

Challenges facing the economic relationship

- 4.1 Evidence received by the Committee suggests that there are a number of challenges facing the Australia–RoK economic relationship. This chapter will cover the following issues:
- anti-dumping;
 - trade barriers;
 - challenges in the tourism sector;
 - challenges in the LNG trade;
 - the cultural divide; and
 - the potential for an Australia–RoK Free Trade Agreement.

Anti-dumping

- 4.2 Perhaps the greatest challenge facing the Australia–RoK economic relationship is the issue of anti-dumping. Anti-dumping can be generally defined as the measures taken by a country, on behalf of a business, to restrict the selling of goods below normal value (dumping) into the domestic market through the application of a dumping duty.

- 4.3 Each country holds different perspectives on the issue. The AKBC describes it as a 'sensitive issue' for their Korean counterparts and has advised the Committee that it 'has the potential to have a negative impact on future relations [with the RoK].'¹ It believes that there are a large number of Korean companies involved in anti-dumping cases, and that the number is 'highly disproportionate to that of other [Australian] trading partners.'²
- 4.4 DFAT and the Australian Customs Service (Customs) acknowledge that it is an issue between Australia and the RoK, but reminded the Committee that generally, anti-dumping measures applied to the RoK are 'minimal in the context of [the] overall value of imports from the RoK,'³ and that the amount of Korean companies which Australia has initiated anti-dumping cases against is 'broadly consistent with Korea's status as Australia's ninth largest source of merchandise imports.'⁴

Republic of Korea concerns

- 4.5 Korean concerns regarding Australia's anti-dumping policies were voiced to the Committee by the RoK Embassy and the AKBC, which holds an industry dialogue on anti-dumping issues as part of the AKBC joint annual meetings.⁵ Specific areas of concern noted by the RoK Embassy and the AKBC included:
- the need for greater transparency in anti-dumping investigations;
 - the speed of the investigation process;
 - an alleged bias on the part of the Customs to support Australian businesses;
 - the impact of the review process; and
 - the need to consider the Australian national interest.
- 4.6 Customs addressed the grievances raised by the AKBC and the RoK Embassy in their submission and in evidence given to the Committee.

1 Mr William Shields, *Transcript 20 September 2005*, p. 19.

2 AKBC, *Submission No. 17, Vol. 1*, p. 207.

3 Mr Peter Baxter, *Transcript 31 August 2005*, p. 17.

4 CUSTOMS, *Submission No.19, Vol. 1*, p. 255.

5 Mr William Shields, *Transcript 20 September 2005*, p. 19.

Lack of transparency

The concerns

- 4.7 In its submission, the AKBC summarised the anti-dumping investigation process, stating that:
- If dumping is detected by the investigating authorities of an importing country, and if it is demonstrated that material injury has been caused or is threatened by that dumping to an industry in the importing country which produces the same product, the authorities of the importing country may impose a duty on the dumped imports to offset the margin of dumping.⁶
- 4.8 Having defined the role of material injury in the investigation process, the AKBC called for greater transparency in material injury findings.⁷ The need for a more transparent system was supported by the RoK Embassy which called for 'greater efforts ... to secure fairness and transparency [in] anti-dumping investigations.'⁸
- 4.9 The AKBC believed that investigations lacked transparency because, due to very strict Australian confidentiality laws, counsel for the opposing party cannot see evidence that is being submitted to the review board. Furthermore, the AKBC described the process as 'in house' and lacking in open debate.⁹
- 4.10 The AKBC therefore endorsed a system similar to that in Canada and the United States, whereby the opportunity for open debate existed at various stages. The AKBC believed that such changes would increase 'the degree of comfort that Korean exporters feel when they engage in the process,' because they would then know that they were being 'given a fair go to put [across] their point of view.'¹⁰
- 4.11 The Committee queried the AKBC about the Australian Anti-Dumping Authority that was abolished in 1999 after a government decision to simplify the investigation system. The Committee specifically asked whether that authority had provided 'sufficient independence, openness and due process?'¹¹ The AKBC responded

6 AKBC, *Submission No. 17, Vol. 1*, p. 204.

7 AKBC, *Submission No. 17, Vol. 1*, p. 208.

8 Embassy of the RoK, *Submission No. 18, Vol. 1*, p. 234.

9 Mr William Shields, *Transcript 20 September 2005*, pp. 21–3.

10 Mr Daniel Moulis, *Transcript 20 September 2005*, p. 20.

11 Committee, *Transcript 20 September 2005*, p. 23.

that it believed the Anti-Dumping Authority was valuable because it had 'some measure of independence for Customs'¹² but, nevertheless, it had not addressed broader issues such as 'true economic impact.'¹³

The response

- 4.12 Responding to the call for greater transparency in anti-dumping investigations, Customs advised the Committee that it 'examines each complaint using transparent, World Trade Organisation (WTO)-consistent methodology'. This was more stringent than the requirements in the WTO anti-dumping agreement. Customs cited its public file system and its practice of 'imposing the lowest level of measure necessary to remove injury from dumping,' as examples of the transparent and fair nature of the process.¹⁴
- 4.13 The Committee also sought Customs' views on the value of a competition regulator in the process such as the former Australian Anti-Dumping Authority.¹⁵
- 4.14 Customs noted that the current policy did not involve a competition regulator but advised the Committee that it was aware that a number of people, including the AKBC, had been calling for change, be it a competition regulator or a revised system. To that end, Customs told the Committee that it was presently 'having consultations with a broad range of industry players about a revised ministerial guidance on material injury' in an effort to address the issue.¹⁶

Speed of anti-dumping investigations

The concerns

- 4.15 The AKBC discussed the speed of the inquiry process in its submission. It stated that:

