

## Barriers and impediments to trade and investment relations with the Middle East

- 4.1 This chapter examines the barriers and impediments to Australia growing its trade and investment relationships with a diverse region, including the cultural differences and the concerns some Australians may have about doing business in the Middle East and North Africa (MENA). Business people with experience in the Middle East provide their views on the perceptions of security risks, the bureaucracies, and the role of Sharia law, along with an outline of the tariffs and technical barriers to trade that can impact on Australian exports. Other issues examined include Halal certification, food and product labelling, supply chain costs, and the cost of trade finance. The challenges faced by Middle Eastern residents to obtain visas to enter Australia for tourism, business or study are outlined.

### Business environment

- 4.2 The Middle East is unfamiliar terrain for many Australian businesses who have exported to European and North American markets:
- The region's distance from Australia, as well as perceptions about security and cultural differences, have made some exporters wary of entering the market.
  - Factors such as bureaucratic inefficiency, changing policies and regulations, lack of infrastructure, and levels of workforce skill, are all cited as hindrances to business. Such obstacles can sometimes be mitigated through market research and by engaging local expertise.<sup>1</sup>

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<sup>1</sup> Department of Foreign Affairs and Trade, *Submission 9*, p. 24.

- Differing legal regimes also present some challenges. The application of Sharia law introduces an element of incompatibility to some Australian companies operations.<sup>2</sup>

4.3 The Export Council of Australia submitted that in Australia there is a perceived risk of doing business in the Middle East largely based on a lack of understanding of the culture and business practices in the region, and Australian businesses are more likely to put it in 'too hard' basket.<sup>3</sup>

4.4 The Director of the Export Council of Australia, Mr Stephen Deady, recalled the Middle East not featuring too highly as a place for Australians to do business, according to an international business survey by the Business Council of Australia, Austrade, Export Finance and Insurance Corporation and Sydney University:

The UAE was mentioned there as ranked 16th in markets of interest. Significantly it demonstrated that Saudi Arabia, another obviously key member of the GCC, was one of the more difficult markets to penetrate. That does, I think, reflect the level of regulation in those countries...A lack of transparency, hurdles to foreign investment in exports and investment go hand in hand now with the nature of world trade, and some of the foreign investment restrictions that are in that part of the world certainly inhibit Australian exporters. There were some specific aspects of the market that are also important, including some of the costs of doing business there and the certification that is often required. Even in Australia for exports of meat, for example, are really a revenue-raising issue for the Emirates, in particular, but do effect the profitability for Australian exporters to do business in that market.<sup>4</sup>

4.5 According to the CEO of the Australia Arab Chamber of Commerce and Industry, Mrs Suzannah Moss-Wright, receiving full payment for contracts can also be a significant issue confronting some Australian companies involved in the Middle East's expansive construction and infrastructure sector:

The ability to recover payments that are due and owing is the single biggest issue affecting Australian companies wishing to do business in the Middle East. This is something that is involved in the due diligence process up front. Many companies have

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2 Department of Foreign Affairs and Trade, *Submission 9*, p. 24.

3 Export Council of Australia, *Submission 13*, p. 2.

4 Mr Stephen Deady, Export Council of Australia, *Committee Hansard*, Canberra, 1 October 2014, p. 1.

significant amounts of money still outstanding from companies based in the Middle East region, and to recover those funds through the legal system is difficult and protracted. That in turn results in companies having a lesser appetite to go back into that region, because obviously that profitability is marginalised by the fact that there is a non-payment.<sup>5</sup>

4.6 Mrs Moss-Wright cautions any Australian companies chasing opportunities on multi-million dollar construction and infrastructure projects in the Middle East that they will need to undertake a rigorous due diligence process, and ensure that their legal documents are in a form and a structure that allows them to recover outstanding funds. Even companies as large as Habtoor Leighton, the Middle Eastern subsidiary of Australian construction giant Leighton Holdings, have had challenges either collecting outstanding debts or paying out performance bonds during some of its multi-million dollar construction projects in the Gulf.<sup>6</sup>

4.7 The Managing Director of trade consultants Dearin & Associates, Ms Cynthia Dearin, advised that she was aware of some businesses or exporters that wait a long time before receive full payment for their services or goods in the Middle East:

It is one of the things that is reported as being a challenge. That is not to say that you do not get paid, but, typically, it is much slower than it is here. That probably has a cultural element, because time is not seen in the same way as it is seen here. We have the saying, 'Time is money;' the Arabs have the saying, 'God has given us unlimited quantities of two things: time and sand.' So we have a much stricter approach to time and to things like payment deadlines, and that is not always as strictly observed. But, yes, people do report being paid in a timely fashion as a challenge, and I can attest to the fact that that is, in some cases, true.<sup>7</sup>

4.8 The then Chief Executive Officer of the Bank of Sydney, Ms Julie Elliott, told the Committee that not enough Australian exporters were aware of the potential of the Middle East region, particularly with so much of Australia's trade focus being on Asia:

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5 Mrs Suzannah Moss-Wright, Australia Arab Chamber of Commerce and Industry, *Committee Hansard*, Canberra, 25 June 2014, p. 4.

6 Mrs Suzannah Moss-Wright, Australia Arab Chamber of Commerce and Industry, *Committee Hansard*, Canberra, 25 June 2014, p. 4 and Damon Kitney, *Leighton bracing for Qatar legal row*, *The Australian*, 5 August 2013, viewed 3 December 2015, <<http://www.theaustralian.com.au/business/companies/leighton-bracing-for-qatar-legal-row/story-fn91v9q3-1226691068142>>.

7 Ms Cynthia Dearin, Dearin & Associates, *Committee Hansard*, Canberra, 13 May 2015, p. 10.

Competing countries are entering the market with cheaper products and Australia's status as a major exporter to the region is falling. For example, in 2000, Australia was in the top 10 importers into the region; now, we are ranked 22nd. From our perspective, we believe that with the decline in car manufacturing this could fall further unless action is taken.<sup>8</sup>

4.9 Ms Elliott warned there were a range of misconceptions about doing business in the region:

There is a perceived contagion risk of the region, supported by regular media reporting of conflicts in the region and minimal coverage of the opportunities. There is a perceived tyranny of distance, although interestingly the distance is the same as some of the major cities in China. Finally, there is incorrectly perceived cultural differences, such as lack of women in business. That fallacy is demonstrated by the fact that I was appointed to run a Middle-Eastern owned bank here in Australia.<sup>9</sup>

4.10 Australian shipbuilder, Austal, which has been building high-speed ferries, patrol boats and support vessels for Middle Eastern governments, navies and ferry operators since 2002, recommended Australian companies establish an office or take on local agents for a greater presence in the region. Austal opened its office in the UAE in 2010:

It is very difficult to do business in the Middle East without actually being in the Middle East, either with a permanent presence, or willingness for staff to spend significant time on the ground. This has direct implications for sales and marketing budgets. Meetings in person are generally most effective for furthering relationships, followed by telephone, and then emails. It should be remembered that while much of the Middle East speaks very good English, it is a second language and one that they are generally more comfortable speaking than writing.<sup>10</sup>

4.11 Vice President of Sales and Marketing at Austal, Mr David Shiner, told the Committee it took five years from the opening an office in the UAE to delivery of commercial boats in 2015, but it does show it takes time to build strong relationships in the Middle East:

So some people would argue five years from establishing an office to actual order delivery would be a long time. There is a long incubation period. Some people would argue that is a cost which

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8 Ms Julie Elliott, Bank of Sydney, *Committee Hansard*, Canberra, 9 September 2014, p. 22.

9 Ms Julie Elliott, Bank of Sydney, *Committee Hansard*, Canberra, 9 September 2014, p. 23.

10 Austal, *Submission 23*, p. 8.

would be considered a barrier to entry. From our perspective, it is a necessity, if you wish to establish a relationship with the countries in the Middle East, you need to demonstrate that you are committed to a long-term commercial relationship.<sup>11</sup>

- 4.12 Mr Shiner observed that relationships are important for doing business in the region and potential Middle Eastern clients like to be able to engage with an Australian supplier or representative based in their country whenever they need support, or answers to questions:

The Middle East is particularly sensitive to relationships so personal relationships are immensely important. It is about establishing trust, building trust and integrity around the relationships you have, and that is generally not achieved through flying in and flying out. Equally, relationships between organisations extend beyond one or two individuals so it is important to have a balance. What we find is a requirement to have presence on the ground by Australians because the customers want to see Australians in their countries. They want to see Australian organisations invest resources into their countries, but with a mix of local regional support, and supported frequently with senior management visits to the region to reinforce there is a senior commitment and it is not just an outstation that has been left and forgotten.<sup>12</sup>

- 4.13 Austal submitted that finding a skilled local representative or partner for an Australian company can prove successful:

Local agents/consultants/representatives can play a pivotal role in identifying opportunities for trade and investment, establishing and fostering relationships with potential customers and suppliers, and gaining important market intelligence.<sup>13</sup>

- 4.14 Austal explained there were various mechanisms for engaging and retaining a local representative, and 'with all business partnerships, finding the right partner is crucial':

This includes their suitability for a given industry e.g. Austal's representatives are familiar and experienced in our markets; but also ensuring they are properly registered under local laws, and conduct business appropriately. Austal has strict ethical and legal obligations, and policy with regards to the manner in which it

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11 Mr David Shiner, Austal, *Committee Hansard*, Canberra, 14 October 2015, p. 2.

12 Mr David Shiner, Austal, *Committee Hansard*, Canberra, 14 October 2015, p. 2.

13 Austal, *Submission 23*, p. 8.

conducts business and effective due diligence is required when selecting a local representative.<sup>14</sup>

- 4.15 According to Austal, Australian businesses should be prepared to research extensively, utilising local chambers of commerce, business groups, Austrade and DFAT:

The rules under which agents can and can't represent foreign businesses vary from country to country, particularly for government contracts, so it is important to research or take advice.<sup>15</sup>

- 4.16 The Australian Livestock Exporters' Council (ALEC) advised the MENA region is comprised of a complex mix of states and governments requiring a significant understanding of each country for anyone dealing in the many jurisdictions. According to ALEC, the commercial environment and the way that government interacts with business is vastly different to the West and varies greatly from country to country:

Some of the MENA states are governed by vast and somewhat cumbersome bureaucracies which have created layers of regulation which even local businessmen find hard to comprehend. Anything requiring approval by municipal, city, provincial or national government is unlikely to progress quickly, or at all, without the influence of a significant and well-connected local partner.<sup>16</sup>

- 4.17 According to ALEC, in some poorer Middle Eastern countries, corruption is allegedly more common which 'can work both for and against business interests'. Time was required to build closer people-to-people relationships in these countries:

Spending significant time in market with the people that you are dealing with is the only way you can be sure of their intent and honour relative to your business and the way in which it is being processed through official channels.<sup>17</sup>

- 4.18 The Chairman of the Australian Turntable Company (ATC), Mr Paul Chapman, commented on the challenges his engineering firm faced to win contracts in the UAE, Oman, Qatar, Iran and Iraq installing large scale turntables for revolving restaurants, car dealerships and loading docks. Mr Chapman listed the main barriers for ATC's expansion into the Middle

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14 Austal, *Submission 23*, p. 8.

15 Austal, *Submission 23*, p. 8.

16 Australian Livestock Exporters' Council, *Submission 16*, p. 13.

17 Australian Livestock Exporters' Council, *Submission 16*, p. 13.

East, including international recognition, and local suppliers of maintenance services in the Middle East:

- Initially the biggest barrier was that ATC had only a small resume of projects delivered outside Australia, and none into the UAE. Hence there were some concerns of the Emiratis with our capability.
- Buyers in the Middle East like to have a supplier's representative close by, and initially this was a problem for ATC. However we now have a UAE company that undertakes our installations and maintenance, and the locals are much more comfortable.<sup>18</sup>

## Cultural understanding

4.19 ATC Chairman, Mr Chapman, advised that Australian companies seeking to enter the Middle Eastern markets should develop a good understanding of the diverse cultures of the people they will deal with across the region.<sup>19</sup>

4.20 Mr Chapman recalled his own negotiations for a project in Iran, and how his cultural understanding, along with reciting a Persian mathematician's poem from his childhood helped ATC overcome some last minute hurdles to win a contract to install a large turntable for a revolving restaurant:

What I did not know was that very close to the end of the negotiations the head of the [Iranian] government department who was purchasing this revolving restaurant stood up and asked me, 'Mr Chapman, how can I trust you?' which was an interesting question. Without being prepared, I had remembered a poem that my late father used to recite to me. He was a great poet. He settled the kids on his knees as we grew up and would recite every bit of poetry he could remember. He recited one a few times to me that went like this:

The Grape that can with Logic absolute  
The Two-and-Seventy jarring Sects confute:  
The subtle Alchemist that in a Thrice  
Life's leaden Metal into Gold transmute.

I said that to Mr Siddiqui, the head of the department. He looked at the people around him and said, 'That is from the *Rubaiyat of*

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18 Australian Turntable Company, *Answers to Question on Notice*, No. 4, pp. 1-2.

