: The agreement strengthens Australia's intellectual property law covering copyright, trademarks, Internet domain names, industrial designs and patents, making it more consistent with US law. Among other things, copyright protection in Australia is extended from the life of the author plus 50 years to plus 70 years. This period is beyond what is required by Australia as a signatory to existing international copyright agreements including those under WTO rules. This is not just on a preferential basis to domestic and US copyright owners but protects copyright owners anywhere in the world whose books, music and other intellectual property is marketed in Australia. A focus of the intellectual property aspects of the agreement are digital works, that is, digitalised forms of music, video, text and software and their unauthorised copying and sale, and also issues to do with the internet and electronic commerce via the Internet. The scope of criminal penalties in Australia for copyright infringements is extended.

Dispute Settlement: The agreement's obligations are subject to specified dispute settlement provisions. This includes open public hearings, and public release of legal submissions by parties and opportunities for third parties to submit views. While the agreement seeks to promote compliance through consultation, joint action plans and trade enhancing remedies, trade sanctions and monetary penalties may be applied to enforce obligations under the agreement.

8. An Australia-China Trade Agreement?

Most attention is now focused on a possible trade agreement with China. Proposed is a comprehensive economic agreement covering trade in goods, services and investment. The Australian and Chinese governments embarked on negotiations in May 2005 in Sydney. A second round was held in Beijing in August with a third set for October/November in Beijing. No timetable for conclusion of negotiations has been set.

The agenda includes lowering or removal of tariff and non-tariff barriers to agriculture and manufacturing goods trade, impediments to services trade, and restrictions on investment. This leads to issues well beyond traditional tariff matters to examination of trade facilitation, sanitary and

phytosanitary measures (that is, health and quarantine issues), administrative transparency, technical regulations and standards, intellectual property rights, repatriation of profits, electronic commerce, temporary entry of business people, government procurement and domestic competition policy.

*... China ... annual GDP of
\$US1.6 trillion ...*

A comprehensive agreement with China would seem enticing at first glance. China's dramatic economic growth, averaging around 7-9 per cent a year, is being driven by increasing trade and investment liberalisation. China's economy is large with an annual GDP of US\$1.6 trillion, although average per capita incomes for its 1.3 billion people are a meagre US\$1,200 a year as against Australia's US\$30,000 and US\$40,000 in the US.

China's economy is ever more rapidly becoming integrated with the rest of the world. China's ratio of trade in goods to GDP at market prices is around 70 per cent – far more than the US and Japan and on a par with much smaller countries open to trade such as South Korea or Malaysia. China has overtaken Japan as the world's third largest trading nation. Trade openness is complemented by openness to inward investment. Foreign direct investment, mostly in manufacturing, is equal to about 40 per cent of China's GDP. This compares with 1.5 per cent for Japan and 13 per cent for the US. Foreign subsidiaries in China generated more than 50 per cent of exports and 60 per cent of imports.²²

*... the rise of China as a
trading partner ...*

Australia too is being buoyed by China's economic dynamism and greater openness. China is becoming Australia's most important trading partner in terms of both goods and services. Australian goods exports are predominantly commodities and imports from China mostly simple manufactured goods. Investment also promises to grow strongly from the present modest level. Chinese investment in Australia is already notable in energy, mineral resources and commodity processing. Services trade is largely in Australia's favour especially through education of Chinese students in Australia. Two way tourism, and various professional and trade services are also growing.