The periods for investigations ... place severe strain on investigators and can compromise the adequacy and integrity of decision-making ... The relatively short time limits can [also] prevent a proper engagement between interested parties and investigators on critical issues.¹⁷

12 AKBC, *Submission No. 17, Vol. 1*, p. 208.

13 Mr William Shields, *Transcript 20 September 2005*, p. 23.

14 Mr Andrew Rice, *Transcript 20 September 2005*, p. 30.

15 Committee, *Transcript 20 September 2005*, p. 31.

16 Mr Andrew Rice, *Transcript 20 September 2005*, p. 31.

17 AKBC, *Submission No. 17, Vol. 1*, p. 209.

- 4.16 The AKBC acknowledged that Customs grants time extensions in some cases but believed that the fact that extensions are granted proved that 'statutory time limits are rushed,' and as a result, 'decisions may not be as well considered as they should be.'¹⁸

The response

- 4.17 Responding to the issues raised, Customs observed that the existing time limit within which it works (155 days) was tight, and advised the Committee that the cases were often complex, involved a lot of information and, in some cases, involved overseas travel to work with businesses and financial systems abroad. Customs did point out that there was a 'provision in the legislation to seek extension, if that is required, and we do [seek extension] in a number of cases.'¹⁹
- 4.18 The Committee notes that Customs' response corroborates complaints raised by the AKBC involving the rushed nature of the inquiry process.

Perception of bias

The concerns

- 4.19 Another issue raised by the AKBC and the RoK Embassy related to a perceived bias on the part of Customs. The AKBC believed that:

An area of ongoing concern for foreign exporters and local importers is the willingness of Customs to assist domestic industry. Despite Customs' role as an investigator and decision maker, Customs' assistance to domestic industry has, in certain instances, flowed into the area of advocacy.²⁰

- 4.20 The AKBC cited excerpts from the Customs 2003 Manifest publication, noting that 'Customs highlighted its administrative efforts to assist Australian producers in initiating trade remedy procedures,' but the AKBC was careful to note that bias is really an issue of perception:

The fact that Customs in effect assists in the preparation of cases on which the Minister is to make a decision, based on

18 AKBC, *Submission No. 17, Vol. 1*, p. 209.

19 Mr Andrew Rice, *Transcript 20 September 2005*, p. 32.

20 AKBC, *Submission No. 17, Vol. 1*, p. 208.

Customs' recommendations, allows perceptions of bias to be held, and may lead to actual bias.²¹

4.21 The RoK Embassy had a slightly different point of view. It took issue with the 'arbitrary delay' of investigations procedures, specifically the fact that there was no time limit for the Minister to make a final decision. For the RoK Embassy, the perceived bias in the system becomes evident when it 'compares the lapse of time after which the Minister decides not to impose dumping duties with the lapse of time after which the Minister decides to impose dumping duties.'²²

4.22 In a supplementary submission, the RoK Embassy cited the specific example of a Korean washing machine case in 2003:

The Minister received the report and recommendations from ACS [Customs] on 31 January 2003 not to impose anti-dumping measures ... it took over eight months before the Minister published his decision on 17 September 2003 not to impose anti-dumping duties. This is almost three months longer than the ACS's normal investigation period of 155 days. However, when the ACS's recommendation following its re-investigation was to impose anti-dumping measures on the Korean exporter, it took the Minister only eight days to impose measures. Again, when the ACS reported to the Minister that its review found that [no dumping was occurring] it took the Minister another five months to reduce the anti-dumping duties to zero. The total investigation period on Korean washing machines took almost three years.²³

4.23 The RoK Embassy believed that these types of delays caused a 'trade chilling effect' which has an adverse impact on Korean exporters. It was also concerned that Korean importers were being affected by the length of time that the duties were imposed and suggested in its submission that 'some anti-dumping measures are possibly being used as a protectionist device.'²⁴

The response

4.24 The Committee chose not to directly address the issue of perceived bias on the part of Customs. The Committee recognised the

21 AKBC, *Submission No. 17, Vol. 1*, p. 208.

22 Embassy of the RoK, *Submission No. 44, Vol. 2*, p. 541.

23 Embassy of the RoK, *Submission No. 44, Vol. 2*, p. 541.

24 Embassy of the RoK, *Submission No. 44, Vol. 2*, p. 542.

interpretive nature of the claims and noted evidence given to the Committee by the AKBC, which suggested that although perception was important, nowhere was 'actual bias mentioned in [its] submission.'²⁵

- 4.25 The Committee does, however, recognise the AKBC's point that from the Korean perspective, a perceived bias on the part of Customs is an important issue ²⁶ and notes that during a public hearing, Customs told the Committee that 'it provides limited advice on draft applications if requested to do so by Australian industry ... and assesses (on behalf of Australian industry) whether there appears to be a case for initiating an anti-dumping investigation.'²⁷
- 4.26 The Committee is aware of circumstances such as this, which can lead to the perception that Customs is biased towards Australian industry.
- 4.27 The Committee has considered the example of the Korean washing machine case and the time frames involving Ministerial decision making. Customs drew attention to the timing of Ministerial decisions in its submission. It noted that 'final decisions were made in an average of 36 days after the final report was provided to the Minister.'²⁸
- 4.28 The Committee notes that in relation to possible 'trade chilling effects' Customs has stated in its submission that 'there is anecdotal evidence to suggest that the initiation of a case can have a trade effect.'²⁹

Consideration of the national interest

The concerns

- 4.29 The final point raised by the AKBC and the RoK Embassy was for a change in the very nature of the anti-dumping process. In submissions and evidence given to the Committee, representatives from the Council and the Embassy requested the Commonwealth Government consider the 'national interest' as part of the anti-dumping review process.³⁰ Essentially, it argued that the process only considered the costs of dumping to Australian companies and not the

25 Mr Daniel Moulis, *Transcript 20 September 2005*, p. 22.

26 Mr William Shields, *Transcript 20 September 2005*, p. 22.

27 Mr Andrew Rice, *Transcript 20 September 2005*, p. 30.

28 Customs, *Submission No.19, Vol. 1*, p. 257.

29 Customs, *Submission No.19, Vol. 1*, p. 257.

30 AKBC, *Submission No. 17, Vol. 1*, p. 212; Embassy of the RoK, *Submission No. 44, Vol. 2*, p. 542.

benefits to Australian consumers and the Australian economy in general.