19 Mr Paul Chapman, Australian Turntable Company, *Committee Hansard*, Melbourne, 17 October 2014, p. 14.

*Omar Khayyam.* 'I said, 'That's right, Sir.' He said, 'This deal is done.'<sup>20</sup>

4.21 By contrast, Mr Chapman warned how a lack of respect for an Iranian client and his culture by a third-party engineering firm in Melbourne cost one of his subsidiary businesses a lucrative contract to design and engineer a new energy efficient apartment complex in Tehran.<sup>21</sup>

4.22 Deakin University's Professor Akbarzadeh, commented that despite Australia's broad engagement with the Middle East including significant trade, by sending Australian military forces there, and by educating thousands of international students from the region, there remains a lack of awareness in Australia of the various cultures of the Middle East, especially in the Gulf region:

There is a lot of misconception as to what people in the region believe and how they operate. From my point of view, it is very important to address those areas of need if we hope to expand our engagement with the region and facilitate various companies and the education sector to play a more active and more productive role.<sup>22</sup>

4.23 The Australian Livestock Exporters' Council (ALEC) submitted that the MENA region is dominated by the significant influence of Islam and the cultural legacy of, for the 'most part, being less than a century removed from nomadic, Bedouin or tribal culture'<sup>23</sup>. The Kingdom of Saudi Arabia, as custodian of the Two Holy Mosques, the most revered of sites for the world's 1.6 billion Muslims, remains an influential country in the region according to ALEC. Long standing traditions and religious practices influence almost every aspect of life in the MENA region, including the way in which business is conducted.<sup>24</sup>

4.24 The Managing Director of Seventh Sense, Ibrahim Awad, who is an Australian of Middle Eastern heritage, told the Committee of his recollection of a previous *Australia Unlimited* trade symposium in Dubai trying to sell Australia to the Emiratis:

I think that it is easy to come and try to sell Australia and Australian companies but to do that properly you need a very

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20 Mr Paul Chapman, Australian Turntable Company, *Committee Hansard*, Melbourne, 17 October 2014, p. 13.

21 Mr Paul Chapman, Australian Turntable Company, *Committee Hansard*, Melbourne, 17 October 2014, p. 16.

22 Prof Shahram Akbarzadeh, Deakin University, *Committee Hansard*, Melbourne, 17 October 2014, p. 18.

23 Australian Livestock Exporters' Council, *Submission 16*, p. 11.

24 Australian Livestock Exporters' Council, *Submission 16*, p. 11.



good understanding of the culture and have a respect for the culture. You need to have done a lot of relationship-building, and that requires quite a bit of effort. As I say, I think there is more room for us to understand the culture. I do not think that we are encouraging students at school to learn Arabic even though the trade minister said that the Middle East is now the third most important trading region for Australia...<sup>25</sup>

- 4.25 Professor Akbarzadeh suggested universities across Australia offer students the opportunity study languages:

It is very important to invest in languages – Arabic, Persian. At the moment Arabic is taught in a number of institutions in Australian universities, including at Deakin University. Persian is offered only at ANU, and at the Australian Defence College for service personnel. It is important to invest in language programs.<sup>26</sup>

- 4.26 Professor Matthew Gray from the ANU's Centre for Arab & Islamic Studies (CAIS) argued that more government resources are needed to better promote the teaching of Arabic and Persian languages at both schools and universities, and also improve Australian's cultural awareness of the people of the diverse MENA region.<sup>27</sup>

- 4.27 Professor Gray contended that extra grant funding would allow the academics at CAIS and the Middle East specialists at other universities to undertake more indepth analysis of Australia's trade and investment relationships with a very strategically important part of the world:

Beyond just the general pool of money that the Australian Research Council has, some grants, even if modest, that would let us do so much more applied work on some of the challenges of trade, investment and other elements of the relationship between Australia and the Middle East would be very welcome.<sup>28</sup>

- 4.28 Mr Chapman stated Australia needs to better promote its multiculturalism and also encourage more young Australians to learn second languages such as Arabic and Persian to help build stronger relationships with the Middle East:

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25 Mr Ibrahim Awad, Seventh Sense, *Committee Hansard*, Sydney, 9 September 2014, p. 3.

26 Prof Shahram Akbarzadeh, Deakin University, *Committee Hansard*, Melbourne, 17 October 2014, p. 18.

27 Prof Matthew Gray, Australian National University, *Committee Hansard*, Canberra, 24 September 2014, p. 2.

28 Prof Matthew Gray, Australian National University, *Committee Hansard*, Canberra, 24 September 2014, p. 2.

We have a multicultural workplace, which I promote. An Iranian and a Qatari work for me, I have got a thing about promoting second languages from a young age. If we can get that happening in Australia that builds a cultural bridge and that will help.<sup>29</sup>

- 4.29 In times of budgetary constraints at universities, Professor Akbarzadeh argued that more government support was needed for expanding the teaching of Arabic and Persian in Australia. He explained a proposed Centre for Gulf Studies at Deakin University would follow a similar funding model to the one used by the ANU to help fund its CAIS:

A lot of the success at the ANU is due to, and thanks to, the contribution and donations of external bodies. I believe the lecturer position in Persian language was initiated with support from the Iranian government, the Turkish language, the Arabic language – a lot of programs that are offered at the ANU have started with external funding but the university matches it... That track record has demonstrated that a five-year investment into a centre for Gulf studies, for example, has the capacity to be self-sufficient over the long run because we understand and we know that there is a demand for that level of cultural acquisition, language acquisition and building up of expertise.<sup>30</sup>

- 4.30 Another avenue to improve cultural understanding between Australia and the Middle East were Saudi government scholarships on offer for Australians to study at universities in Saudi Arabia. The Saudi Ministry of Higher Education offers up to 30 scholarships for Australian students under 25 years of age to study for an undergraduate degree, students under 30 years of age for a Masters, and students under 35 years of age for a Doctorate at one of 23 designated Saudi universities. The scholarship will cover the healthcare of a student and their family living in Saudi Arabia, accommodation, annual travel home, financial stipends while they study and upon graduation, and other benefits enjoyed by Saudi students. The students can study any discipline available except medicine and health-related disciplines. The Saudi Arabian Cultural Mission in Canberra offers Australian students assistance with the application process.<sup>31</sup>

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29 Mr Paul Chapman, Australian Turntable Company, *Committee Hansard*, Melbourne, 17 October 2014, p. 13.

30 Prof Shahram Akbarzadeh, Deakin University, *Committee Hansard*, Melbourne, 17 October 2014, p. 18.

31 Saudi Arabian Cultural Mission website, Scholarships, viewed 23 February 2016, <<http://www.sacm.org.au/E/pages/Scholarship.html>>.

## Delegation discussions relating to business in MENA

- 4.31 During its visit to Middle East, the Committee delegation had the opportunity to meet and discuss issues with senior executives of the largest companies in the Gulf states, as well as a broad range of business people involved in chambers of commerce and other representative bodies in the UAE, Saudi Arabia and in Kuwait. The Committee delegation also had meetings and informal discussions with a range of Australian businesspeople working in the Middle East.
- 4.32 At a reception hosted by the Australian Business Council of Dubai in the UAE, the Committee delegation were able to have informal discussions with a range of Australian and Middle Eastern business people about doing business in the UAE. Several UAE business people advocated for Australian participation in Expo 2020 in Dubai, while others voiced concerns regarding the difficulty in obtaining visas for staff to travel to Australia, compared to countries like the UK.
- 4.33 The Committee delegation also attended a Australian Business Group and UAE Alumni Network function at the residence of then Australian Ambassador to UAE, Mr Pablo Kang, in Abu Dhabi. They had informal discussion with members of the Australian business community in the UAE, local business people, and also an alumni of Emirati graduates of Australian universities.
- 4.34 During its visit to Saudi Arabia, the Committee delegation participated in a roundtable meeting with the Council of Saudi Chambers (CSC) in Riyadh. Chamber members told the delegation that the Saudi mining sector was seeking out more Australian mining companies to get involved with.
- 4.35 The Head of Women's Investments Unit, CSC, Ms Khlood Al-Tamimi, reported to the Committee delegation that there was a national business forum for women, and on her role was to promote business opportunities for 43,000 business women across all sectors.
- 4.36 During its visit to Kuwait, the Committee delegation held a meeting with the Kuwait Chamber of Commerce & Industry (KCCI) and its board members. A board member, Mr Diraar Y. Al-Ghanim, observed that the growth in flights to Australia by the Gulf airlines had made Australia a lot closer and easier to get to, but the Kuwaiti tourism market in Australia needed more support.
- 4.37 Mr Al-Ghanim noted there was a large expansion of services provided by the Kuwaiti health sector, including a new 1200 bed hospital and a lot of opportunities for Australians with expertise in the health sector to offer their services and equipment.

- 4.38 Mr Al-Ghanim also reminded the Committee delegation that Australian business delegations visiting Kuwait were rare, but the KCCI did host delegations from the UK and France. According to Mr Al-Ghanim, these visits had helped significantly grow trade with these countries.

## Sharia law

- 4.39 The Australian Livestock Exporters' Council (ALEC) submitted that Australian businesses need to be aware that Sharia law applies over much of the MENA region and that it plays a significant role, particularly in those countries where it is the base for judgment of criminal cases.<sup>32</sup>
- 4.40 Sharia judicial proceedings have significant differences from Western legal traditions, including those in both common law and civil law:

Sharia's rules on written evidence necessarily diminish the utility of written contracts to structure economic relations. Given the significant difference in the structure of law and justice in much of MENA, it is imperative that any Australian active in business in the region has an understanding of the principles of Sharia law.<sup>33</sup>

## Security

- 4.41 Armed conflicts in Syria, Iraq, Libya and Yemen, are making these countries challenging places for Australian companies and exporters seeking to do business.
- 4.42 ATC Chairman Mr Chapman, whose company had installed large turntables in Northern Iraq in recent years before the so-called Islamic state fighters took hold, contended the security issues in these Middle Eastern countries do unfairly tarnish the reputation of the whole region and deter some Australian companies from seeking opportunities:

The unstable tensions between Sunni and Shia protagonists dominate news headlines, and generate a perception that everywhere you go in the Middle East this volatile situation exists. It is not true. Ignorance and limited cultural knowledge is a factor why Australians fear the region. We learnt very early that 'war is war and business is business'.<sup>34</sup>

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32 Australian Livestock Exporters' Council, *Submission 16*, p. 14.

33 Australian Livestock Exporters' Council, *Submission 16*, p. 14.

34 Australian Turntable Company, *Answers to Question on Notice*, No. 4, p. 5.

- 4.43 The Managing Director of trade consultants Dearin & Associates, Ms Cynthia Dearin, asserted that the general public's perception of security risks in the Middle East was an unfortunate reality that must be considered by business:

It only reinforces in people's minds that this is a region that is dangerous to travel to and too hard to work in, although, as those of us who travel there frequently know, you just cannot encompass the entire region with that blanket statement, because it is not the case. There are plenty of places in the region that it is completely fine to travel to and that I would have no hesitation whatsoever in going to, by myself or accompanied.<sup>35</sup>

- 4.44 As an experienced and frequent traveller to the Middle East, Ms Dearin observed that much of the region can be a safe place to travel to and do business:

In terms of the practicality: again, it is on a case-by-case basis, and even, within certain countries, a region-by-region basis. Most people would be absolutely horrified at the thought of taking off for Iraq to do business at this point in time, and yet, if you were to go to Basra in the south of Iraq, you would find that it is quite calm. If you were in, for example, the oil and gas business, or you were moving things in through the port, it would still be possible for you to do that with a fairly high likelihood of being safe.<sup>36</sup>

- 4.45 The Managing Director of Ego Pharmaceuticals, Mr Alan Oppenheim, which has been exporting skincare products to the Middle East for 22 years, stated that security issues were limiting expansion plans into some countries such as Iraq and Syria.<sup>37</sup>

- 4.46 Mr David Mitford-Burgess, a consultant with the Links Group, which assists businesses from Australia with the set-up companies, branch offices and representative offices in the UAE and Qatar, argued that many of the Gulf states are safe:

When the Arab Spring occurred in 2010...a lot of companies and people moved to the UAE and that part of the world because it is seen as stable. Generally, most reports you read by independent

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35 Ms Cynthia Dearin, Dearin & Associates, *Committee Hansard*, Canberra, 13 May 2015, p. 9.

36 Ms Cynthia Dearin, Dearin & Associates, *Committee Hansard*, Canberra, 13 May 2015, p. 9.

37 Mr Alan Oppenheim, Ego Pharmaceuticals, *Committee Hansard*, Melbourne, 17 October 2014, p. 3.

bodies put it not as the safest but certainly at the upper end, as opposed to being a risky part of the world.<sup>38</sup>

## Delegation discussions relating to security issues

4.47 During its visit to the Middle East in December 2015, the Committee delegation was briefed by Austrade Senior Trade Commissioner, Mr Gerard Seeber, on the impact of security issues on Austrade in MENA that have impacted the most on Libya, Iraq, Syria and Yemen. According to Mr Seeber these developments have 'implications on Austrade's coverage and priorities across the MENA region,' but Austrade intends to remain in markets with stability, growth and where opportunities exist in the MENA plan's priority sectors.

## Market access barriers

4.48 There are a range of tariff and non-tariff barriers across the region that can impede Australian trade and investment.

## Tariffs

4.49 According the Department of Agriculture, the applied tariffs on agricultural products imported by the Middle Eastern countries are low. Australia's agricultural exports to the GCC member countries of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE generally face minimal tariff levels, with rates largely around 5 per cent:

However, in a number of other countries in the region, particularly those such as Israel and Morocco where domestic agriculture is more expansive, Australian agricultural exports face significant tariff barriers.<sup>39</sup>

## Grains

4.50 Tariffs on wheat, barley and canola are generally less than 5 per cent across the MENA region. However, in Tunisia, Israel and Morocco, the applied tariff on wheat is 36 per cent, 50 per cent and 69.5 per cent,

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38 Mr David Mitford-Burgess, The Links Group, *Committee Hansard*, Sydney, 9 September 2014, p. 29.