The extent of the economic relationships between China and Australia points to the considerable openness to trade and investment that already exists between the two countries. China already has some of the lowest barriers to goods trade of any developing country in the world. Tariffs and non-tariff barriers (licenses, quotas, tendering requirements, state trading and designated trading) came down sharply in the 1990s. Trade liberalisation, along with investment liberalisation helped support China's 14-year effort to become a member of GATT, or as the WTO, as was finally the case in 2001 when China was admitted to the WTO. China's accession to the WTO has taken reforms further. China's WTO commitments are by far the strongest of any developing country in the WTO. Australia already faces minimal barriers to its goods exports apart from certain important agricultural products. The main obstacles to

doing business in China now have less to do with formal border barriers and more with formal and informal non-border barriers.²³

Table 5
Australia-China Trade

	2001	2004
Australia's major exports to China (\$US million)		
Iron ore	945	3,346
Alumina	523	1,103
Wool	639	900
Crude oil	154	467
Coal	8	364
Wheat	8	364
Gases (LPG)	74	273
Aluminium	96	261
Barley	211	239
Manganese ores	46	227
China's major exports to Australia (\$US million)		
ADP machines	303	1,273
Video and digital cameras	67	501
Women's or girl's suits	191	324
Office machines	100	298
Toys	177	297
TV and videos	47	280
Footwear	141	265
Travel goods	144	252
Furniture	69	245
T-shirts	119	219

Source: Australia-China Free Trade Agreement, Joint Feasibility Study, Australian Department of Foreign Affairs and Trade, and the Chinese Department of International Trade and Economic Affairs, Ministry of Commerce, March 2005.

Similarly, China's exports do not face any major tariff barriers to Australian markets as a result of Australia's earlier tariff reductions, apart from some segments of the textile clothing and footwear industries and motor vehicle industry. Chinese investment in Australia also has not faced any obstacles.

... so why bother with a bilateral agreement ...

The question then is why should the two countries bother with a bilateral trade agreement given this situation? The Australian and Chinese governments have declared that they believe that there is a case for a bilateral agreement consistent with WTO and APEC rules and goals, which can further strengthen economic relationships. The realities of international trade competition and wider political interests are also important factors.

With China negotiating more RTAs, Canberra fears Australia will be disadvantaged unless it matches or improves the market position of Australian exporters and investors against competitors in other countries. For example, in the first stage of China's RTA with ASEAN, an "early harvest" measure that came into effect in July 2005 results in ASEAN agricultural exports as well as many other products facing lower tariffs

than Australian exporters. Similarly, the fact that Australia has now concluded a major RTA with the US puts pressure on Australia to make a bilateral agreement with China, one of the country's most important trading partners. Otherwise, as a result of the AUSFTA, Australia will be discriminating against China, giving US goods, services and investment an advantage over Chinese. The imperative of not being left out of any emerging Asian common market is a major reason for the Australian government's determination to attend the first East Asia Summit of leaders of ASEAN, China, Japan, South Korea and also New Zealand and India to be held in the Malaysian capital, Kuala Lumpur, in December 2005.²⁴

The governments' feasibility study argues that significant net trade and economic benefits for both countries would be delivered by an "ambitious" RTA. Economic modelling commissioned for the feasibility study "suggests that an Australia-China FTA (covering goods, services and investment) would deliver significant trade and economic benefits to both countries in a timeframe that is substantially shorter than could be achieved through multilateral liberalisation. The gains in terms of output and employment would well outweigh the adjustment costs though loss of output and employment in industries facing greater competition as a result of the removal of protection and restrictions.

... industries most likely to benefit ... most likely to be disadvantaged ...

The study finds that industries in Australia that would gain in terms of higher output include agriculture, resources, processed foods, chemical, rubber and plastic products, ferrous metals, non ferrous metals machinery and equipment communications and financial services. Those that would be disadvantaged by removal of remaining protection from Chinese imports would be the wearing apparel and automotive industries. In China the main industries to benefit would be meat products, food products, textiles, wearing apparel, chemical rubber and plastic products, ferrous metals, motor vehicles and parts, machinery and equipment, miscellaneous manufactures and some service industries. In China, the study says mining and possibly the agriculture industries would be disadvantaged by increased market access for Australian producers and investors.