- 4.30 It should be noted in relation to the above, that a vibrant mixed economy, including a manufacturing sector and the jobs that accompany it, fall under the purview of 'national interest.'

The response

- 4.31 Customs advised the Committee that:

Under the current policy and regime for dumping investigations, our national interest and competition test is that we do assess all applications on fact, not on assertions. It is a rigorous process involving a number of steps. We [Customs] would argue that that in itself is a test of national interest and competition issues.³¹

- 4.32 Customs conceded that this response 'will not satisfy everybody.'³²

- 4.33 The Committee asked Customs whether its definition of national interest included broad economic impact.³³ Customs responded that it did not.³⁴

Committee comment

- 4.34 The Committee recognises the need for a careful investigation process. This process may, at times, be rushed by strict time limits. The Committee is satisfied, however, that the legislative provision to seek extension allows for careful scrutiny of anti-dumping cases, while maintaining the need to expedite the process on behalf of exporters who are effected by anti-dumping investigations.

- 4.35 The Committee encourages the Australian Customs Service, whenever possible, to maintain consistent time-frames for determining anti-dumping decisions.**

- 4.36 The Committee is aware that discussions involving national interest are very much related to the desire to enhance Australia's trading relationship with countries such as the RoK.

- 4.37 National interest is a subjective area of debate. The benefit of cheaper products for the consumer must be weighed against the need to

31 Mr Andrew Rice, *Transcript 20 September 2005*, p. 31.

32 Mr Andrew Rice, *Transcript 20 September 2005*, p. 31.

33 Committee, *Transcript 20 September 2005*, p. 31.

34 Mr Andrew Rice, *Transcript 20 September 2005*, p. 31.

support Australian manufacturing and jobs. In addition, anti-dumping measures that support one Australian business might not support another.

- 4.38 Due to the highly subjective nature of the term, 'national interest,' the Committee believes that introducing any debate over 'national interest' would be creating fertile ground for opinion, legal arguments and appeals, which may effectively slow the anti-dumping review process.

Trade barriers

- 4.39 Witnesses have drawn the Committee's attention to a number of existing trade barrier issues facing Australia and the RoK. As in any trading relationship, each country has specific concerns relating to their areas of trade.

Australian concerns

- 4.40 Australian government departments and industry representatives have voiced some concerns regarding tariff and technical and non-tariff barrier issues when exporting to the RoK. Issues in the following export areas were brought to the attention of the Committee:

- agriculture;
- wine;
- meat and livestock;
- services; and
- organic labelling.

Agriculture

- 4.41 The Korean agricultural sector is heavily subsidised; therefore, Australia faces significant import barriers on agricultural products. DAFF noted that Korean agricultural tariffs averaged 52 per cent in 2004 and commented that the 'multiplicity of tariff bands [in the RoK] not only distorts competition but unnecessarily adds to the tariff complexity.'³⁵

35 DAFF, *Submission No. 35, Vol. 2*, p. 473.

- 4.42 Complexity within the RoK tariff system has been linked to issues of transparency. DAFF's submission provided the following analysis:

Almost all [RoK] tariffs are ad valorem [in proportion to the value], contributing to tariff transparency. On the other hand, alternate specific rates tend to conceal relatively high ad valorem equivalents, which vary between the same commodities ... These non-ad valorem tariffs undermine economic efficiency, transparency and tariff predicability.³⁶

- 4.43 Despite the barriers Australian agriculture faces, DAFF did point out that under the Uruguay Round Agreement on Agriculture, the RoK committed to policy reforms which included tariff reductions, quota growth and the elimination of import bans as well as the phasing out of non-tariff barriers.³⁷

- 4.44 In addition to tariffs, the Committee was told by DAFF that:

[Australian] agricultural products imported into Korea generally receive clearance from several organisations and may encounter port delays and lengthy clearance times. Technical and administrative regulations and procedures may also pose problems, particularly for perishable products.³⁸

- 4.45 DAFF advised the Committee that it was working 'in consultation with industry and other government agencies to ensure that Australia is well placed to meet Korea's demands.'³⁹

Wine

- 4.46 The Australian wine industry faces tariffs on their products entering the RoK. The Australian Wine and Brandy Corporation (AWBC) noted that due to a lack of local production, tariffs and taxes on wine in the RoK are higher than on other alcoholic products. The RoK applies a 15 per cent tariff on imported wine and a number of taxes.⁴⁰ In addition, the mark-up on wine in the RoK is higher than in Australia. When combined, these factors raised the price of Australian wine considerably.