39 Department of Agriculture, *Submission 27*, p. 13.

respectively. Canola is also subject to higher tariffs in Tunisia and Morocco at 15 per cent and 26.2 per cent.<sup>40</sup>

### Red meat

- 4.51 Morocco applies high tariffs to agricultural imports, particularly for meat. The applied tariff on live cattle is 233.5 per cent; on sheep and goats is 153.5 per cent; beef tariffs range from 195 per cent to 254 per cent; and sheep and goat meat faces a 304 per cent applied tariff.<sup>41</sup>
- 4.52 Israel applies no tariff on frozen beef imports. However, a tariff of 190 per cent applies to fresh and chilled beef imports. On sheep meat, Israel in the last 18 months has lowered the tariff applied to sheep meat from 50 to 30 per cent following Australian representations. The Department of Agriculture submitted that it continues to encourage Israel to further reduce this tariff rate for sheep meat imports from Australia, noting the preferential rates applying to imports from the European Union and Mercosur (a South American trade bloc covering Argentina, Brazil, Paraguay, Uruguay and Venezuela).<sup>42</sup>

### Dairy

- 4.53 Generally, the applied tariffs on dairy products imported by MENA countries are low. However, there are some notable exceptions. Israel imposes tariffs on milk powders of 212 per cent, and tariffs on dairy products of between 40 per cent and 140 per cent. Morocco also has high tariffs on milk powders, between 92 per cent and 102 per cent, while butter faces tariffs between 30.5 per cent and 32.5 per cent. Imports of cheese face tariffs of up to 38 per cent, on average.<sup>43</sup>

In 2012 it was estimated that Australian dairy exporters paid around \$13.5 million in tariffs to Gulf Cooperation countries.<sup>44</sup>

### Horticulture

- 4.54 Fruit and vegetable tariffs on imports into the MENA region mostly range between 0 per cent and 30 per cent. However, the average tariff applied by Morocco is 49 per cent. In Israel, some tariffs applied to imported vegetables are as high as 75 per cent and some specialty fruits face tariffs as high as 95 per cent. Tunisia applies tariffs of 36 per cent to all vegetable

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40 Department of Agriculture, *Submission 27*, p. 13.

41 Department of Agriculture, *Submission 27*, p. 13.

42 Department of Agriculture, *Submission 27*, p. 13.

43 Department of Agriculture, *Submission 27*, p. 13.

44 Australian Dairy Industry, *Answers to Question on Notice*, No. 6, p. 3.

and fruit imports. Iran totally prohibits the import of fresh fruit and potatoes.<sup>45</sup>

## Technical barriers to trade

4.55 According to the Department of Agriculture, technical barriers to trade (TBTs) are technical regulations and standards that cover all traded goods, and include standards for food packaging and labelling, animal welfare, agriculture and veterinary chemicals, fisheries and forestry. TBTs can create interruptions and stifle trade opportunities.<sup>46</sup>

## Dairy

4.56 A Board Member of Australian Dairy Farmers, Mr Chris Griffin, told the Committee that technical barriers to trade remain a growing area of concern for Australian food and agricultural exports, including for dairy:

With the support of federal and state governments there is an excellent opportunity with the Australian dairy industry to reduce such technical barriers by focusing on these impediments to trade in various country-to-country discussions. We are working hard on these issues and although the industry is prepared to do everything it can, the reality is that many of these obstacles require government-to-government intervention. This agenda must be resourced effectively through dedicated in-market support like that currently provided through the Department of Agriculture's overseas councillors, as well as supporting government resources within Australia.<sup>47</sup>

4.57 The General Manager of Trade and Industry Strategy for Dairy Australia, Mr Charlie McElhone, asserted that the TBTs added hundreds of millions of dollars to the cost of Australia's dairy exports to the Middle East:

The biggest one that we face is about expiry date restrictions, the shelf-life restrictions, which did not take into account the cold chain and the quality assurance systems that Australia has. As a result, it restricts our ability to get the maximum value out of that market. In terms of opportunity forgone, we have had a recent study done by David Harris & Associates, which looked at about

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45 Department of Agriculture, *Submission 27*, p. 16.

46 Department of Agriculture website, Technical Barriers to Trade, viewed 31 March 2016, <<http://www.agriculture.gov.au/market-access-trade/tbt>>.

47 Mr Chris Griffin, Australian Dairy Farmers, *Committee Hansard*, Melbourne, 17 October 2014, p. 23.



\$390 million worth of cost of those technical market access barriers that we face in that market.<sup>48</sup>

- 4.58 As noted, Dairy Australia commissioned economic and agribusiness consultants David Harris and Associates in 2013/14 to undertake a comparative evaluation of technical barriers to trade for Australian dairy products. The study reviewed the technical requirements of import markets and identified technical barriers to trade. A comparison of these TBTs, and an estimate of the impact to industry in value terms was carried out. The project examined nine separate product categories across eleven categories of technical requirements along the supply chain.
- 4.59 A total of 356 TBTs were identified by the report with 141 of these being deemed to be significant in their impact to trade. Of these, 32 were in South East Asian markets and 20 in North Asia, 50 were in the Middle East and 21 in Central Asia, 2 were in North America and 16 across other markets.<sup>49</sup>
- 4.60 Market impacts have been aggregated in the report to present a regional perspective. The report shows TBTs have an impact of \$398 million in the Middle East.
- 4.61 The most significant dairy TBT relating to the Middle East is an inconsistency with respect to date marking of dairy products. Qatar has sought, through the Sanitary and Phytosanitary (SPS) notification process, to apply mandatory date marking of some dairy products which are shorter than those applied by other GCC countries.
- 4.62 Specifically:
- Full Cream Milk Powder/Instant Full Cream Milk Powder - acceptable shelf life is 24 months in all GCC markets except Qatar where it is 12 months. The Australian Dairy Industry would like it to be standardised to 24 months across GCC.
  - Butter (Unsalted) - acceptable shelf life is 24 months in all GCC markets except Qatar where it is 18 months. The Australian Dairy Industry would like it to be standardised to 24 months across GCC.
  - Ultra-High-Temperature milk in tight sealed carton - acceptable shelf life is 6 months in all GCC markets. The Australian Dairy Industry suggest that this be extended to 9 months:  

The dairy industry does not support the setting of mandatory expiration periods, as manufacturers are best placed to determine the most appropriate expiration dates to achieve the required

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48 Mr Charlie McElhone, Dairy Australia, *Committee Hansard*, Melbourne, 17 October 2014, p. 24.

49 Australian Dairy Industry, *Answers to Question on Notice*, No. 5, p. 2.

safety and quality requirements, based on the composition, processing and packaging of their specific products.<sup>50</sup>

4.63 According to the Australian Dairy Industry the setting of defined periods does not take into consideration these factors. For example in the draft standard under 4.4.1 Chilled Food Products: To be stored at a temperature from 0°C – 5°C' expiry periods for pasteurized milk and heat treated milk (UHT) are defined at 5 days and 6 months respectively. The Australian Dairy Industry outlined that pasteurized milk shelf life can be as long as three weeks, while advances in technologies mean Extended Shelf Life milk products with shelf life far beyond traditional pasteurized milk are now available...The Australian Dairy Industry believed a manufacturer is best placed to understand how these factors work together to determine shelf life. With the correct processing, manufacturers can achieve UHT shelf life of 9 months or more.<sup>51</sup>

4.64 According to the Australian Dairy Industry, another TBT in the GCC is the inclusion of a shelf stable product as UHT milk in the 'chilled food products' section of the standards. Apart from these UHT products, the coverage of the mandatory standard appears to be for 'higher risk' products, including chilled products, baby food products, food products which need specific temperatures for keeping, along with fresh foods and seafoods. The Australian Dairy Industry believed lower risk shelf stable products such as UHT milk, should be covered in the voluntary standard, not the mandatory standard:

The actual shelf life of milk powders is dependent on a range of factors including packaging, the physical state of the lactose and other carbohydrates, water activity and temperature. Again a manufacturer is the best placed to understand how these factors work together to determine shelf life. Australian manufacturers can achieve shelf life of 24 months or more for full cream dried milk.<sup>52</sup>

## Red meat

4.65 The Australian Meat Industry Council also raised concerns about TBTs and the increasing use of sanitary and phytosanitary agreements that allow member nations of the WTO, such as in the Middle East, to apply their own levels of quarantine and food safety on Australian food imports, especially meat:

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50 Australian Dairy Industry, *Answers to Question on Notice*, No. 5, p. 2.

51 Australian Dairy Industry, *Answers to Question on Notice*, No. 5, p. 2.

52 Australian Dairy Industry, *Answers to Question on Notice*, No. 5, p. 3.

Those barriers are often unique to the market and can involve a wide spectrum of technical, political, religious and cultural impediments. In addition, developing countries are continually developing a greater level of independence. Where in the past they would have accepted a US or EU standard, today they issue their own individual requirements in response to tariff liberalisation requiring individual negotiations and agreement.<sup>53</sup>

- 4.66 Chairman of the Australian Processor Council of the Australian Meat Industry Council, David Larkin, argued that ‘market access has moved away from veterinary health certificates and disease control to technical trade barriers, and it has moved away from tariffs and duties’:

As we have seen, with the move away from health status and tariff and duties to technical barriers, our industry faces a myriad of them every day. One that is particularly relevant in the Middle East is labelling and expiry dates. They range in different formats throughout all of the GCC. We face that in a lot of other areas of the world as well. Sovereign countries will demand products labelled in their own language and other countries will not accept products pre-labelled with that. So, if you are sitting in a meat plant processing cattle and you have not sold your product, it is very hard to generically label it for all markets. Those sorts of trade barriers really impact on us.<sup>54</sup>

- 4.67 The General Manager of Trade and Economic Services, Meat and Livestock Australia, Dr Peter Barnard, asserted what the problems with shelf-life restrictions were:

An important point is that those shelf-life restrictions do not relate at all to the safety of the product. Most countries in the world do not have regulated shelf-life restrictions, because if it is in a vacuum pack it is sealed and it will perform wonderfully. In fact, a lot of products perform better after being in a vacuum pack for a period of time, than they do fresh. So, it really is a misunderstanding by Middle Eastern countries and it is something that we have to work on, because it is an impediment to trade.<sup>55</sup>

- 4.68 The Regional Manager Australia of Meat and Livestock Australia, Lachlan Bowtell, advised that the issue was raised regularly with Middle Eastern governments that have the shelf-life restrictions:

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53 Australian Meat Industry Council, *Submission 34*, p. 7.

54 Mr David Larkin, Australian Meat Industry Council, *Committee Hansard*, Sydney, 9 September 2014, p. 15.

55 Dr Peter Barnard, Meat & Livestock Australia, *Committee Hansard*, Sydney, 9 September 2014, p. 40.

We have raised it on numerous occasions throughout the region. It tends to be that other countries do not have the same food safety standards or standards of packaging that we have in Australia. So unfortunately we are at the behest of our lowest competitor in the marketplace from a food safety point of view... There is a recognition that Australia has the world's best standards in place.<sup>56</sup>

- 4.69 In the GCC countries, shelf life of 70 days for red meat rather than 90 days is a significant barrier. Victorian exporters would prefer no limit is applied as is consistent with other markets such as Japan, EU and US.<sup>57</sup> In Egypt there is a shelf life for chilled meat of 29 to 49 days, making the export of chilled meat from Australia barely viable.<sup>58</sup>
- 4.70 The Department of Agriculture First Assistant Secretary of the Exports Division, Greg Read, stated there was no uniform approach across the Middle East to the labelling requirements of chilled, frozen and vacuum-sealed meat. This was due mostly to the differing shelf life standards imposed on these countries' own domestic meat suppliers, which were then also applied to imported meat from Australia.<sup>59</sup>
- 4.71 In Kuwait, rigorous testing procedures are required to be undertaken on produce such as meat before a health certificate is issued to importers. According the Victorian Government, this poses an import barrier on such produce due to some product losses for sampling purposes, and the time taken for clearance. However, other markets in the MENA region, such as the UAE, put greater trust in Australian certifying authorities and do not test every consignment.<sup>60</sup>
- 4.72 Jordan requires temperature probes in the shipping containers transporting meat and other food produce adding cost to the export process. The probes allow importers to monitor if refrigerated containers remain temperature controlled throughout transport. This is not a requirement in other key MENA markets such as the UAE and Saudi Arabia.<sup>61</sup>
- 4.73 For exports to Iran, an Iranian Veterinary Officer (IVO) and Islamic teams must be on site in Australian abattoirs for all product destined for Iran. According to the Victorian Government this is onerous when compared to

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56 Mr Lachlan Bowtell, Meat & Livestock Australia, *Committee Hansard*, Sydney, 9 September 2014, p. 40.