From an Australian perspective, greater access for agricultural exports is a major goal as Chinese barriers remain high in important cases. The Prime Minister, Mr Howard, said in October that any agreement would depend to a large extent on whether Chinese agricultural protection was reduced. "If it does not then it's hard to see where the progress over existing arrangements is to be found." While China's average tariff level for all goods is 9.9 per cent, it is on average 15.3 per cent for agricultural products. Wheat and rice face a quota with a tariff of 1 per cent and an out of quota tariff of 65 per cent, wool a 1 per cent in quota tariff and 38 per cent out of quota, dried fruits a 25 per cent tariff, frozen bovine carcasses, 25 per cent and wine 14 per cent tariff.²⁵

Services and liberalisation of Australian investment in China are also highlighted as sources of benefit for Australia in a joint feasibility study completed in March 2005.²⁶ Services especially may be the main target of any agreement:

*China already enjoys excellent access to the Australian market. Australia's tariffs on most goods made in China are less than five per cent, with about fifty per cent of all imports coming in free of duty now. And we don't seem to need an FTA in order to sell greater quantities of mineral products to China.... The real benefit for both countries lie in the service sector. If bilateral service trade can be freed up in an FTA, both China and Australia will benefit importantly. If services are not a major part of an agreement, then the deal may not be worth doing.*²⁷

.. benefits and political implications for China ...

For China, the attraction of an RTA with Australia may be mostly political. As China seeks a greater international role, especially in East Asia where many see it as aiming for leadership, in competition with Japan economically and the US politically, so an RTA with Australia gives Beijing added status. Australia, may also, in Beijing's eyes, be expected to be more supportive of China's foreign policy than otherwise, for example, over the status of Taiwan. Wider political concerns and the importance of 'face' was evident in Chinese insistence that Australia recognise China as having a "market economy status" before entering talks. Failure to gain this in the WTO and from other developed countries and groups, including the EU, on the basis that China's economy still was distorted by central planning measures has been a sore point for China. In practice it probably means little, although there can be grounds for more severe assessments as to whether Chinese exporters are unfairly "dumping" products at below real cost.

In terms of economic goals, China probably sees benefit in encouraging supply of Australian professional, business and educational services to China as a means of assisting its modernisation. A recent study by US consultants, McKinsey, argues that China faces a large shortfall of well trained technical and managerial professionals despite the increasing numbers of graduates from Chinese universities.²⁸

... investment and future energy needs ...

Another major attraction for Beijing of an agreement would be to facilitate Chinese investment into Australia. Interest in investing in Australia is almost certain to increase in line with the general expansion of Chinese investment overseas. Australia's mineral and energy resources sector especially is likely to attract investment from China complementing China's increasing reliance on imports of Australian commodities. The first Chinese investment in Australian resources was made in the 1980s in iron ore mining in Western Australia. This was the first major investment by China overseas. Since then investment has slowly risen with the most notable recent development being the minority stake by China's state controlled oil company, CNOOC, in the North West Shelf LNG project in Western Australia, an investment which was intertwined with CNOOC's LNG import contract.

As a complement to another possible LNG import contract, CNOOC may invest also in the Gorgon LNG project under development in Western Australia. Chinese investment in South Australia's Olympic Dam, potentially one of the world's largest sources of uranium oxide as well as producing copper ore, was also mooted in 2004 when the Swiss company, Xstrata, tried to take over Australia's WMC (formerly Western Mining). The Anglo-Australian BHP Billiton subsequently acquired WMC.

*... investment and foreign
policy intertwined with
demand for energy ...*

These deals and interests point to China's increasing reliance on imported energy and how this may affect China's commercial and political relationships. Australia with abundant natural gas and uranium – China aims to expand markedly nuclear power generation – is no doubt seen by Beijing as playing an important role in helping ensure energy security as Australian coal and LNG exports have long done so for Japan. Australia enables China to diversify energy imports away from over reliance on any one foreign supplier, especially from the Middle East where China takes most of its imported oil. Chinese investment on the supply side helps secure the relationship.