36 DAFF, *Submission No. 35, Vol. 2*, p. 473.

37 DAFF, *Submission No. 35, Vol. 2*, p. 473.

38 Ms Nicola Gordon-Smith, *Transcript 31 August 2005*, p. 54.

39 Ms Nicola Gordon-Smith, *Transcript 31 August 2005*, p. 54.

40 AWBC, *Submission No. 30, Vol. 2*, p. 432.

- 4.47 The AWBC advised the Committee that it believed the ‘most discouraging obstacles to trade are not ... tariff barriers but the behind the border issues and the technical and non-tariff barriers.’⁴¹
- 4.48 The AWBC cited the following example to the Committee:
- Any shipment of a new product into Korea faces a fairly detailed inspection, including an array of chemical analyses conducted by the Korea Food and Drug Administration. It is a lengthy process and at times it appears arbitrary. If a product is rejected, there seems to be no provision for appeal and retesting. Penalties can be draconian. Admittedly the penalties are applied to the importer rather than the exporter.⁴²
- 4.49 The Korean system of differential wine labelling based on market channels has also caused frustration for the AWBC. The system requires that a different label must appear on a wine depending on where the wine is to be sold – either in a retail outlet or a restaurant or bar. The Committee was advised that this system caused problems for Australian wine makers who must ‘know in advance what proportion of their product that is being sold to Korea is going to go into either of those two channels.’⁴³
- 4.50 The Committee inquired further into the differential labelling issue and was told that the system was an ‘internal taxation issue’ and applied to domestic producers as well. Nevertheless, the AWBC believed that it impacts more on imported product ‘because of the need to keep different stock-keeping units and the need to keep different inventory for the different marketing channels.’ This means that Australian wine producers did not have the flexibility to move wine from one market channel to another.⁴⁴
- 4.51 When questioned by the Committee as to possible solutions, the AWBC told the Committee that in order to navigate different market access issues, it had appointed an executive officer with responsibility for the Korean market. The AWBC was keen to engage with Korean authorities whenever possible to discuss these issues and noted that,

41 Mr Steve Guy, *Transcript 21 September 2005*, p. 29.

42 Mr Steve Guy, *Transcript 21 September 2005*, p. 29.

43 Mr Steve Guy, *Transcript 21 September 2005*, p. 29.

44 Mr Steve Guy, *Transcript 21 September 2005*, pp. 32–3.

when necessary, it worked cooperatively with Austrade to achieve desired results.⁴⁵

4.52 The AWBC hoped to eventually reach an agreement with the RoK over inspection issues. The AWBC envisaged a system whereby the AWBC could issue certificates, based on analysis by Australian laboratories, on behalf of Australian wine producers which would satisfy the Korean inspection process. This was an arrangement that the AWBC had with other countries.⁴⁶

4.53 Notwithstanding these issues, the AWBC was optimistic about Australian wine sales in the RoK and was hopeful that any Free Trade Agreement (FTA) with the RoK would result in the removal of wine tariffs for trade.⁴⁷

4.54 The AWBC did advise the Committee, however, that:

... there is apparently not a lot of sympathy in Seoul at the moment for negotiating a FTA with any other strong agricultural country, so [the AWBC] is not optimistic that [Australia] will be looking at an advantageous FTA in the near future.⁴⁸

Meat & livestock

4.55 MLA voiced similar concerns to that of the Australian wine and agriculture industries.

4.56 In relation to the Australian beef trade, the Committee was advised that 'considerable progress has been made in liberalising the beef trade to Korea over the last decade.' Australian beef used to face quotas in the Korean market, but those quotas had been removed and only tariffs remain.⁴⁹

4.57 MLA did note that the tariffs on their products remained at 'considerable levels.'⁵⁰ So much so, that in the case of value added products, the tariff (up to 72 percent in some cases) had 'effectively blocked Australia from exporting value added beef to Korea.'⁵¹

45 Mr Steve Guy, *Transcript 21 September 2005*, p. 32.

46 Mr Steve Guy, *Transcript 21 September 2005*, p. 32.

47 AWBC, *Submission No. 30, Vol. 2*, p. 433.

48 Mr Steve Guy, *Transcript 21 September 2005*, p. 31.

49 Dr Peter Barnard, *Transcript 20 September 2005*, p. 67.

50 Dr Peter Barnard, *Transcript 20 September 2005*, p. 67.

51 DAFF, *Submission No. 35, Vol. 2*, p. 475.

4.58 The organisation added that it would 'like further progress in lowering tariff barriers,' and subsequently was 'fully supportive of exploring the potential for a comprehensive free trade agreement with [the RoK].'⁵²

Services

4.59 Like MLA, DFAT noted the advances the RoK had made in liberalising areas such as their services sector. However, in its submission to the Committee, DFAT outlined the key issues relating to services sector barriers:

- there were limits on lending by foreign banks to Korean customers;
- RoK banking regulations only allowed a banking license for banks which had retail banking arms;
- regulations covering financial products lacked transparency;
- foreign lawyers and accountants were not allowed to practice in the RoK; and
- foreign law and accounting firms were prevented from opening offices in the RoK.⁵³

Organic labelling

4.60 Organic labelling as an issue was raised by the Queensland and Commonwealth Governments during the course of the inquiry.

4.61 The rise of health and 'well being' consciousness in the RoK has led to an increase in demand there for organic products – the annual growth rate of the Korean organic market is between 40 and 60 per cent.⁵⁴ Australia is well placed to respond to this demand but has encountered a significant challenge.

4.62 DAFF advised the Committee that the Korean Ministry of Agriculture and Forestry:

... does not currently recognise Australian organic certification of meat, grain, horticultural and other produce. There are no barriers to the import of organic produce into

52 Dr Peter Barnard, *Transcript 20 September 2005*, p. 67.

53 DFAT, *Submission No. 21, Vol. 1*, p. 289.

54 Queensland Government, Department of Primary Industries and Fisheries, *Submission No. 48, Vol. 2*, p. 560.

the RoK ... the barrier is on the selling of produce as organic.'⁵⁵

- 4.63 Australian organic produce can be sold in the RoK provided that any reference to the term 'organic' appearing on the label is in English and not in Korean.
- 4.64 The Committee recognises the problem inherent in this rule and notes that it is a situation which DAFF and the Queensland Government are continuing to raise with the RoK Government.

Republic of Korea concerns

- 4.65 The RoK Embassy raised the following concerns in its submission to the Committee:
- the Automotive Competitiveness and Investment Scheme (ACIS); and
 - Hansol PI's investment in Western Australia.