57 Victorian Government, *Answers to Question on Notice*, No. 6, p. 1.

58 Victorian Government, *Answers to Question on Notice*, No. 6, p. 2.

59 Mr Greg Read, Department of Agriculture, *Committee Hansard*, Canberra, 3 December 2014, p. 8.

60 Victorian Government, *Answers to Question on Notice*, No. 6, p. 1.

61 Victorian Government, *Answers to Question on Notice*, No. 6, p. 1.

other countries in the region and restricts trade. Some Australian abattoirs do not need a vet present during processing, and tier 2 abattoirs use a Department of Agriculture and Water Resources vet. It is an additional cost to fly in an Iranian vet.<sup>62</sup>

## Lentils

4.74 The Victorian Government noted that in Saudi Arabia there was zero tolerance of the presence of vetch seed, a common weed in lentils. As a result, many Australian exporters were not prepared to send lentils directly to Saudi Arabia, and risk the presence of vetch being found on inspection, despite there being a strong market for lentils in Saudi Arabia. The UAE, Egypt and other MENA countries accept Australian lentils.<sup>63</sup>

## Rice

4.75 While the SunRice submission acknowledged few restrictions exist in the form of import tariffs and that other trade-related regulatory requirements do not place significant burden on the company trading in the Middle East, SunRice has experienced ongoing issues with phytosanitary protocols and certification.<sup>64</sup>

4.76 According to the Department of Agriculture's guide for exporting plants and plant products, Australian exporters are required to confirm whether the importing country requires a phytosanitary certificate, need to search the Plants database or contact the importing country's National Plant Protection Organisation. The phytosanitary certificate guarantees that Australian plants or plant products:

- have been inspected and tested using appropriate procedures;
- are considered to be free from quarantine pests and practically free from other injurious pests; and
- conform with current phytosanitary regulations of the importing country.<sup>65</sup>

4.77 SunRice commented that there were challenges with the initial step in the process, obtaining the importing country's phytosanitary requirements from their government's quarantine department:

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62 Victorian Government, *Answers to Question on Notice*, No. 6, p. 2.

63 Victorian Government, *Answers to Question on Notice*, No. 6, p. 1.

64 SunRice, *Submission 31*, p. 15.

65 Department of Agriculture, *Exporting plants and plant products: A step-by-step guide for Australian exporters*, viewed 5 April 2016, <[http://www.agriculture.gov.au/Style%20Library/Images/DAFF/\\_data/assets/pdf/file/0005/2271533/plant-export-guide.pdf](http://www.agriculture.gov.au/Style%20Library/Images/DAFF/_data/assets/pdf/file/0005/2271533/plant-export-guide.pdf)>.

SunRice has found this can often be a lengthy and difficult process, even with the assistance of our 'in country' distributors and/or customers. These challenges can result in lengthy delays in finalising the phytosanitary certification process, which in turn, means delays in being able to export our product to the country in question.<sup>66</sup>

- 4.78 SunRice wants consideration given to having Australian authorities manage the process of obtaining the importing country's phytosanitary requirements on behalf of the exporting company. SunRice believes managing this process at a government departmental level would likely to be far more efficient and effective:

An example of the challenges SunRice has faced in this area is in relation to trade to Iraq, where SunRice has been a regular exporter for the past eight years. SunRice is yet to receive details of a phytosanitary protocol despite regular requests by the company to the relevant Iraqi authorities. Despite the lack of a phytosanitary protocol, exports to Iraq have been able to continue, however, these have been subject to prolonged shipment timeframes and increased levels of administration and processing. Both these issues would be resolved through the establishment of a phytosanitary protocol and certification.<sup>67</sup>

- 4.79 SunRice submitted that a 'lack of timely communication of amendments to phytosanitary protocols has at times caused significant business interruption'<sup>68</sup> to trade because without the correct import documentation SunRice has been unable to enter goods into some Middle Eastern markets:

It is essential all Australian exporters are immediately alerted to changes to phytosanitary requirements. We would like to see a process similar to the DFAT travel advisories where any changes to phytosanitary requirements would be immediately communicated to affected exporters via direct email.<sup>69</sup>

## Pharmaceuticals

- 4.80 Ego Pharmaceuticals, Mr Oppenheim, which exported more than \$14 million worth of products into the Middle East in 2013, told the

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66 SunRice, *Submission 31*, p. 15.

67 SunRice, *Submission 31*, p. 15.

68 SunRice, *Submission 31*, p. 15.

69 SunRice, *Submission 31*, p. 15.

Committee of the challenges of negotiating through the different regulations of each country:

How they interpret their written regulations varies hugely from country to country. You can have one product that in one country has a high level of registration, in the next country it is a very low level of registration and in the next country it is a cosmetic and needs no registration at all. Then you go to the very next product and it is the reverse. You would have thought that the regulation of pharmaceuticals and cosmetics and products you use on humans would be fairly consistent across the world, and I can tell you it is not. At times it varies between Australia and New Zealand, and Australia and other countries, and whether it is prescription or not, and it becomes quite challenging.<sup>70</sup>

## Halal certification

- 4.81 According to the Australian Food and Grocery Council (AFGC), many Australian food manufacturers seek halal certification of their facilities and processes, in order to label their products as halal and ensure they are able to be enjoyed by Muslim consumers, as well as the broader non-Muslim population, both domestically and in international export markets.<sup>71</sup>
- 4.82 The consumption of halal (or 'lawful') and the avoidance of haram (or 'unlawful') food and drink is of particular significance to observant Muslims.<sup>72</sup>
- 4.83 Halal products include halal meat from animals slaughtered according to Islamic rules (no pigs, dogs, donkeys, monkeys, cats, other carnivores, amphibians, or birds of prey). Milk, honey, fish, fruit, vegetables, non-intoxicating plants, legumes and grains are also considered halal.<sup>73</sup>
- 4.84 For a product to be halal, it must be as a whole, and in part:

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70 Mr Alan Oppenheim, Ego Pharmaceuticals, *Committee Hansard*, Melbourne, 17 October 2014, p. 2.

71 Australian Food & Grocery Council website, AFGC policies on halal certification, viewed 16 February 2016, <<http://www.afgc.org.au/about-afgc/our-policies/halal-certification/>>.

72 Australian Food & Grocery Council website, AFGC policies on halal certification, viewed 16 February 2016, <<http://www.afgc.org.au/about-afgc/our-policies/halal-certification/>>.

73 Australian Food & Grocery Council website, AFGC policies on halal certification, viewed 16 February 2016, <<http://www.afgc.org.au/about-afgc/our-policies/halal-certification/>>.

- free from any substance taken or extracted from a haram animal or ingredient (e.g. pigs, dogs, carnivorous animals, animals not slaughtered in compliance with Islamic rites);
  - made, processed, manufactured and/or stored by using utensils, equipment and/or machinery that has been cleaned according to Islamic law (e.g. not cleaned with alcohol); and
  - free from contact with, or being close to, a haram substance during preparation, manufacture, processing and storage (e.g. blood, alcohol, poisonous and intoxicating plants and cockroaches).<sup>74</sup>
- 4.85 The Australian Meat Industry Council (AMIC) described one of its major challenges over the last 50 years has been to develop a service delivery model for halal certification that provides reliable market access for its meat processors in the most efficient and cost-effective manner. Halal certification has been an essential component of Australia gaining long term access for its meat products into the Middle East region but there are ongoing challenges.<sup>75</sup>
- 4.86 To be recognised as a halal certifier within Australia, the organisation must have an approved arrangement with the Department of Agriculture that covers the training of slaughtermen, the training of other processor staff in matters of halal, the provision of audits of processors, the provision of halal certificates and the provision of reports to Australian and importing authorities.<sup>76</sup>
- 4.87 The process is overseen by a Department of Agriculture Sub-Committee on Halal, which includes the department's Halal Consultative Committee, industry representatives such as AMIC, and the approved halal certifiers.<sup>77</sup>
- 4.88 The First Assistant Secretary of the Department of Agriculture's Export Division, Mr Greg Read, told the Committee about the halal process in Australian abattoirs:
- The requirements, in the main, will be quite uniform with the...presence of an appropriate Muslim with the slaughter process, and the slaughter process is in accordance with Sharia law and so forth...They will be quite particular in relation to what happens when an animal is deemed to be non-halal or haram – dogs that are present on the facility are appropriately constrained

74 Australian Food & Grocery Council website, AFGC policies on halal certification, viewed 16 February 2016, <<http://www.afgc.org.au/about-afgc/our-policies/halal-certification/>>.

75 Australian Meat Industry Council, *Submission 34*, p. 8.

76 Australian Meat Industry Council, *Submission 34*, p. 9.

77 Australian Meat Industry Council, *Submission 34*, p. 9.



and muzzled; there must be no sign of pigs or pork around that facility; there must be appropriate segregation from a non-halal product; and a range of supervisory presences in that plan to ensure that this program is met from the religious side – and that varies. It is quite complex from market to market, and, from time to time, the certifiers that are accredited for each market keep changing as well.<sup>78</sup>

4.89 The department's activities in relation to halal certification are a prescribed program by the Australian Government under the *Export Control Act 1982 (Cth)*:

...from the process of the accreditation of certifiers, as recognised by the importing country, through to the relevant protocols that are applied by each of the different countries in relation to exported meat – various audit obligations around approved programs sit within that system – ultimately, then through to the certificates that are issued to those markets. There are varying requirements from different markets in relation to halal slaughter...we seek to minimise those divergences as much as possible to ensure that we can have as broad a distribution as possible internationally on carcasses.<sup>79</sup>

4.90 Mr Read explained the challenges of different interpretations internationally around the 'halalness' of products:

In relation to the halal program with Malaysia we spent a number of years providing scientific evidence around the time between stunning and cutting and death of animals, just to provide appropriate assurances to them in that regard. Equally, other countries again are very sensitive, particularly with the stunning of cattle, about what constitutes an appropriate indent in the head, which is not such a great indent that it causes death but is appropriate to provide the level of stunning needed prior to slaughter.<sup>80</sup>

4.91 An issue for Australian exporters are that standards for halal vary significantly:

Effectively, it is fair to say that there is no international standard for halal, so every country pretty much has its own autonomy to

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78 Mr Greg Read, Department of Agriculture, *Committee Hansard*, Canberra, 3 December 2014, p. 2.

79 Mr Greg Read, Department of Agriculture, *Committee Hansard*, Canberra, 3 December 2014, p. 1.

80 Mr Greg Read, Department of Agriculture, *Committee Hansard*, Canberra, 3 December 2014, p. 1.

be prescriptive in what it requires. That will range then from the recognition of the certifiers. In Australia, we have 21 certifiers. For example, only six of those 21 are recognised by Saudi Arabia.<sup>81</sup>

4.92 Mr Read explained:

In regard to challenging some of those decisions or seeking to explore why a certain decision was taken, quite often in the sphere of halal certification an answer is never that straightforward. Particularly, in terms of a competent authority from a sanitary perspective as opposed to a religious perspective, again, it is very hard for us to make any particular reference to why they are establishing a particular religious practice that does not make sense to us, or should be broader or done another way.<sup>82</sup>

4.93 The AMIC argued that government should become more directly involved in halal certification. This is 'driven by the finding that there is a lack of transparency within the commercial halal certification system'<sup>83</sup>. It also recommended that the 'act of ritual slaughter and certification should be delivered and charged in a way that only recovered the actual costs of the service':

Over the years other certifiers have emerged. Along with this, some importing countries have started to set their own standards including requiring certifiers to be registered and some charged a fee. Another practice has emerged that requires charitable donations be made to religious organisations in the importing country.<sup>84</sup>

4.94 According to AMIC, some importing countries have a preference for a single certifier which has 'encouraged monopoly activity'. Some halal certifiers have also become labour hire companies offering the option of sourcing the halal slaughtermen and halal supervisors from them charged at a premium. These activities are all adding to the costs of Australian meat exporters.<sup>85</sup>

4.95 According to the CEO of the Australian Food and Grocery Council (AFGC), Mr Gary Dawson, food exports from Australia into Islamic societies were worth around \$13 billion a year:

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81 Mr Greg Read, Department of Agriculture, *Committee Hansard*, Canberra, 3 December 2014, p. 2.

82 Mr Greg Read, Department of Agriculture, *Committee Hansard*, Canberra, 3 December 2014, p. 2.

83 Australian Meat Industry Council, *Submission 34*, p. 8.

84 Australian Meat Industry Council, *Submission 34*, p. 8.

85 Australian Meat Industry Council, *Submission 34*, pp. 8-9.

This is a significant export trade. That trade either requires or benefits from halal certification in Australia, so it is an important facilitator of that trade into Islamic countries. We do have some concerns around the certification systems in Australia. We think that they could benefit from more transparency around who is doing it, why it is done, whether they are a commercial or a not-for-profit operation and what the proceeds go towards, for example.<sup>86</sup>

4.96 Mr Dawson expressed concerns about the extent of influence an importing country may have on the halal certification process in Australia:

...where an importing country might determine that halal certification in Australia, or within a particular state of Australia, must be done by a certain halal certifier and thereby set up, essentially, a local monopoly around halal certification in that state. That can be problematic when it comes to exporting to a range of countries and having to get four or five different halal certifications on the same product.<sup>87</sup>

4.97 The Australian Dairy Industry submitted that offering halal-compliant food was important since the GCC nations consume more than US\$40 billion worth of halal food products every year:

The predominant markets for halal products in the Middle East are the GCC countries. Australian exporters have a number of certifying organisations that are recognised by Middle Eastern countries. Exporters advise a fixed cost of between \$3,000 to \$5,000 for the halal certification service.<sup>88</sup>

4.98 The Senior Policy Manager for Australian Dairy Farmers, Mr David Losberg, told the Committee that most dairy products are certified halal because that is obviously key to exporting into the Middle East:

My understanding is that the costs for certification as halal are not that significant... It is a major selling point into the Middle East market obviously, apart from the fact that we make good, safe and nutritious products.<sup>89</sup>

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86 Mr Gary Dawson, Australian Food and Grocery Council, *Committee Hansard*, Canberra, 9 September 2015, p. 6.