China's investments in Australia have all been minority stakes and have not resulted in any public debate. Should though a Chinese company seek to take over a major Australian owned company, then there may be more opposition on "national interest" grounds, in the same way that CNOOC's recent, and ultimately unsuccessful attempt to acquire US oil company, Unocal, was opposed by many in the US.²⁹ One interesting aspect then of the Australia China negotiations will be to see whether Beijing seeks the same conditions that the US achieved for its investment in Australia, in particular the same high threshold before an investment is subject to examination by the foreign investment review board.

DFAT is canvassing the views of Australian interests as the negotiations proceed. Public submissions are being sought. Apart from points already noted above, such as the issue of Chinese agriculture tariffs, the most significant concerns of Australian exporters and investors are to do with what they see as uncertainties and vagaries of Chinese regulation and approval processes, and weak commercial law and enforcement.

Complaints and fears range from different interpretations of regulations at central government and local levels and difficulties to obtain official information on technical standards, requirements, such as labelling and other requirements for wine import through to poor protection of intellectual property – trade marks, patents and designs - and restrictions on foreign invested firms operating in China, such as limits on employment of foreign nationals, geographical scope, extent of foreign ownerships and difficulties of repatriating profits.³⁰

9. South Australia and RTAs

The value of South Australia's international trade is the lowest of all the mainland states. But trade is playing a more important role in the South Australian economy with the highest average growth rate for goods exports in the five years to 2003-04. The growth of export services is also higher than the national average, although from a low base. South Australia's exports as a share of gross state product doubled between 1990 and 2002.

Table 6
Australian Goods and Service Trade by State and Territory, 2003-04
 (\$A million)

	Exports			Imports		
	Total	Share	5 Year Trend Growth	Total	Share	5 Year Trend Growth
Goods						
New South Wales	19,025	17.5	1.4	53,774	41.0	4.8
Victoria	17,997	16.5	1.2	40,739	31.1	6.1
Queensland	20,093	18.5	5.9	18,080	13.8	10.0
South Australia	7,604	7.0	8.2	5,163	3.9	7.5
Western Australia	32,220	29.6	7.9	11,690	8.9	5.7
Tasmania	2,312	2.1	2.8	669	0.5	12.5
Northern Territory	1,878	1.7	5.2	899	0.7	5.6
Australian Capital Territory	1	<0.1	-4.7	5	<0.1	15.9
Re-exports & confidential items	7,775	7.1	9.7	0		
Total	108,905		5.0	131,019		6.0
Services						
New South Wales	15,009	44.2	4.7	15,918	46.5	4.6
Victoria	7,702	22.7	4.8	8,239	24.1	1.3
Queensland	6,097	18.0	4.8	4,429	12.9	6.3
South Australia	981	2.9	5.7	1,096	3.2	2.4
Western Australia	2,738	8.1	5.4	3,114	9.1	4.4
Tasmania	186	0.5	7.5	162	0.5	1.7
Northern Territory	460	1.4	8.4	211	0.6	-3.4
Australian Capital Territory	786	2.3	8.5	1,083	3.2	6.8
Total	33,959		4.8	34,252		3.5

Source: Department of Foreign Affairs and Trade and Australian Bureau of Statistics.

... South Australia's export patterns ...

The State's relatively low export value is due in large part to the absence of the large mineral and energy export industries found elsewhere. Exports are predominantly from the agriculture and manufacturing sectors. Historically, South Australia's main export commodities were unprocessed agricultural products, metal and minerals. In recent years wine and motor vehicles have leaped ahead to take first and second place in our list of exports (see Table 7). They have been by far the biggest contributors to export growth. Together they represent one third of State exports.

The motor vehicle industry success is especially notable because it has taken place over the period in which protection has been sharply lowered by the national government. The industry has transformed itself into a more internationally competitive one. The industry is a good example of the globalised economy. South Australia's motor vehicle industry both exports vehicles and components and imports a large proportion of

components internationally as well as from interstate. This is reflected in the State's import growth, which is also higher than the national average.