ACIS

- 4.66 The RoK Embassy described the ACIS, which extends import duty credits to Australian vehicle and auto-part industries, as potentially 'inconsistent with WTO guidelines.' It had the effect of weakening the 'price competitiveness of automobiles imported from Korea' because the RoK did not have production plants in Australia.⁵⁶

Hansol PI

- 4.67 Hansol PI is a Korean-Australian joint venture in plantation resources and woodchip exports. The RoK Embassy submission noted that the Western Australian Government had 'conceded rights for a coal mining company to load and export coal at the same port berth used by Hansol PI.' Hansol PI was concerned that this may lead to the contamination of their product; a possibility that the RoK Embassy conceded could lead to the ending of Hansol PI's operations in Western Australia.⁵⁷

55 DAFF, *Submission No. 41, Vol. 2*, p. 518.

56 Embassy of the Republic of Korea, *Submission No. 18, Vol. 1*, p. 234.

57 Embassy of the Republic of Korea, *Submission No. 18, Vol. 1*, p. 234.

Committee comment

- 4.68 Governments are legally able to impose certain trade barriers to protect their national interest. Nevertheless, countries should carefully evaluate their particular barriers and assess their importance in the interest of fostering a more open trading system.
- 4.69 The Committee acknowledges the positive steps the RoK Government has taken to liberalise its business environment and encourages the RoK Government to continue in these endeavours.
- 4.70 The best possible response to trade barriers is continued, positive engagement between governments, coupled with active participation and engagement in world trade forums such as the WTO.
- 4.71 The Committee has noted the activities of organisations such as the AWBC, which have chosen to employ staff for the express purpose of engaging the RoK over trade issues and is pleased that such positive activity is occurring between Australia and the RoK. The Committee hopes that the RoK will recognise Australian wine inspection certification.
- 4.72 The Committee has noted the service sector issues highlighted by DFAT, but believes that the success of business such as Macquarie Bank and Oceanis Holdings Ltd reveals that these challenges can be overcome.
- 4.73 The Queensland and Commonwealth Governments should continue to lobby for the ability to label organic Australian produce as 'organic' in Korean.
- 4.74 The Committee sought, but did not receive a submission from Hansol PI. Consequently, without such information, the Committee is reluctant to comment on the issue of Hansol's port loading facilities.

Challenges in the tourism sector

- 4.75 Two tourism issues were brought to the attention of the Committee during the course of the inquiry:
- problems with the immigration procedure upon arrival in Australia; and
 - unethical practices by inbound tourism operators serving the RoK market.

Arrival procedures in Australia

- 4.76 The RoK Embassy submission noted that ‘immigration procedures at arrival in Australia [are] troublesome and often too strict.’⁵⁸
- 4.77 The Committee sought further information.
- 4.78 The Tourism Division told the Committee that it believed the comment was about processing passengers on arrival in Australia and noted that there were sometimes difficulties when a large number of passengers arrived at once.⁵⁹
- 4.79 The Committee highlighted that the complaints also mentioned *strict* procedures upon arrival and asked if Australia’s immigration procedures were stricter than those of other countries.⁶⁰
- 4.80 The Tourism Division responded, noting that Australia’s quarantine and customs procedures are strict. Australia screens all incoming baggage and people. It told the Committee that perhaps the perception of a troublesome and strict arrival procedure is based on ‘the whole customs, immigration and quarantine issue,’ but pointed out that there had been no complaints during the development of the Korean Action Plan (mentioned previously).⁶¹
- 4.81 When the Committee queried the RoK Embassy further on this point, it was advised that complaints and misunderstandings arose ‘partly as the result of the language barrier or cultural differences between Korean nationals and the immigration officers.’ The RoK Embassy added:

58 Embassy of the RoK, *Submission No. 18, Vol. 1*, p. 242.

59 Ms Patricia Kelly, *Transcript 31 August 2005*, p. 32.

60 Committee, *Transcript 31 August 2005*, p. 32.

61 Ms Patricia Kelly, *Transcript 31 August 2005*, pp. 32–3.

In most Australian airports, only telephone translation services are currently available. If any officer, who has a high proficiency in the Korean language and has in-depth understanding of the Korean people and Korean culture as well, would be involved in these inspections, then such complaints and misunderstandings could be reduced.⁶²

Unethical practices by inbound tourism operators

4.82 DITR's Korean Action Plan refers to the issue of unethical practices by inbound tour operators servicing the RoK market. When questioned further by the Committee, DITR provided a supplementary submission noting the following practices by inbound tour operators:

- taking tour groups to 'tax free' shops with highly inflated prices;
- downgrading of accommodation and restaurants;
- charging visitors entry for free facilities such as beaches; and
- the requirement to pay additional amounts for tips and services that had not been requested.

4.83 In addition to these specific practices by inbound tour operators, DITR advised the Committee of several other issues that had been identified through research:

- untrained tour guides;
- unlicensed inbound tour operators;
- inadequate transport services;
- the employment of untrained illegal foreign workers; and
- the sale of counterfeit goods.