87 Mr Gary Dawson, Australian Food and Grocery Council, *Committee Hansard*, Canberra, 9 September 2015, p. 6.

88 Australian Dairy Industry, *Answers to Question on Notice*, No. 5, p. 1.

89 Mr David Losberg, Australian Dairy Farmers, *Committee Hansard*, Melbourne, 17 October 2014, p. 23.

- 4.99 According to AMIC, the Australian halal meat production system is one of the best in the world and has been recognised as such by markets and during international forums such as the World Halal Congress. The system has been replicated by other countries.<sup>90</sup>

## **Committee comment**

- 4.100 The Committee notes that many Australian food manufacturers seek halal certification of their facilities and processes, in order to label their products as halal, and ensure these can be exported to markets in the Middle East and throughout Asia.
- 4.101 For most food exporters, the costs for certification as halal do not appear significant, and certainly worth the expense when halal certification is a major selling point for selling into the Middle East market.
- 4.102 Despite the relatively minimal cost of halal certification on a large export order of chilled meat or dairy product, the Committee shares concerns about the lack of transparency within the commercial halal certification system in Australia. The system could benefit from more information on who the certifiers are, whether they are a commercial, or a not-for-profit operation, and what the proceeds go towards.

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### **Recommendation 1**

**The Committee recommends the Department of Agriculture and Water Resources improve national coordination and oversight of halal certification to assist exporters find the most suitable provider of certification services, and also provide online access to the halal requirements in different Middle Eastern countries.**

## **Food and product labelling**

- 4.103 The Victorian Government advised that differences in importer labelling regimes across the Middle East add costs for Australian exporters. Labelling regulations across Egypt and Algeria present a particular challenge for food exporters. Importer labelling is technically onerous in

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<sup>90</sup> Australian Meat Industry Council, *Submission 34*, p. 9.

these North African countries when compared to more standardised labelling in GCC countries, including Saudi Arabia.<sup>91</sup>

- 4.104 The Department of Agriculture's Mr Read, stated that while there is a Gulf Standards Organisation in the GCC countries overseeing issues such as food labelling and expiry dates, these countries can still independently regulate their domestic market:

...there is a Gulf standard-setting organisation, but effectively countries still have the sovereign capacity to set a range of prescribed requirements in relation to shelf life, which they do. That has caused some limited times in many cases for the range of products and variability across different products, which again has added to the complexity and cost of exporting product in this country. As to what we do about it – those countries are putting those requirements in place not so much to disaffect exporters, but as a regulatory regime, in terms of their domestic production system.<sup>92</sup>

- 4.105 The Department of Agriculture uses its Consul (Agriculture) based in the UAE to raise these issues with government officials and is also pursuing it in international forums with the aim of standardising the labelling requirements for meat and exporters of other foods from Australia.<sup>93</sup>

- 4.106 Strict food labelling laws in the UAE are said to pose a more moderate barrier. Labels for new products need to be approved by the Dubai Municipality. Labels need to be in Arabic and stick-on labels are generally not allowed. Some food additives that are commonly used in processed foods are also banned. These generally relate to the 'E' series of additives. Qatar has a similar system and other MENA countries have variations on this theme.<sup>94</sup>

- 4.107 Mr Alan Oppenheim of Ego Pharmaceuticals suggested that some of the regulators were trying to get 'rid of or clean out their markets of smaller companies' by constantly changing regulations on labelling that impact on the cost of manufacture:

One of the blocks is this constant change of regulation. For example, one of the regulators – I think it is the Ministry of Health in Saudi – is proposing that expiry dates which are currently on packs, and date of manufacture, which is unique to the Middle

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91 Victorian Government, *Answers to Question on Notice*, No. 6, p. 2.

92 Mr Greg Read, Department of Agriculture, *Committee Hansard*, Canberra, 3 December 2014, p. 8.

93 Department of Agriculture, *Answers to Question on Notice*, No. 9, p. 3.

94 Victorian Government, *Answers to Question on Notice*, No. 6, p. 2.

East, are now going to be required to be done in Arabic. At the moment, our machinery cannot do Arabic; it is not possible. If that actually comes through there are going to be hundreds of thousands of dollars in capital costs of changing our equipment.<sup>95</sup>

## **Delegation discussions in relation to food labelling**

- 4.108 The Committee delegation attended a roundtable lunch in Dubai with the representatives of food exporters and importers in the UAE, which was hosted by Austrade's Senior Trade Commissioner in the UAE, Mr Gerard Seeber.
- 4.109 Food labelling was discussed with the Committee delegation and several food importers noted that Australian products could be better labelled and marketed locally with an example being Australian chocolates labelled in the UAE to celebrate the end of Ramadan. There was also acknowledgement of the risk of exporting Australian product in bulk for local labelling and packaging, and if something went wrong in storage or transport, it may threaten Australia's existing reputation for clean and safe food. The importers admitted Australian products did not have the same profile in the UAE as many products from the US and Europe, and more promotion was required to help drive sales.

## **Supply chain costs**

- 4.110 A representative of Fletcher International Exports and member of the AMIC, Graham Lyon, told the Committee about the burden of added supply chain costs from using rail to transport product from its meat processing plants in Dubbo and in Western Australia to export. Mr Lyon highlighted the company's experience with transporting processed farm products from Dubbo in central NSW to the Sydney port:

...it costs more to get a container of meat from Dubbo to Sydney than it does to get it from Sydney to Beijing. That is a fact...but a classic example is that our rail system is probably running at about half the efficiency that it should be, and that is a burden that has to be carried by the Australian farmer.<sup>96</sup>

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95 Mr Alan Oppenheim, Ego Pharmaceuticals, *Committee Hansard*, Melbourne, 17 October 2014, p. 2.

96 Mr Graham Lyon, Australian Meat Industry Council, *Committee Hansard*, Sydney, 9 September 2014, p. 18.

- 4.111 According to Mr Lyon, the Managing Director of Fletcher International Exports, Roger Fletcher, has taken steps himself to identify the bottlenecks and weaknesses along these sections of rail infrastructure to 'allow longer trains, faster freight movements to port and opening up bottlenecks':

We are right at the forefront of doing that. We have built an intermodal rail terminal at Dubbo. We knew we had enough for half the freight for an efficient train. Most trains run at between 600 and 800 metres long; the train that Fletcher now leases is up to 1.2 kilometres long and carrying a full load of freight when it moves from Dubbo to Sydney. We have built a grain terminal and other import-export businesses around that privately to make that train efficient.<sup>97</sup>

- 4.112 Fletcher International Exports had undertaken similar measures in Western Australia since opening up a factory in Narrikup near Albany:

Often heavy containers are moved in single container movements between the abattoir and the port. We have been able to work with the state government over there to build a truck that is capable of moving two 20-foot containers and a 40-foot container, so it is three times more efficient than some of the most simple freight movements. That is something we employ right through our business. But working with government will be key in other regions to making us more efficient globally.<sup>98</sup>

- 4.113 Problems with the supply chain for wheat and barley exports were outlined by eastern Australian grain handler and exporter, GrainCorp, which stores and transports wheat to markets. GrainCorp, which is the largest exporter of grain from eastern Australia, blamed the poor performance of rail freight and costly port regulations for adding significant costs to grain exporters.<sup>99</sup>

- 4.114 According to GrainCorp, which operates freight trains with an annual rail capacity in excess of 4 million tonnes, the competitiveness of eastern Australian grain exports into the Middle East is being 'endangered by the poor performance of our rail freight network', which:

- Adds significant cost, eroding Australia's ocean freight advantage and reducing the returns available to grain growers; and

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97 Mr Graham Lyon, Australian Meat Industry Council, *Committee Hansard*, Sydney, 9 September 2014, p. 18.

98 Mr Graham Lyon, Australian Meat Industry Council, *Committee Hansard*, Sydney, 9 September 2014, p. 18.

99 GrainCorp, *Submission 42*, p. 2.

- May cause international customers, including those in the Middle East, to question Australia's ability to service growing demand reliably and for a reasonable cost.<sup>100</sup>
- 4.115 GrainCorp submitted that rail rates in eastern Australia were estimated to be \$10 per tonne above 'best practice' and can cost, for similar distances, \$20 per tonne more than in Canada and \$10 per tonne more than in Western Australia.<sup>101</sup>
- 4.116 GrainCorp argued these extra supply chain costs were attributable to:
- Slow loading speeds and cycle times with dated loading infrastructure at most country silos, meaning some unit trains with 40 wagons take over 12 hours to be loaded;
  - Short sidings at most country silos, which are government-owned, are unable to accommodate a full unit train with 40 wagons. This requires trains to be shunted at a site or broken between two or more country silos; and
  - Weight restrictions on branch lines due to most of the regional rail network suffering from 'persistent underinvestment, as governments have prioritised road infrastructure'. Consequently a substantial portion of the rail network has payload restrictions, requiring trains to be at least 20 per cent under-loaded.

As a result, rail now only handles 50 per cent of all deliveries into GrainCorp's ports – a figure that has declined from 90 per cent just 10 years ago. This is the equivalent to up to 2 million tonnes of export grain per annum in an average year that would arrive at GrainCorp's ports by train, now being transported on a truck.<sup>102</sup>

- 4.117 According to GrainCorp, the competitiveness of Australian wheat exports is also being increasingly undermined by outdated regulation of its port terminals. GrainCorp stated this regulation was specific to the wheat industry and did not apply to the export of other commodities. GrainCorp estimates the indirect cost to the industry of this regulation to be in excess of \$2 per tonne or \$10 million<sup>103</sup> when applied across all exports from eastern Australia:

The increasing costs and inefficiencies of unnecessary port regulation are borne by industry (and ultimately by growers).

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100 GrainCorp, *Submission 42*, p. 4.

101 GrainCorp, *Submission 42*, p. 4.

102 GrainCorp, *Submission 42*, p. 4.

103 GrainCorp, *Submission 42*, p. 2.



These costs undermine our competitiveness in key regions including the Middle East.<sup>104</sup>

- 4.118 The regulation required GrainCorp to have an Access Undertaking with the Australian Competition and Consumer Commission (ACCC) to provide access to third party exporters. It was introduced as a transitional measure to facilitate the transition from a single export desk for wheat to a competitive, deregulated environment.<sup>105</sup>
- 4.119 Since the deregulation of the wheat export market in 2008, GrainCorp asserted that a competitive market has been established, with numerous exporters competing to export Australian wheat, including the major global grain trading houses, as well as GrainCorp and other operators. GrainCorp argued the continued application of the port access regulation to its port facilities was becoming increasingly inequitable, with a number of new bulk ports not subject to port access regulation, while its operations continue to be regulated.<sup>106</sup>
- 4.120 According to GrainCorp, the continued port access regulation of its seven bulk grain ports on the eastern seaboard meant it had:
- limited commercial flexibility to enter into flexible agreements with customers who wish to lock in export arrangements – a disincentive for long-term planning to service key export regions;
  - limited pricing flexibility;
  - limited ability to innovate with customers to improve services; and
  - limited incentive to invest in the supply chain, as ‘any investment in new capacity is effectively nationalised and available to all customers’.<sup>107</sup>
- 4.121 GrainCorp asserted the port access regulation:
- ...endangers the competitiveness and reputation of Australia’s grain industry, by reducing operating flexibility, innovation and investment in the Australia’s grain chain.<sup>108</sup>
- 4.122 GrainCorp argued industry-specific regulation was no longer necessary, and bulk wheat port elevators should operate in the same way as coal, container, woodchip and other bulk commodity terminals; and be subject to the national access regulations under the *Competition and Consumer Act 2010 (Cth)*:

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104 GrainCorp, *Submission 42*, p. 4.

105 GrainCorp, *Submission 42*, p. 2.

106 GrainCorp, *Submission 42*, p. 2.

107 GrainCorp, *Submission 42*, pp. 2 - 3.

108 GrainCorp, *Submission 42*, p. 3.

The case for ongoing industry specific-regulation is particularly problematic in eastern Australia. Unlike the situation in South and Western Australia, eastern Australian growers have access to a large domestic grain market that consumes 50-60 per cent of production and various alternative export supply chains.<sup>109</sup>

- 4.123 GrainCorp faced competition from five unregulated bulk port elevators: Newcastle Agri Terminal and Louis Dreyfus port terminal in Newcastle; Queensland Bulk Terminals in Brisbane; Quattro Ports grain terminal in Port Kembla and a planned Bunge terminal in Geelong. GrainCorp also faced increasing competition from export containers. GrainCorp estimated that the export of grain in containers has increased from 0.5 to 2.5 million tonnes per annum in the past 10 years and was supported by 'aggressive transport rates from shipping lines seeking backload for empty containers'.<sup>110</sup>

## Shipping document legalisation costs

- 4.124 According to DFAT, in the UAE, the lack of a centralised regulatory framework for imports can result in delays and added costs for Australian food exporters, who are also required to pay large fees for certification of documents and other administrative services. Such transaction costs, and resulting impacts on transit time and shelf life for fresh produce, can reduce the competitiveness of Australian goods in the UAE.<sup>111</sup>
- 4.125 SunRice's submission raised concerns about the levies imposed by a number of Middle Eastern country's embassies or consulates in Australia to legalise shipping documents:

While it is a normal requirement for shipping documents to be legalised, costs vary widely. In particular, the UAE legalisation costs are extraordinarily high. For example, a single shipment of rice products could incur several thousands of dollars in legalisation costs to the UAE embassy in Australia. This increases the cost of exporting goods to the UAE and for a staple and relatively low margin product such as rice, it adds a substantial fiscal burden.<sup>112</sup>

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109 GrainCorp, *Submission 42*, p. 3.