Table 7
South Australia's Top 10 Export Goods:
1990-94 and 2000-04 (\$A million)

Average Annual Export Value			
	1990-94		2000-04
Wheat	368	Wine	1,320
Petroleum	309	Road vehicles	1,296
Wool	296	Wheat	762
Meat	276	Copper	474
Road vehicles	239	Meat	293
Wine	178	Petroleum	255
Copper	135	Fish	247
Lead	131	Wool	221
Crustaceans and molluscs	119	Vegetables and fruit	185
Vegetables and fruit	103	Gas	107
Iron and steel	103		

Source: Australian Bureau of Statistics.

Table 8
South Australian Merchandise Exports to Major Regions

	Annual Average Exports				Growth from 1990-94 to 2000-04	Contribution to Total Growth	
	\$m	%	\$m	%		\$m	%
United States	334	9.4	1,366	17.0	309	1,032	+29
European Union	545	15.3	1,293	16.1	139	752	+21
Middle East	389	11.0	1,401	17.4	360	1,012	+22
Japan	578	16.4	870	10.8	50	292	+8
Other East Asia ¹	589	16.7	1,043	13.0	77	454	+13
ASEAN	457	13.0	701	8.7	53	243	+5
New Zealand	377	10.7	846	10.5	124	469	+13
Rest of the World	377	10.7	846	10.5	124	469	+13
Total	3,532	100.0	8,052	100.0	128	4,521	+128

Note: ¹ China, Hong Kong, Taiwan and South Korea.

Source: Australian Bureau of Statistics.

The major exports markets for South Australia are the US and the EU. This differentiates the state from Australia as a whole where the largest trading partners are Japan, and then other North East-Asian markets, China, Hong Kong, Korea and Taiwan. There has been strong growth in the state's exports to the US, the EU and the Middle East. Export growth to East Asia and ASEAN has been considerably weaker.

... industries likely to benefit ...

What impact Australia's new RTAs have on South Australia is difficult to judge as yet, as it is for the country as a whole. South Australia is affected in much the same way as other states by agreements. In certain areas though, such as motor vehicles and a number of agricultural segments, South Australia has more particular interests. In the case of agriculture and the AUSFTA, the State's citrus industry, seafood producers and the wine industry should benefit, as well as beef, lamb and dairy producers.

*... a need to monitor trends
in the automotive sector ...*

As far as the motor vehicle industry is concerned, the US has been one of its major export markets for both vehicles and parts. The US is also a major source of components. Overall, the US has a large trade surplus with Australia in the automobile sector and much of this consists of components. But it is not clear whether the agreement will benefit or harm the industry in South Australia. Some analysts felt it would present opportunities while others feared contraction and job loss. One earlier study carried out for the DFAT, projects expansion of US imports of vehicles and parts into Australia, which is not offset by expansion of Australian motor vehicle production as a result of cheaper components and also increased sales to the US. Another study undertaken for the South Australian government by the Allen Consulting Group suggested there likely would be job loss and contraction. It is also possible the agreement could particularly affect component supply, as there is a switch from formerly cheaper inputs imported from elsewhere in the world to US supply. This may also be felt locally and elsewhere in Australia with vehicle manufacturers purchasing more components from the US, now not subject to import tariffs. From the perspective of the US motor vehicle industry, the AUSFTA was welcomed as giving advantage to US producers over their Japanese, Korean and other competitors.³¹

Other non traditional and “beyond the border” provisions of RTAs concern South Australia in much the same way as other states. The State should benefit if RTAs stimulate demand for Australian education and training and professional services.