4.84 DITR advised the Committee of actions taken to address these problems:

- the establishment of an Inbound Tourism Compliance Task Force comprising government agencies including immigration, employment, police, taxation and fair trading, which disseminated intelligence on illegal practices and coordinated prosecution;
- DITR, the Australian Competition and Consumer Commission and the NSW Department of Fair Trading would be publishing

62 Embassy of the RoK, *Submission No. 44, Vol. 2*, p. 540.

‘material in the Korean language on misleading and deceptive labelling of goods and consumer rights for Korean inbound tourists to Australia;’

- the signing of an MoU between DITR and the Korean Ministry of Culture and Tourism to ‘facilitate consumer education and assist in addressing unethical and/or illegal practices;’ and
- the Australian Tourism Ministers’ Council had agreed to consider proposed ‘national inbound tourism legislation and possible enforcement activity.’⁶³

Committee comment

- 4.85 Arrival procedures in Australia are strict and, therefore, may be time consuming. On the other hand, the Committee believes that these processes are vital to Australia and should not be reduced. The Committee suggests that in response to these complaints, information should be provided to Korean tour operators and travel agents to better inform Koreans intending to travel to Australia about the nature of arrival procedures and the reasons for them.
- 4.86 The Committee does recognise, however, that confusion can arise due to language and cultural barriers. Provided that the number of Korean tourists visiting Australia continues to rise, the Committee believes that it would be appropriate to provide better Korean language support resources at Australia’s main airports.
- 4.87 The Committee commends DITR for its response to unethical practices by inbound tour operators. Such operators can cause serious damage to one of Australia’s major export earnings.

Challenges in the LNG trade

- 4.88 The first long-term contract NWSLNG ever signed was with the RoK. This contract marked the beginning of a substantial LNG trade with the RoK. However, as noted in the last chapter, in 2004, NWSLNG bid on a contract to supply additional LNG to the RoK and was unsuccessful.
- 4.89 The RoK Embassy and the OKTA suggested to the Committee that this unsuccessful bid represented some challenges that NWSLNG

63 DITR, Submission No. 51, Vol. 2, p. 574-5.

needed to overcome to continue the successful LNG trading relationship that has been established between Australia and the RoK.

- 4.90 The OKTA believed that the loss of the 2004 LNG contract with the RoK highlighted the need to conduct greater analysis of the Korean market.⁶⁴ The RoK Embassy, in its submission and in evidence given to the Committee, noted that:

... with regard to the approach taken by Australia LNG is the rigidity of the decision-making process. Sometimes in this kind of international bidding process you have a very sensitive period in which you have to act very quickly. Given the fact that Australia LNG is a consortium composed of six companies, we have sometimes found that they have some difficulty in making quick decisions.⁶⁵

- 4.91 The Committee sought NWSLNG's response to the claim that greater market analysis was required. NWSLNG told the Committee that it used 'a number of sources for market research within Korea [as well as] external agencies,' and was confident that it did 'an adequate amount of market research in advance.'⁶⁶

- 4.92 In relation to the need for greater flexibility in their decision-making process, NWSLNG pointed out that pricing issues are:

... always worked out with the six owners ... We normally get everyone into a room and put up our justification for certain prices and basically get everyone to agree to a price level ... It has worked successfully for 16 years, so I would not say that it is not working.⁶⁷

The cultural divide

- 4.93 Cultural issues are a component to all facets of the Australia-RoK relationship including business. Cultural relations will be fully addressed later in the report; however, the Committee was advised that cultural barriers can play a part in the Australia-RoK business relationship.

64 OKTA, *Submission No. 13, Vol. 1*, p. 181.

65 Ambassador Sang-hoon Cho, *Transcript 31 August 2005*, p. 24.

66 Mr John Banner, *Transcript 21 September 2005*, p. 12.

67 Mr John Banner, *Transcript 21 September 2005*, p. 16.

Challenges in the Republic of Korea

4.94 In a submission to the Committee, Oceanis Holdings Ltd noted that:

Culturally, Koreans due to their unfortunate history, tend to be somewhat xenophobic. This does manifest itself in all sorts of ways and quite regularly ... Australian companies do need to carefully address the cultural divide if they are to be successful.⁶⁸

4.95 When questioned further on this issue, Mr Peter O'Brien, Managing Director of Oceanis Holdings Ltd, told the Committee that the challenges Oceanis faced in the RoK were based in large part on its inability to refinance projects with Korean banks rather than foreign banks.⁶⁹

4.96 Mr O'Brien noted that RoK government officials were 'highly cooperative,' but 'once you get below the top echelon ... there is definitely a challenge for all foreigners in Korea.'⁷⁰ The challenge, he believed, was based on the fact that RoK society was not as 'open and outward-looking' as one might think.⁷¹

4.97 He did point out, however, that Australians were as well placed as any community to do business with Koreans and that the RoK was the only overseas country that his company had chosen to invest in twice.⁷²

4.98 Similar concerns were raised by the Australian Film Commission (AFC), which stated in its submission that in relation to Australian participation in the Pusan International Film Festival, festival organisers 'did not perceive Australia 'as an obvious participant' in the [Asian film market] which prides itself on 'Asian sensibilities.'⁷³

4.99 Mr Kim Dalton, Chief Executive of the AFC, told the Committee that this problem was not unique to the RoK. Australian film makers had also struggled in Hong Kong to convince people that their films should be considered as part of the Asian film market. The AFC's solution was persistence, and the AFC was confident that, in time,

68 Oceanis Holding Ltd, *Submission No. 27, Vol. 1*, p. 386.

69 Mr Peter O'Brien, *Transcript 7 November 2005*, p. 2.

70 Mr Peter O'Brien, *Transcript 7 November 2005*, p. 2.

71 Mr Peter O'Brien, *Transcript 7 November 2005*, p. 2.

72 Mr Peter O'Brien, *Transcript 7 November 2005*, p. 2.

73 AFC, *Submission No. 29, Vol. 2*, p. 409.

through conversation and presence at Asian events such as the Pusan festival, this perception would change.⁷⁴

Challenges in Australia

4.100 The Committee is aware that the challenge of a 'cultural divide' between Australia and the RoK cuts both ways. The AEEMA told the Committee that Australian companies were sometimes reluctant to engage with Korean companies:

Australian small companies tend to find themselves very comfortable engaging with the Americans and the Europeans, but in their engagement with North Asia ... there is that cultural divide.⁷⁵