110 GrainCorp, *Submission 42*, p. 3.

111 Department of Foreign Affairs and Trade, *Submission 9*, p. 25.

112 SunRice, *Submission 31*, p. 16.

- 4.126 SunRice would welcome a review of the legalisation cost structure for shipping documents during any bi-lateral trade talks with Middle East countries.

## **The Department of Agriculture and Water Resources export clearances**

- 4.127 Mainstream Aquaculture expressed concern about obtaining new export licences and clearances from the Department of Agriculture and Water Resources' Melbourne offices outside of regulation business hours. Mainstream Aquaculture are faced with challenges when its time-sensitive exports of live barramundi fingerlings in large satchels of water need to be flown to their end destination in Saudi Arabia or other international markets in under three days to avoid the fish dying:

There are some issues on transport logistics. I am happy to give examples, such as we might have to turn up to a DAFF [Department of Agriculture] office for a physical inspection of fish at 4 pm because the flight leaves at 7 am the next day but the DAFF office is not open that early. To send live fish, we have about 48 to 68 hours as a maximum. So if you take up 16 hours between your checkpoint and when the plane leaves it chews into a lot of that time.<sup>113</sup>

- 4.128 The Department of Agriculture's, Mr Read, responded that the department seeks to be flexible in its hours and staff availability, when given at least 24 hours' notice:

...we clearly want the bulk of exports, where we can do that, to run in a service core hour arrangement, if possible. That is where the bulk of our staff will be, and we will be able to deal with issues, inquiries and so forth. So the six-to-six process, or time frame, could be categorised as that sort of area that we would target or that we would hope industry can provide most of its activity through. Industry supports us in that, because that is how a range of these charges have been structured with industry to encourage that to occur...our officers are very flexible with notice in terms of providing staff out of hours. And we will do that, as

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113 Dr Paul Harrison, Mainstream Aquaculture, *Committee Hansard*, Melbourne, 17 October 2014, p. 46.

long as we have early enough notification that they require an inspection.<sup>114</sup>

- 4.129 According to Mainstream Aquaculture, and depending on the import requirements of the countries the exports are destined for, the Department of Agriculture officers are required to do a physical health check of the juvenile fish exports taken by Mainstream to the department's offices before their scheduled flight:

They just open up our boxes at random and confirm that the fish are in there and that they look good. That is supported by a veterinary certificate which is done prior to that, but there is a physical inspection.<sup>115</sup>

- 4.130 Where a client requests service outside of normal business hours, according to the Department of Agriculture, an overtime fee is charged to recover associated overtime and shift penalties for officers on duty:

The department is flexible around the provision of documentation services. Requests for service outside of business hours are required no later than 2:00pm the day before the booking. In the event of a cancellation, the department will not impose a fee if there are no costs incurred. In some circumstances, a fee will be charged if a cancellation request is received late and the department is unable to contact the attending officer and costs have already been incurred.<sup>116</sup>

## **Cost of trade finance**

- 4.131 The Executive Chairman of the Australian Turntable Company (ATC), Mr Paul Chapman, explained the challenges he found when seeking finance for export opportunities overseas:

A major barrier for ATC has been the unwillingness of Australian bankers to facilitate the funding of some projects in the Middle East. My opinion is that our banks, and in particular our regional banks are ignorant of dealing in the region and have to use third parties or foreign banks that are recognised globally. It is a sad indictment on Australia's entrepreneurial spirit to have our

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114 Mr Greg Read, Department of Agriculture, *Committee Hansard*, Canberra, 3 December 2014, p. 9.

115 Dr Paul Harrison, Mainstream Aquaculture, *Committee Hansard*, Melbourne, 17 October 2014, p. 46.

116 Department of Agriculture, *Answers to Question on Notice*, No. 9, p. 6.

financiers too ignorant and way too scared to support quality companies sell Australia's expertise into the Middle East.<sup>117</sup>

- 4.132 The then CEO of the Bank of Sydney, Ms Elliott, observed that there was a 'lack of awareness of what banking facilities are available' in the Middle East. The Bank of Sydney, which is a wholly owned subsidiary of the Bank of Beirut with branches in Sydney, Melbourne and Adelaide, had financial connections in the region:

Few Australian banks have local representation in the region and few exporters are aware of the banks that do have representation such as ourselves. We regularly get contacted by customers or exporters who have difficult transactions into different countries within the region that just cannot get any of the big name banks to look at them and support them...As a bank, of course you would understand that risk is a major concern for us. It is not that we are taking more risk than the other banks; it is because our parent has been banking in the region for 50 years, so it is an area that we understand. We believe we are better placed to understand and assess the risks that banks and exporters take on from a finance perspective into the region. We do believe that there is an opportunity for the government and key banks with representation in the area to work closely together to make this really happen and come to life.<sup>118</sup>

- 4.133 The CEO of Arab Bank Australia, Mr Rizk, offered that Australian exporters wanting to do business in the Middle East needed access to banking systems they can trust:

The Arab Bank has an enormous amount of skill in the trade side of it, throughout the Middle East. They know who to deal with – in fact the Arab Bank PLC understands sovereign risk in the area extremely well and understands bank risk in that part of the world. If you think about what the major Australian banks have done; they have pulled back their operations out of that region. The reason for that is they do not have the resources and the capability of understanding the risk profile of those countries and the sovereigns. So we quite often are asked: can we endorse letters of credit coming out of the Middle East for Australian exporters. So that is an added value that we have through the parent.<sup>119</sup>

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117 Australian Turntable Company, *Answers to Question on Notice*, No. 4, pp. 1-2.

118 Ms Julie Elliott, Bank of Sydney, *Committee Hansard*, Canberra, 9 September 2014, p. 22.

119 Mr Joseph Rizk, Arab Bank of Australia, *Committee Hansard*, Canberra, 18 June 2014, pp. 2 - 3.

4.134 SunRice's submitted that obtaining competitively-priced trade finance for export orders to the Middle East, particularly to countries with a 'sub-investment' grade financial rating, had become increasingly difficult due to recent changes in financial market conditions, including the re-rating of some Middle Eastern banks:

Australian banks have traditionally not had the same level of appetite to guarantee these orders as the local branches of Middle Eastern banks, or can attract a higher cost as they are acting as intermediaries and selling the risk to third parties, such as the World Bank or the Australian Government's Export Finance Investment Corporation (EFIC).<sup>120</sup>

4.135 SunRice had faced difficulties in obtaining financial guarantees for export orders, even from the Export Finance and Insurance Corporation (EFIC):

Given EFIC is an Australian Government export credit agency, obtaining greater support from it in the form of competitively priced guarantees to Australian banks would reduce costs and provide Australian exporters to the Middle East, such as SunRice, with greater security to increase business with 'sub-investment' grade countries in the region.<sup>121</sup>

4.136 The Head of International Trade at the Bank of Sydney, Mr Ashley Bakes, told the Committee about the advantage in the area of trade finance of having a local presence in the Middle East. The Bank of Sydney has that presence due to being owned by the Bank of Beirut:

...what the Bank of Beirut has is representation in the Middle East... We have branches of our own bank in Oman. We have representatives in UAE, in Qatar, in Iraq and in Cyprus. If you take the area around the region, we are well represented through word of mouth and connections in correspondent banking.<sup>122</sup>

4.137 Mr Bakes argued these Middle Eastern connections can be invaluable when Australian exporters are trying to finalise payments.<sup>123</sup>

4.138 The Export Finance and Insurance Corporation (EFIC) stated during the past five years it has been supporting Australian companies trading in the Middle East and at 30 June 2015, EFIC's exposure on its Commercial Account to the Middle East was around \$150 million.<sup>124</sup> EFIC had also

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120 SunRice, *Submission 31*, p. 16.

121 SunRice, *Submission 31*, p. 16.

122 Mr Ashley Bakes, Bank of Sydney, *Committee Hansard*, Canberra, 9 September 2014, p. 25.

123 Mr Ashley Bakes, Bank of Sydney, *Committee Hansard*, Canberra, 9 September 2014, p. 25.

124 EFIC, *Submission 55*, p. 4.

provided an estimated \$25 million worth of credit facilities to smaller businesses who are exporting to the Middle East.

- 4.139 Australian small and medium-sized enterprises (SMEs) seeking export markets are often restrained by difficulty in accessing finance and professional advice and support, according to research commissioned in 2013 by EFIC and conducted by East & Partners. The research involved a random sample of 6,368 Australian businesses. Of the Australian SMEs that have already established overseas facilities, 58 per cent reported difficulties in accessing finance for these investments. When struggling to obtain funds from Australian banks, many SMEs turn to overseas banks to fund their investments with 46 per cent using overseas banks compared with only 39 per cent using Australian banks.<sup>125</sup>
- 4.140 Of those Australian SME exporters interviewed, 36 per cent of them had experienced failed offshore attempts. Market knowledge, planning and finance, along with local management and execution issues, were cited as the key reasons for failure. The research showed that those SMEs with successful overseas investments were twice as likely to seek professional local advice in order to understand the market they were investing in and the associated tax, regulatory and compliance issues, compared with those who assessed their investment as unsuccessful.<sup>126</sup>

## Perceptions of Australia as a tourism destination

- 4.141 The Managing Director of Seventh Sense, Ibrahim Awad, told the Committee about the nationals from the Gulf states, who used to visit Lebanon and Syria for their vacation travel, were looking for alternatives due to the unrest in those parts of the Middle East:

A lot of them are now going to Thailand and Malaysia. Australia potentially has a lot more to offer but I do not think we really sell Australia much over there.<sup>127</sup>

- 4.142 Mr Awad believes Australia should be better-placed to attract tourism from the Gulf states because there is a large well-established Arab

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125 EFIC website, SMEs keen to invest overseas but held back by access to finance, viewed 16 March 2016, <<http://www.efic.gov.au/news-events/media-releases/2013/november/invest-and-grow-overseas-but-held-back-by-access-to-finance/>>.

126 EFIC website, SMEs keen to invest overseas but held back by access to finance, viewed 16 March 2016, <<http://www.efic.gov.au/news-events/media-releases/2013/november/invest-and-grow-overseas-but-held-back-by-access-to-finance/>>.

127 Mr Ibrahim Awad, Seventh Sense, *Committee Hansard*, Sydney, 9 September 2014, p. 5.

community already living here that understands their recreational and cultural needs:

We are better positioned to be able to attract Arab tourists than most other countries because we have a very good well established Arab community and some culture here. One of the things that Dubai does very well is, regardless of who goes there, they make them feel very special. Whether they are dealing with a client, a hotel or whoever they are dealing with, they make them feel very special. I do not know that we make Arabs feel very special. I think there are some impediments...where often times politically or otherwise, Arabs are not really seen in the best light. So I think there are reservations from people from the Middle East, especially from the UAE, to come here on holiday because potentially they feel like they may not be wanted.<sup>128</sup>

- 4.143 Mr Awad is aware of a perception in the Middle East of some Australians not being very welcoming to Muslims living, visiting or studying in Australia, mostly due to negative media coverage:

...an example would be the pulling off of the hijabs and the discrimination against Muslim women. They are very traditional. The Gulf people especially love their culture, they love their religion and are very traditional. They are very accepting, open and liberal so they would love to come here and go to the Gold Coast...But anywhere where they feel that maybe potentially their welfare or their safety may be jeopardised or they may be discriminated against, they would shy away from.<sup>129</sup>

- 4.144 Monash University's, Professor Khan, hoped any negative views about people of Islamic faith would lessen in time.

There has been some resonance in the media around Islamophobia. That will be an interesting part of the equation over the coming, hopefully not long, period but the short term.<sup>130</sup>

## Visas for visitors, students and businesspeople

- 4.145 In 2014-15, the Department of Immigration and Border Protection (DIBP) granted 55, 547 visas for MENA nationals to enter Australia, with 13,759

128 Mr Ibrahim Awad, Seventh Sense, *Committee Hansard*, Sydney, 9 September 2014, p. 6.

129 Mr Ibrahim Awad, Seventh Sense, *Committee Hansard*, Sydney, 9 September 2014, p. 6.

130 Prof Abid Khan, Monash University, *Committee Hansard*, Melbourne, 17 October 2014, p. 33.



student visas issued, 37,215 visitor visas, and 4,573 business stream visitor visas for business people also granted.<sup>131</sup>

- 4.146 The largest intakes of Middle Eastern students on student visas in 2014-15 were from Saudi Arabia (8,739), Iran (1,612) and Iraq (870). The largest visitor numbers of MENA nationals in 2014-15 came from Iran (7,509), Saudi Arabia, (6,954), Israel (5,318), Lebanon (4,810), and the United Arab Emirates (3,682).<sup>132</sup>
- 4.147 DFAT advised that Middle East Embassies in Canberra have periodically raised concerns about Australian visa requirements, including for business and student visas. The Missions have cited the length, complexity, and onerous requirements of Australian visa applications.<sup>133</sup>
- 4.148 The Ambassador of Jordan, HE Mrs Rima Alaadeen, asserted that the complexity of the student visa application process for Jordanians seeking to study at Australian universities and other educational institutions was a deterrent when compared to obtaining student visas in other nations:

The Australian student visa is the most complicated student visa in the world. Full stop. You have to fill in more than 33 pages, 32 or 33 pages. To do that, you have to provide documents, more than you would if you were applying for American or UK universities for a student studying tertiary, vocational or university levels. All levels are very complicated. It is even more complicated if there are dependants of the student. That is one of the predicaments to our mature students coming and doing their postgraduate degrees in Australia. We want to always encourage Jordanian students to come and study in Australia, given that Australian universities provide English education and English is the second language in half of the Arab world. We were trying to compete with the American and the European universities.<sup>134</sup>

- 4.149 The DIBP responded that it was 'not aware of any problems with the processing of requests for Australian visas for tourists, students and business people from the Middle East'.<sup>135</sup>

All citizens from MENA countries are eligible to lodge visitor visa applications online. Those that choose to lodge paper applications,

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131 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 9.