South Australia may also find RTAs having consequences that may not have been clearly identified at the time the agreements are first implemented. RTAs may have implications for state law, government policies and programmes. The State government therefore should monitor closely Australia's trade policy, study the impact of existing trade agreements and participate effectively during negotiations to ensure that agreements are consistent with state as well as national interests.

10. Shaping Australia's trade agreements: what roles for parliament and the states?³²

*... there is currently
insufficient formal scrutiny
of FTAs ...*

One outcome of the debate over the AUSFTA is concern as to whether there is appropriate participation by the national parliament and state and territory governments in the initiating, negotiation and approval of Australia's trade agreements. A major criticism of the AUSFTA is that Australia entered into a complex agreement with impact on a wide range of economic sectors and policy areas and one cutting into the jurisdictions of different levels of government with insufficient formal scrutiny and approval required of parliament and state and territory governments and, by extension, the wider community.

Certainly, the government does consult with state and territory governments and business, union and community interests in the course of trade negotiations. Public submissions are sought and the government in turn provides a great deal of information about Australia's trade policy, negotiations and agreements: agreements, reports, studies, and press releases are posted on the DFAT website. There are Parliamentary standing and select committees in the national parliament that may examine trade matters, including the taking of public submissions. In particular there is the Joint Standing Committee on Treaties (JSCOT), established in 1996. This reviews all treaty actions proposed by the government, considering whether a proposed treaty action is in the national interest. The committee takes public submissions and evidence and invites the views of premiers and presiding officers of all Australian State and territory parliaments. The government must respond to Committees' recommendations although it is not bound to implement them. Questions about trade policy and negotiations may be asked in Parliament. Newspapers and other media are another forum for information and debate.

But the issue remains as to is whether the national government, which has the power to enter treaties, is sufficiently responsible in a legal, institutional sense to parliament and the states and territories when it negotiates and signs international agreements. At the national level, as the AUSFTA showed, it is only once an international agreement or treaty is signed by the government, that the national parliament is required to play a direct role. Parliamentary committees review the treaty and make recommendations and parliament must vote on any domestic legislation that must be passed to meet the agreement's obligations. Australia can then ratify the agreement and it then comes into effect assuming the appropriate actions have also been taken by the other side(s). Parliament, under the Constitution, is not called on to vote whether to accept or reject a treaty as a whole. Its power to reject a treaty depends on its position on any enabling legislation necessary to give effect to the treaty.

*... politicisation of the
AUSFTA process should
not be repeated ...*

In the case of the AUSFTA, the government paid little attention to procedures that are in place for parliamentary consideration of international agreements. The agreement was signed in Washington before the JSCOT tabled its report. And when the report was presented, it was only a few hours later that implementing legislation was introduced into the House.

As a result, of the experience of the AUSFTA, there are calls for Parliament to play a much greater role. Given the far reaching consequences that trade agreements especially may have, including the possibility of trade sanctions and financial penalties for countries and businesses in breach of agreements, Parliament should participate in the shaping of Australia's trade objectives before negotiations begin, scrutinise agreements before they are signed, and finally vote on whether Australia should enter into a treaty or not. They point to the role the US Congress plays in this regard. The Senate Select Committee on the

AUSFTA said that Australia should consider emulating the US approach whereby the Congress gave the Administration a general Trade Promotion Authority under which it states specific negotiations to be pursued, what objectives it would like achieved, and how it should be briefed as negotiations proceed. Once a trade negotiation is completed, the proposed agreement and necessary legislation is presented to Congress. Congress can then vote for or against the agreement but it is not able to amend specific sections.