4.101 Further exploration by the Committee of the cultural challenge facing Australian small and medium enterprises (SMEs) revealed that the problem rests with Australian companies. The AEEMA told the Committee:

Korean companies are very Western focused; they have a strong relationship with American companies ... the problem is not that Koreans lack the ability to deal with the West ... the problem is that not enough Australian companies are visiting Korea and finding out for themselves about these wonderful opportunities.⁷⁶

4.102 The AEEMA was addressing this problem by creating opportunities for meetings and activities between Australian and Korean companies as well as limiting the scope of the engagement that takes places:

We believe that having a focused approach is much preferable to trying to get this very broad-scale engagement, where you will get a lot of companies come over, they will have a lot of different interest and there will be a lot of different interests from the Australian side, and it will be very hard to find [matches].⁷⁷

4.103 The Committee asked the AEEMA how effective was this approach for Australian SMEs. The AEEMA responded that it was effective and suggested that by providing a commercial reason for engagement, in

74 Mr Kim Dalton, *Transcript 20 September 2005*, p. 62.

75 Mr Angus Robinson, *Transcript 1 September 2005*, p. 18.

76 Mr Angus Robinson, *Transcript 1 September 2005*, p. 19.

77 Mr Angus Robinson, *Transcript 1 September 2005*, pp. 18-19.

conjunction with a focused approach, success would be forthcoming.⁷⁸

- 4.104 Former Australian Ambassador to the RoK, Mr Mack Williams, also advised the Committee that ‘for small and medium companies it [cultural barriers] is more difficult because they have to expend more effort to understand and be sensitive.’⁷⁹

Response from the Republic of Korea

- 4.105 In response to comments about a ‘cultural divide’ between Australia and the RoK, the RoK Embassy advised the Committee that:

It is natural that every country has its own history and unique cultural background and it is generally accepted that there are cultural differences rather than cultural divides between nations.⁸⁰

- 4.106 The RoK Embassy endorsed a ‘globalisation strategy’ which combined globalisation and localisation to achieve results. It cited Macquarie Bank as a company that had successfully utilised this strategy in the RoK through the localisation of human resources and business partnerships.⁸¹
- 4.107 Ambassador Cho observed that some Australian entrepreneurs have an ‘exceptional knack for adapting to the Korean way of thinking and behaviour,’ and ‘are highly successful in the Korean market.’⁸²

Committee comment

- 4.108 The Committee considers Oceanis’ comments on a ‘cultural divide’ as a cautionary warning that cultural issues must be recognized when doing business in the RoK. The Committee notes that in spite of a ‘cultural divide’ Australians have managed to trade successfully with the RoK for many years.⁸³
- 4.109 The Committee also agrees with the AFC that cultural perceptions take time to change, and supports Australia’s continued engagement inclusion in the Asian film community.

78 Mr Angus Robinson, *Transcript 1 September 2005*, p. 19.

79 Mr Mac Williams, *Transcript 7 November 2005*, p. 10.

80 Embassy of the RoK, *Submission No. 44, Vol. 2*, p. 539.

81 Embassy of the RoK, *Submission No. 44, Vol. 2*, p. 539.

82 Ambassador Sang-hoon Cho, *Transcript 31 August 2005*, p. 20.

83 Committee, *Transcript 7 November 2005*, p. 3.

- 4.110 Like the RoK Embassy, the Committee believes that local engagement is an important way to overcome cultural barriers and encourages Australian and RoK businesses to adopt this strategy regardless of cultural differences.

Considering a free trade agreement

Introduction

- 4.111 In recent years, Australia and the RoK have begun to broaden their trading relationships through free trade agreements (FTAs) with various countries. Australia has signed FTAs with the United States, Singapore and Thailand; the RoK with Chile, Singapore and the European Free Trade Association. Both countries are pursuing further FTAs but have yet to enter into any serious discussions about the feasibility of an FTA between each other.
- 4.112 The potential for an Australia-RoK FTA was discussed at various times during the course of the inquiry. This section will address the issues that were raised and note some of the challenges to the successful conclusion of an Australia-RoK FTA.

The Australian perspective

- 4.113 In August 1999, Australia and New Zealand issued a Joint Prime Ministerial Statement outlining their policy on regional agreements. It stated that Australia and New Zealand were:

... willing to consider free trade agreements with significant individual economies or regional groupings, where they would deliver faster and deeper liberalisation than the multilateral process, with the objective of gaining better market access for our exporters, faster economic growth and stronger employment growth.⁸⁴

- 4.114 Since that time, Australia has signed three FTAs and has entered into negotiations or consideration over five more.

⁸⁴ <http://www.dfat.gov.au/trade/negotiations/australias_approach.html>, 24 November 2005.

- 4.115 DFAT has advised the RoK that it is 'willing to conduct a bilateral study' into an FTA but the RoK has said that it views an FTA with Australia as a 'long-term prospect.'⁸⁵
- 4.116 The Commonwealth Government has a policy of negotiating comprehensive FTAs, and therefore any FTA negotiation with the RoK would have to take into account agricultural issues – something about which the Korean agricultural sector is reticent.
- 4.117 DFAT is aware of this reluctance and told the Committee that 'one of our major tasks is to convince the Korean agricultural sector that [Australia] is not the threat that ... they think we are.'⁸⁶

Points raised

- 4.118 The Committee canvassed the desirability of an FTA with the RoK with various witnesses during the inquiry. Two specific points were highlighted by witnesses. These were:
- the need for a positive listing style of FTA; and
 - the need for a reduction in trade barriers.