132 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 9.

133 Department of Foreign Affairs and Trade, *Submission 9*, p. 26.

134 Her Excellency Mrs Rima Alaadeen, Ambassador of the Hashemite Kingdom of Jordan, *Committee Hansard*, Canberra, 11 February 2015, pp. 8 - 9.

135 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 25.

in many cases, are assisted by a service delivery partner in their home country.<sup>136</sup>

- 4.150 On 16 June 2015, the Australian Government announced the introduction of a simplified student visa framework (SSVF), including the creation of one student visa subclass, from mid-2016. It is anticipated that electronic lodgment will be available for all student visa applicants under SSVF:

The SSVF will make the student visa application process simpler to navigate for students and online lodgment will be available to students from all countries, including Middle East and North African countries. In addition, and as part of this process, the student visa application form has been reviewed and simplified.<sup>137</sup>

- 4.151 The DIBP does not produce a list of at-risk countries for visas. The Department does refer to assessment levels within the current Student Visa programme.<sup>138</sup> The Department told the Committee about the care taken to check an applicant's background:

We are also trying to collect information that would go to the care and welfare of the individual while they are in Australia. Some students are in Australia for a significantly long period of time, sometimes for up to three or four years. There are questions, for example, around medical insurance arrangements. We often have cases where students come with family members or dependents, so we seek some information about who they are and their connection to the applicants. Some caseloads need further background checking, including security checking...and there is more data required for that. There are some countries in this region where those sorts of measures apply.<sup>139</sup>

- 4.152 Under current student visa programme arrangements, access to electronic lodgment is aligned with the immigration risk level rating of that country for a specific student visa subclass. There are currently three assessment levels to align student visa requirements to the immigration risk posed by applicants from particular nationalities, such as rates of overstaying their visas and numbers of past visa refusals. Student visa applicants from Assessment Level 1 countries, which represent the lowest immigration risk, can apply online – as shown in Table 4.2 include Oman, Bahrain, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates. Assessment
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136 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 28.

137 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 24.

138 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, pp. 3 – 4.

139 Mr Jim Williams, Department of Immigration and Border Protection, *Committee Hansard*, Canberra, 4 March 2015, p. 1.

Level 2 and 3 applicants from specific countries can also apply online via authorised agents.<sup>140</sup> The higher the assessment level, the greater the evidence an applicant needs to support their claims for a student visa:

Assessment Levels correspond to the immigration risk posed by applicants from a particular country studying in a particular education sector, based on an objective analysis of immigration compliance performance for students from a particular nationality or education sector. The Department...considers each Student visa applicant on their individual merits...All applicants must meet security and character requirements to be granted a student visa.<sup>141</sup>

Table 4.2 Risk assessment levels applicable for passport holders of all MENA countries.<sup>142</sup>

Passport held	Subclass 570 ELICOS	Subclass 571 Schools	Subclass 572 VET	Subclass 573 Higher Education	Subclass 574 Postgraduate Research	Subclass 575 Non Award	Subclass 576 Foreign Affairs or Defence
Algeria	3	3	3	3	2	*	All 576 travel documents are assessment level 2
Bahrain	1	1	1	1	1	1	
Egypt	3	3	3	3	1	3	
Iran	3	3	3	3	2	2	
Iraq	3	3	3	3	2	*	
Israel	2	3	2	2	1	1	
Jordan	3	2	2	3	1	3	
Kuwait	1	1	1	1	1	1	
Lebanon	3	2	3	3	1	3	
Libya	3	3	3	3	2	*	
Morocco	3	3	3	3	2	*	
Oman	1	1	1	1	1	1	
Palestinian Authority	3	3	3	3	2	*	
Qatar	1	1	1	1	1	1	
Saudi Arabia	1	1	2	1	1	1	
Syria	3	3	3	2	2	3	
Tunisia	3	3	3	3	2	*	
UAE	1	1	1	1	1	1	
Yemen	3	3	3	2	2	3	

NB: \*The assessment level is determined by matching the passport held with the visa subclass for the education sector of the principal course.

Source: Department of Immigration and Border Protection, *Answers to Question on Notice*.

140 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 28.

141 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 29.

142 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 4.

- 4.153 The DIBP states that all student visa applicants must satisfy requirements relating to English language proficiency in order to be granted a student visa. The evidence that must be produced to meet this requirement differs according to the sector of study, the Assessment Level of the applicant and whether the application is to be processed under Streamlined Visa Processing (SVP) arrangements. If the applicant cannot satisfy the English proficiency requirement, their visa cannot be granted.<sup>143</sup>
- 4.154 In the following circumstances, the English proficiency requirement is considered to be met by presenting an enrolment from a Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registered provider:
- Assessment Level 1 and Assessment Level 2 applications
  - All SVP applications
  - Applicants studying in the School Sector (subclass 571)
  - Applicants studying in the English Language Intensive Courses for Overseas Students (ELICOS) Sector (subclass 570)
  - Applicants studying in the Postgraduate Research Sector (subclass 574)<sup>144</sup>
- 4.155 The DIBP explained why its student visa application forms were only available in English, and not in Arabic, because the students need to understand English to study in Australia, and the visa assessors need answers in English to make their assessments:
- They need to speak English anyway. Importantly, our staff need to be able assess it, not only our staff at post but also our staff who do quality assurance and auditing, and they may form evidence around the application process. So it is important that we ask for the information in English... There are a range of issues that occur to students on a high enough scale for us to be concerned about and for us to ensure that, as much as possible, we are able to mitigate the risks at the front end – the visa application process. It includes students overstaying. It includes students, including children, becoming destitute. It includes students getting involved in crime and other areas of concern?<sup>145</sup>
- 4.156 The DIBP uses service providers to operate visa application centres across the Middle East in countries such as Saudi Arabia, Kuwait, UAE, Egypt

143 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 33.

144 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 33.

145 Mr Jim Williams, Department of Immigration and Border Protection, *Committee Hansard*, Canberra, 4 March 2015, pp. 2 – 3.

and Jordan. These centres can provide applicants with visa information in Arabic:

We do have, though, in Jordan a visa application centre for people to come in and make an application through a service provider that we engage. That service provider also does a quality assurance check at the time that the application is lodged. If there is information missing at the time they are lodging it, they would be told and given the opportunity to provide it.<sup>146</sup>

4.157 The DIBP told the Committee of the challenges of providing its online visa application forms and the pop-ups over certain data fields in foreign languages such as Arabic. Owing to the great demand for tourist and student visas coming from China, provision of English translations to Chinese would likely be a priority.<sup>147</sup> The department had no analysis of what the estimated costs of such an upgrade would be:

It is probably a question of prioritisation and investment as to which languages we would look to do that in... Providing this material and keeping it updated in multiple languages is quite a daunting prospect, because as soon as a policy change is made – even a minor one – we would need to then make the change in multiple languages.<sup>148</sup>

4.158 The Australian Government's application charges for a student visa were outlined below, and apply to applications made inside or outside of Australia. According to the DIBP, the average amount paid in 2014-15 for a Student visa (including Student Guardian visa - subclass 580) was \$620. The prices listed below were current on 16 February 2016:<sup>149</sup>

- Base application charge - \$550
- Non-Internet application charge - Nil
- Additional applicant charge for applicant who is at least 18 years of age - \$410
- Additional applicant charge for applicant who is younger than 18 years of age - \$135

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146 Mr Jim Williams, Department of Immigration and Border Protection, *Committee Hansard*, Canberra, 4 March 2015, p. 3.

147 Mr Jim Williams, Department of Immigration and Border Protection, *Committee Hansard*, Canberra, 4 March 2015, p. 5.

148 Mr Jim Williams, Department of Immigration and Border Protection, *Committee Hansard*, Canberra, 4 March 2015, p. 5.

149 Department of Immigration and Border Protection, *Answers to Question on Notice*, 26 February 2016, pp. 13 – 14.

- Subsequent temporary application charge (if applicable, per person) - \$700.

4.159 The CEO of the AACCI, Mrs Moss-Wright, asserted that Australia's visa processing system was proving an impediment to attracting potential tourists, students and businesspeople from the Middle East:

In terms of tourism coming into Australia – so attracting more tourists from the Middle East region to Australia – one of the big impediments is our visa system. It is incredibly difficult for people of most Middle East origins to obtain a visa to Australia ... Many people find that offensive. Our visa system, because of the way it is structured and because of how rigorous we are in approaching visas, can be interpreted as Australia not wanting them to come. We do need to be conscious of that.<sup>150</sup>

4.160 Mrs Moss-Wright understood why Australia's visa processing system needed to be thorough when examining any possible national security concerns about those seeking visas, but argued that it also required a degree of flexibility:

I realise that there are certainly national security interests in protecting our borders, but there is also a need to recognise the different circumstances of individuals. A really good example of that is high-net-wealth individuals. A lot of high-net-wealth individuals would love to come to Australia, but unfortunately they cannot get visas for their entourage, they cannot get visas for their nanny or they cannot get visas for their family. As a consequence, we are losing an enormous amount of exposure. When those high-net-wealth individuals come, they do not just come for a holiday; they also come to explore business opportunities. Perhaps we as a country could consider additional visa categories, such as a business class visa...<sup>151</sup>

4.161 The Department's website references the terms 'low risk' and 'high risk' in the Visitor Visa program to define the applicable service standard, in relation to visa application processing times. Each application is assessed on its individual merits and many visitor visa applications are processed within low risk service standards.<sup>152</sup>

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150 Mrs Suzannah Moss-Wright, Australia Arab Chamber of Commerce and Industry, *Committee Hansard*, Canberra, 25 June 2014, p. 2.

151 Mrs Suzannah Moss-Wright, Australia Arab Chamber of Commerce and Industry, *Committee Hansard*, Canberra, 25 June 2014, pp. 2 – 3.

152 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 4.

- 4.162 Mr Rizk, argued that Australia's visa processing system can be a point of contention among those people from the Middle East looking for business opportunities or seeking to invest in Australia, and also by those wishing to study in Australia:

It is not only costing us business opportunities but it is creating ill feeling on the other side. You have government ministers and senior diplomats from these Arab countries that are enticed by business here for them to visit. So they do a lot of their work, which sometimes can take several months. When they go to apply for a visa they are put through the wringer. We are talking about government officials and so forth. That practice leaves a bad taste. It does not happen in too many other parts of the world where ministers and senior people from those countries are put through the wringer. And then how they are treated at the airport when they arrive here is something quite foreign to them.<sup>153</sup>

- 4.163 Mr Rizk asserted the current Australian student visa system was more onerous when compared to other nations' systems, and it may deter some students and potentially cost Australia future trade and tourism opportunities:

Visas have always been an issue. Everybody understands that, according to the latest estimates, there are about 30,000 students from the region. They are well dispersed all over Australia and that is a great revenue puller. But what people do not do not see with students is the revenue that they generate for their country for the next 30 or 40 years. We have seen it in other parts of Asia, where students have come here to learn but they still depend on Australian products and know-how. They entice their parents to invest in Australia. The reason the holidaying crowds came from the Emirates to Queensland was because they had students here. They used to come in the July and August period to go to Queensland for a holiday instead of having their children go home or going to other parts of the world...if you look at what students do for the country in the longer term, it is great. There is not anyone that visits this country that does not go back and say, 'What a fantastic place.' So they become ambassadors for you.<sup>154</sup>

- 4.164 The then Director of Aviation Policy at the Tourism and Transport Forum, Justin Wastnage, advised a need for a VIP service for high-wealth individuals visiting from the Middle East to pay for quicker, more

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153 Mr Joseph Rizk, Arab Bank of Australia, *Committee Hansard*, Canberra, 18 June 2014 , p 5.

154 Mr Joseph Rizk, Arab Bank of Australia, *Committee Hansard*, Canberra, 18 June 2014 , p 5.

personable access through passport and Customs control at Australian airports after their long flights:

Most other competitor countries including the UK have a VIP service when you arrive through passport control and Customs. Australia does not have this. The best we have is an express card...one of the barriers to this previously was a view that everyone should be made to queue up together because it is egalitarian. But especially the Middle East and also some other Asian countries have an expectation of a high level of personal touch. So whereas much of our traditional tourism market such as North America and Europe prizes efficiency and speed over anything else, some of these markets like the Middle Eastern and certain Asian countries prize human touch and they want to be escorted through and have their passport looked at in a special room. This would not be a cost to government. Everywhere else in the world, this would be a paid-for service so if there were people willing to pay extra to have additional service, they could.<sup>155</sup>

4.165 The TTF believes there are many high wealth Middle Eastern visitors who may wish to fly to Australia by private aircraft or business jet and use business jet terminals. According to the TTF, the present off-terminal border processing was inconsistent, with Immigration officers usually available at the Sydney and Brisbane's jet bases, but not at those bases in Melbourne, Perth or Darwin.<sup>156</sup>

4.166 The DIBP stated that it and border agency partners provide off-terminal clearances (OTCs) on a case-by-case basis. In assessing applications from industry, consideration is given to the size of the aircraft, numbers of travellers, the suitability of arrival/departure facilities and the required resources available to complete the clearance process:

Border agency officials attempt to support all OTC requests; however, the servicing of these requests results in the dilution of services at existing international airports and in other border control operations, through the deployment of officers to locations away from where they perform their normal duties.<sup>157</sup>

4.167 At a number of Australia's major international airports, the DIBP has implemented arrangements where applications for OTCs are only

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155 Mr Justin Wastnage, Tourism and Transport Forum, *Committee Hansard*, Canberra, 18 March 2015, p. 8.