At the State and Territory level, Premiers and Chief Ministers can put their views formally about treaties to the Prime Minister through the Council of Australian Governments (CoAG). To enhance consultation over international agreements, in 1996, the State Premiers and Chief Ministers and Prime Minister agreed to set up a Treaties Council where they would meet at least once a year. The Council would have an advisory role. But it has only met once, in 1997. It did not meet over the AUSFTA. Consultation at senior government official level is carried out through a Commonwealth-State Standing Committee. Through the course of the AUSFTA negotiations, the Department of Foreign Affairs and Trade (DFAT) did consult with the States and Territories. But there were complaints from the States that interaction fell away in the latter stages. The South Australian government told the Parliament's Joint Standing Committee on Treaties that "South Australia was disappointed that States and Territories were not kept abreast of developments in the final weeks of negotiations for the AUSFTA."³³

*... protecting the interests of
States and Territories ...*

The interests of the States and Territories in trade agreements go well beyond the impact that domestic tariff reduction and market opening in other countries may have on their industries and population. The deeper and broader sectoral and institutional and regulatory coverage of current and future trade agreements have implications for a range of State government responsibilities and regulations. Examples include Australian undertakings in trade agreements over government procurement, investment, competition policy, standards, and aspects of services trade such as the recognition of overseas qualifications. A strong case can be mounted, that States and Territories should have early and then ongoing input into the development of national trade policy and the initiating and negotiation of trade agreements, rather than playing a passive role responding in the latter stages of negotiation and after agreements have been signed.

Another important issue that arose in the context of the AUSFTA, and intertwined with questions to do with what are the best formal parliamentary and intergovernmental processes, is how government determines what economic impact an agreement may have on Australia and how that assessment is then used in the course of negotiating an agreement and gaining domestic support for the government's position. The government has been criticised for reliance on private economic consulting companies commissioned by DFAT on the grounds that they

cannot be considered as independent judgements. They are seen as “hired” guns of the government likely to produce reports supporting government biases. Rather, the correct approach, the critics say, would be for the government to refer assessment to the Productivity Commission. The Commission, the former Industry Assistance Commission, has the technical capacity, the experience a reputation for independence and so able to give the community, parliament and the States and Territories confidence that there is sound basis of fact and analysis for rational debate.³⁴

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End Notes

- ¹ The Australia-US Free Trade Agreement (AUSFTA) is 1,000 pages long. This pales in comparison though to the 22,000 page long agreement that concluded the eight year long Uruguay Round of multilateral trade negotiations under the General Agreement on Tariffs and Trade in 1994.
- ² Adam Smith: “by means of glasses, hotbeds and hot walls, very good grapes can be raised in Scotland, and very good wine too can be made of them at about thirty times the expense for which at least equally good can be bought from foreign countries. Would it be a reasonable law to prohibit the importation of all foreign wines, merely to encourage the making of claret and burgundy in Scotland.” Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, Oxford, Clarendon Press, 1976 quoted in *Why Globalisation Works*, Martin Wolf.
- ³ Razeen Sally, “Free Trade: the Next 50 Years”, in *Towards a Liberal Utopia*, ed Phillip Booth Institute of Economic Affairs London, 2005
- ⁴ For an overview of various theoretical positions see Robert Gilpin, *Global Political Economy: Understanding the International Economic Order*, Princeton University Press, Princeton and Oxford, 2001 p198-217 and passim.
- ⁵ A classic mainstream economic critique of protectionism is by Max Corden, *Trade Policy and Economic Welfare*, Oxford, 1974
- ⁶ Bertie Ahern, “We must stand by the Common Agricultural Policy,” *Financial Times*, 26 September 2005
- ⁷ The WTO website, www.wto.org, provides extensive information on the organisation, its history and current issues as well as technical documents
- ⁸ Gilpin, *op cit*, p. 219.
- ⁹ Martin Wolf, *Why Globalisation Works*, Yale University Press, New Haven and London, 2004.
- ¹⁰ Martin Wolf, “A Failure in Geneva would be a Disaster for the World,” *Financial Times*, 28 July 2004
- ¹¹ Peter Sutherland et al, *The Future of the WTO*, World Trade Organisation, Geneva, 2004, p. 22.
- ¹² In Richard H. Snape, Lisa Gropp and Tax Luttrell, *Australian Trade Policy 1965-1997, A Documentary History*, Allen & Unwin, Sydney, 1998, p. 2.
- ¹³ *Ibid*, p. 4.
- ¹⁴ Anthony Kosturjak and Joshua Wilson-Smith, “The Relative Decline of Manufacturing Employment” in South Australia, Economic Issues Paper No 12, South Australian Centre for Economic Studies, Adelaide, July 2004.
- ¹⁵ Ross Garnaut, “Australia, US and China: Open Regionalism in an Era of Bilateral FTAs,” paper given at a public lecture, AsiaLink, Melbourne, 22 March 2005 provides a mainstream economist’s views; focussing more provocatively on political and social issues is Linda Weiss, Elizabeth Thurbon, John Mathews, *How to Kill a Country: Australia’s Devastating Trade Deal with the United States*, Allen and Unwin, Sydney, 2004; various perspectives are weighed up in the following parliamentary reports: Australian Senate Select Committee on the Free Trade Agreement between Australia and the United States of America, Final Report, Canberra, August 2004.
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- ¹⁶ See Department of Foreign Affairs and Trade website: www.dfat.gov.au/trade