A positive listing free trade agreement

- 4.119 A positive listing free trade agreement is one whereby negotiating countries make voluntary commitments on specific items or services, thereby ensuring that the entire range of possible goods or services is not covered. A negative listing free trade agreement covers all aspects of trade between negotiating countries except those that are not included through explicitly stated provisions.
- 4.120 The AFC and the MEAA both support a positive listing FTA with the RoK.
- 4.121 The AFC submission advised that the RoK Government had 'put in place a range of measures that are designed to stimulate and preserve [the RoK's] cultural industries.' This effectively allowed the Korean film industry, in particular, to grow and become very successful. Both the AFC and the MEAA highlighted the success of the Korean film industry in their submissions.⁸⁷

85 Mr Peter Baxter, *Transcript 31 August 2005*, p. 11.

86 Mr Peter Baxter, *Transcript 31 August 2005*, p. 11.

87 AFC, *Submission No. 29, Vol. 2*, p. 410; MEAA, *Submission No. 24, Vol. 1*, pp. 347–7.

4.122 The AFC noted that Australia is of like mind on the matter of cultural protection:

... in every trade negotiation in which it has participated Australia has supported the right of nations to introduce measures to support and preserve their domestic expression.⁸⁸

4.123 A positive listing agreement would allow the RoK and Australia to preserve their cultural policies by making no commitment to culture and audio visual.

4.124 The AFC and the MEAA told the Committee that should a positive listing approach not be possible, both would support a negative listing commensurate with the Singapore-Australia FTA.⁸⁹

Reduction of trade barriers

4.125 In evidence provided to the Committee, Australian business representatives were supportive of the prospect of an Australia-RoK FTA. In each case, support was predicated on their industry benefiting from reductions in trade barriers.

4.126 The MLA stated that it:

... would be supportive, providing any such arrangement was comprehensive and delivered meaningful reductions in barriers and thus real trade flows for the industry.⁹⁰

4.127 Similarly, the AWBC noted in its submission that it would wish to 'seek the removal of all wine tariffs for trade between Australia and the RoK.'⁹¹

4.128 NWSLNG also advised the Committee that an Australia-RoK FTA 'could only have a positive impact' on its ability to negotiate LNG contracts with the RoK.⁹²

88 AFC, *Submission No. 29, Vol. 2, p. 410.*

89 AFC, *Submission No. 29, Vol. 2, p. 411*; Miss Lynn Gailey, *Transcript 20 September 2005, p. 54.*

90 MLA, *Submission No. 1, Vol. 1, p. 7.*

91 AWBC, *Submission No. 30, Vol. 2, p. 433.*

92 Mr John Banner, *Transcript 21 September 2005, p. 17.*

The Republic of Korea perspective

- 4.129 The RoK Government developed an FTA roadmap in 2003 in recognition of the rise in regionalism and its importance to global trade.⁹³ That roadmap was revised in May 2004 and, in accordance with the roadmap, the RoK has been actively pursuing FTAs with a number of countries.
- 4.130 The roadmap is based on a multi-track strategy of overtaking other players in the global arena and mitigating political opposition through the introduction of multiple FTA agreements.⁹⁴
- 4.131 To date, the RoK has signed FTAs with Chile, Singapore and the European Free Trade Association (EFTA) and is negotiating FTAs with Japan, ASEAN and Canada. In addition, the RoK is conducting joint FTA research with Mexico, India and MERCOSUR⁹⁵ and is exploring the possibilities of FTAs with the U.S. and China.⁹⁶

Points raised

- 4.132 The Committee raised the issue of an Australia-RoK FTA with the Korean Ambassador.
- 4.133 The Ambassador noted that the RoK was 'succeeding in having FTAs with only those countries which do not present very difficult problems to [the RoK] agricultural sector.'⁹⁷
- 4.134 The need to not raise problems for the RoK agricultural sector is paramount in RoK politics. As the RoK Ambassador noted, the RoK agricultural sector is 'very sensitive in terms of politics and [the] economy,' and 'the consensus-building process [in the RoK] domestic scene is very painful.'⁹⁸
- 4.135 The Ambassador advised the Committee that as a result of pressure from the RoK agricultural sector, the RoK would need 'some time until we will be able to expand our negotiations' to include Australia in its FTA roadmap. He did note, however, that Australia is not

93 Embassy of the RoK, *Submission No. 18, Vol. 1*, p. 235.

94 AKBC, Exhibit No. 16, Power Point Presentation, *Korea's FTA Policy and A RoK-Australia FTA*, 20 October 2005.

95 MERCOSUR is a Latin American common market consisting of Argentina, Brazil, Paraguay and Uruguay.

96 AKBC, Exhibit No. 16, Power Point Presentation, *Korea's FTA Policy and A RoK-Australia FTA*, 20 October 2005.

97 Ambassador Sang-hoon Cho, *Transcript 31 August 2005*, p. 25.

98 Ambassador Sang-hoon Cho, *Transcript 31 August 2005*, p. 25.

excluded from this process, rather the RoK has some 'later timing in mind' for an Australia-RoK FTA.⁹⁹

Committee comment

- 4.136 Having discussed the issue of a possible Australia-RoK FTA with the RoK Ambassador, the Committee agrees with DFAT's comment that it needs to try and convince the RoK agricultural sector that Australian agriculture does not pose a real threat.
- 4.137 In this regard, the Committee notes that the RoK, being a northern hemisphere country, enjoys opposite seasons to Australia. Consequently, there is likely to be opportunities for Australia to provide counter-seasonal agriculture produce to the RoK.
- 4.138 The Committee, therefore, encourages the Government to continue raising the advantages of an Australia-RoK FTA with the RoK Government and the RoK agricultural industry.

Recommendation 4

- 4.139 **In the event of the Commonwealth Government commencing free trade agreement negotiations with the Republic of Korea, Australian cultural industries (as well as Korean cultural industries) be protected, and issues relating to agriculture be determined at an early stage of negotiations.**

⁹⁹ Ambassador Sang-hoon Cho, *Transcript 31 August 2005*, p. 25.