- ¹⁷ Bryan Mercurio, Should Australia Continue Negotiating Bilateral Free Trade Agreements: A Practical Analysis, *University of New South Wales Law Journal*, Vol 27, 3, 2004.
- ¹⁸ Garnaut, op cit
- ¹⁹ Senate select committee, op cit, Garnaut, op cit, Weiss et al op cit.
- ²⁰ Andrew Stoler, "AUSFTA as a 'Third Wave' Trade Agreement: Beyond the Envelope," paper given to the 26th International Trade Law Conference, Canberra, 23 September 2004.
- ²¹ See footnotes 15 and 16 and list of references.
- ²² Razeen Sally, "China's Trade Policies in a Wider Asian Perspective," paper presented for the London School of Economics/China Center for Economic Research conference, Beijing, August 22-23 2005
- ²³ *ibid.*
- ²⁴ ASEAN opposed Australian attendance until Australia agreed to sign the group's Treaty of Amity and Co-operation, under which signatories promise not to invade each other's territory. At first Canberra was not prepared to sign the treaty but in July 2005 shifted its position and signed a declaration of intent to commit to the treaty at an ASEAN meeting in Vientiane in Laos.
- ²⁵ *The Age*, "EU holding back WTO talks; Howard," October 14, 2005
- ²⁶ Australia-China Free Trade Agreement, Joint Feasibility Study, Australian Department of Foreign Affairs and Trade, and the Chinese Department of International Trade and Economic Affairs, Ministry of Commerce, March 2005; Modelling the Potential Benefits of an Australia-China Free Trade Agreement, www.dfat.gov.au/geo/china/fta
- ²⁷ Andrew Stoler, "Priorities for Australian Trade Initiatives in 2005," Paper given at the CEDA/PROMINA Economic and Political Overview Conferences, Adelaide and Melbourne, 16-17 February 2005. Stoler is the Executive Director of the Institute for International Business, Economics and Law at the University of Adelaide.
- ²⁸ Geoff Dyer and Khozem Merchant, "Graduate shortage 'may hinder Chinese economy,'" *Financial Times*, October 6 2005.
- ²⁹ CNOOC's takeover attempt sparked a great deal of argument in Congress that it would not be in the national interest, although most of Unocal's assets were in Asia. Unocal's shareholders however accepted a higher bid from fellow US major, Chevron.
- ³⁰ "Interests and concerns," Australia-China Free Trade Agreement, DFAT; www.dfat.gov.au/geo/china/fta/facts/
- ³¹ Senate Select Committee, op cit
- ³² This section draws heavily on parliamentary inquiries; see footnote 15 and references list at the end of the text.
- ³³ Senate Select Committee, op cit
- ³⁴ Argument put by Professor Ross Garnaut to the Senate Select Committee.