156 Tourism & Transport Forum, *Submission 46*, p. 5.

157 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 32.



considered away from peak periods, and where the request is received (a minimum) 48 hours prior to the aircraft's arrival/ departure.<sup>158</sup>

- 4.168 The Lebanon Embassy's Charge d'Affaires at interim, Mr Milad Raad, told the Committee that a quarter of the Lebanese people who go through the complex process of applying for a visa to visit or study in Australia are refused:

They are Lebanese non-Australians who apply for a visa. The statistics that immigration officials here gave me last year were that about 24 per cent of those who apply for a visa are refused. It is a very high percentage. And of those who get the visa and come here, the non-compliance ratio is about six or seven per cent, which is also considered to be high. Plus, the security considerations in the region made it not impossible but more difficult or more time consuming to apply and get a visa to Australia. It used to be easier before, and we hope it will be easier in the future.<sup>159</sup>

- 4.169 The Ambassador of Tunisia, HE Mr Nabil Lakhal, also told the Committee it was not easy for Tunisians to get a visa to visit Australia:

Tunisian citizens are obliged, for example, to send all their dossiers to your embassy in Egypt. But, at the same time, I want to give you good news because Tunisia decided to exempt the Australian passport holder from the visa – so you can now visit Tunisia without a visa – to encourage tourism from Australia to Tunisia.<sup>160</sup>

## Committee comment

- 4.170 The Department of Immigration and Border Protection have granted 55,547 visas for MENA nationals, including 13,759 students, to come to Australia in 2014-15.
- 4.171 The Ambassador of Jordan, HE Mrs Rima Alaadeen, observed that the 33 page Australian student visa application was the most complicated student visa form in the world.

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158 Department of Immigration and Border Protection, *Answers to Question on Notice*, No. 12, p. 32.

159 Mr Milad Raad, Charge d'Affaires at interim, Embassy of Lebanon, *Committee Hansard*, Canberra, 11 February 2015, p. 11.

160 His Excellency Nabil Lakhal, Ambassador of the Republic of Tunisia, *Committee Hansard*, Canberra, 11 February 2015, p. 9.

- 4.172 In view of these remarks, the Committee notes that a simplified student visa framework (SSVF) is being developed and will become available in the second half of 2016. In a welcome development, the SSVF will make electronic lodgement available for all student applications.
- 4.173 One of the big impediments attracting more tourists from the Middle East region to Australia is the visa system, which some find unwelcoming.
- 4.174 The Committee also notes there is a need for a VIP service for high-wealth individuals visiting from the Middle East to pay for quicker, more personable access through passport and Customs control at Australian airports after their long flights.

## **Recommendation 2**

**The Committee recommends the Department of Immigration and Border Protection:**

- **benchmark its processes for the granting of international student visas with competitor countries;**
- **consider measures to simplify its international student visa process for applicants from Middle Eastern countries who present a low immigration risk; and**
- **undertake a review of the simplified student visa framework reforms one year after its commencement to determine their efficacy.**

## **Visas for Australian businesspeople in the Middle East**

- 4.175 According to DFAT, visa processes and travel restrictions represent another hurdle for Australian business. Business visa applicants for Middle East destinations are often required to be vouchsafed by local partners. This makes it difficult for new entrants to the market to conduct scoping activities outside of official delegations. Australia is subject to more visa restrictions than some trade competitors. Business representatives from Australia seeking to visit Saudi Arabia, for example, apply are eligible for a single-entry 30 day visa, whereas multiple-entry one year visas are available for US and UK business. Single-entry restrictions, in particular for air travel hub locations, make it difficult to lower costs by combining visits to a number of countries across the region.<sup>161</sup>

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161 Department of Foreign Affairs and Trade, *Submission 9*, pp. 25 – 26.

- 4.176 Monash University's Dr Farjou, noted that it was onerous for Australians seeking a visa to visit Saudi Arabia for study, business or as a tourist because Australian applicant needs a Saudi sponsor:

...from my experience, the process is totally different. You need to have a visa approval from a sponsor in Saudi. As soon as you get this, you can get your visa within five to eight working days, from Canberra.<sup>162</sup>

## Diplomatic presence

- 4.177 According to DFAT, Middle Eastern companies place importance on the support of their government and the support of governments of potential international partners. Given the personal and 'status-conscious' nature of business in the region, and close ties between government and commercial interests Australian business sometimes says limited official representation in the region is an obstacle:

Of note, the Qatar Government and business has frequently cited the lack of an Australian embassy in Qatar as a key impediment to an expansion of commercial links.<sup>163</sup>

- 4.178 On 12 May 2015 it was announced that a new Australian Embassy will open in Doha, Qatar, in 2016, as part of a 2015-16 Budget commitment of \$98 million to open five new overseas missions<sup>164</sup>. Austrade's Senior Trade Commissioner in the UAE expected an Austrade Trade Commissioner to be based in Qatar when the embassy opens in the second half of 2016.

- 4.179 The Charge d'Affaires of the Embassy of Qatar, Mr Mohammed Al-Jabir, told the Committee that a Australian diplomatic presence in Doha would be welcome:

An Australian presence in Qatar will be very important to closely serve Australia's interests there. Qatar, in its 2030 vision, is planning to spend about \$200 billion on infrastructure, and so that will be a good opportunity, I think, for Australia to participate in the development of our country.<sup>165</sup>

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162 Dr Nizar Farjou, Monash University, *Committee Hansard*, Melbourne, 17 October 2014, p. 34.

163 Department of Foreign Affairs and Trade, *Submission 9*, p. 26.

164 J Bishop (Minister for Foreign Affairs), *2015 Foreign Affairs Budget*, media release, Parliament House, Canberra, 12 May 2015.

165 Mr Mohammed Al-Jabir, Charge d'Affaires, Embassy of the State of Kuwait, *Committee Hansard*, Canberra, 11 February 2015, p. 11.

4.180 The lack of a permanent Australian diplomatic presence in North Africa outside Egypt is also criticised by North African governments. As a result, DFAT submitted that business to business networks were at times disjointed:

Sector-specific functions like education and tourism promotion are largely handled remotely from outside the region. Whilst business councils offer opportunities to network and develop links between Australia and the Middle East, many are fragmented and represent narrow interests.<sup>166</sup>

## Trade sanctions

4.181 Australia's trade with a number of countries in the Middle East is inhibited by a range UN Security Council and Australian autonomous sanctions:

- **Iran** – The Australian Government has decided to suspend certain autonomous sanctions on Iran, while others will remain in place. The Government will apply the changes to United Nations sanctions on Iran as required by UN Security Council Resolution 2231.<sup>167</sup>
- **Iraq** – UN Security Council sanctions restrict the sale of arms or related material, dealing with cultural property and dealing with Iraq assets in Australia or removed from Iraq.
- **Lebanon** – UN Security Council sanctions restrict the sale of arms or related material
- **Libya** – UN Security Council and Australian autonomous sanctions restrict sale of arms or related material and crude oil illicitly exported from Libya.
- **Syria** – Australian autonomous sanctions restrict sale of arms or related material.
- **Yemen** – UN Security Council financial sanctions dealing with a designated person or entity from Yemen.<sup>168</sup>

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166 Department of Foreign Affairs and Trade, *Submission 9*, p. 26.

167 Department of Foreign Affairs and Trade website, 7 April 2016, <<http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/iran/Pages/iran.aspx>>.

168 Department of Foreign Affairs and Trade website, 16 February 2016, <<http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/sanctions-regimes.aspx>>.

- 4.182 The UN Security Council had previously imposed sanctions on Iran due to international concerns about it developing a nuclear weapons program. The sanctions covered financial transactions with Iran, and especially exports from its oil and gas industry, and also impacted on Iranian students seeking higher education in Australia. The Government is implementing changes to Australia's sanctions on Iran in line with its international obligations under UN Security Council resolutions.<sup>169</sup>
- 4.183 ATC Chairman Mr Chapman described the sanctions process on Iran as adding many arduous and time consuming hurdles for exporters:
- ATC have to work with various parties including local construction companies, labour hire, architects, project managers, banks and freighting companies. All have to be vetted by DFAT and although we have not experienced a situation where we were not allowed to correspond with a supplier, the time taken is inordinately restrictive for business. My feeling is that when business does ramp up, time will be of the essence.<sup>170</sup>
- 4.184 The trade sanctions on Iran also impacted negatively on the export business of Ego Pharmaceuticals:
- We do a lot of export to Iran, which was our biggest export market until the UN sanctions wrecked the exchange rate and wrecked their economy – but that has opened up again. It has continued to be open for us. Our products are nowhere near the sanction type products. It is about simply helping people, and we have a very entrepreneurial distributor there.<sup>171</sup>

## Information available to university students from MENA

- 4.185 Monash University's Dr Farjou, told the Committee some of the reasons why he believes US universities were a preferred destination for more than 80,000 students from Saudi Arabia to study than Australian universities, which attract about 10,000 Saudis. Dr Farjou said the US has taken some very important steps in recent years to facilitate the process for Saudi students to study in the US. He saw their methods firsthand while attending the Minister of Higher Education's exhibition in Riyadh in 2014:

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169 Department of Foreign Affairs and Trade website, 16 February 2016, <<http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/sanctions-regimes.aspx>>.

170 Australian Turntable Company, *Answers to Question on Notice*, No. 4, p. 4.

171 Mr Alan Oppenheim, Ego Pharmaceuticals, *Committee Hansard*, Melbourne, 17 October 2014, p. 3.

There were 450 universities from all parts of the world. The American universities were interviewing students at the exhibition and giving them offers on the same day. They get their visas in three days and they are off to the US...The holistic approach starts before the students leave Saudi Arabia. Unfortunately, we do not have a strong predeparture briefing or orientation program for the students. Many of them come and, after two weeks, get something like a cultural shock. Some of them want to go back.<sup>172</sup>

- 4.186 Dr Farjou, observed some Australian universities also need a better understanding of the purpose of the King Abdullah's Scholarship Program (KAS), which supports the biggest cohort of Middle Eastern students and their families from Saudi Arabia to study in Australia:

There were a few mistakes in this from our institutions. Some universities clustered Saudi students in the same class. The idea behind the KAS program is not just education. We attended many meetings with the Minister of Higher Education. In one of the meetings he said: 'It is not about education only. We want these young people to be exposed to the cultures. We want to teach them how to live together with others and how to integrate with other cultures.'...We need to not only focus on education; we need to expose them to the Australian culture.<sup>173</sup>

- 4.187 Dr Farjou believed the Australian federal and state governments, along with the universities, needed to coordinate to provide a more thorough predeparture briefing for any Middle Eastern students and their families:

We need to meet the expectations of this year's students and their families. We look sometimes at education as a commodity, but when they look into education it is a right. Many times in the UAE, I find someone walking into my office holding the hand of his daughter and telling me: 'This is your daughter now. Take care of her in Australia.' We need to take in consideration the cultural differences and meet the expectations.<sup>174</sup>

- 4.188 According to Dr Farjou, life as a student in Australia living independently for the first time away from home can also be a shock for Middle East students used to a lot more supervision and domestic support to live their day-to-day lives:

Students from the Middle East are used to spoonfeeding. When they come to Australia, they have to do everything themselves. We

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172 Dr Nizar Farjou, Monash University, *Committee Hansard*, Melbourne, 17 October 2014, p. 32.

173 Dr Nizar Farjou, Monash University, *Committee Hansard*, Melbourne, 17 October 2014, p. 31.

174 Dr Nizar Farjou, Monash University, *Committee Hansard*, Melbourne, 17 October 2014, p. 32.

need to actually explain to them that it will not be the same lifestyle in Australia. They need to adapt to our ways of doing things. But they need to know about these things before they come to Australia. There were so many incidents where, after two weeks, people just want to go back. Then, after a while, they realised that Australia is the best place for them to have quality education, for their kids to go to schools and some of them do not like to go back.<sup>175</sup>

- 4.189 The University of Wollongong Dubai has raised course requirement concerns about the duplication of higher education accreditation requirements which make Australian universities courses in the Middle East not as appealing as those offered by international competitors with campuses offshore. The delivery of higher education by Australian-owned offshore institutions is regulated and accredited by the Australian governments Tertiary Education Quality and Standards Agency (TEQSA). Within Dubai, UOWD is accredited by the UAE's Commission for Academic Accreditation as well as licensed by Dubai's Knowledge and Human Development Authority (KHDA). In practice these multiple accreditation/licensure regimes result in audits or reviews by multiple agencies against different accreditation frameworks. Standards imposed on Australian institutions such as the recent changes to the Volume of Learning requirements for Master's degree programs under the Australian Qualifications Framework, are said to render courses from Australian higher education institutions uncompetitive in offshore markets compared to those offered by British or Canadian universities.<sup>176</sup>

## **Brand Australia awareness**

- 4.190 According to DFAT, a lack of Australian brand awareness and historical loyalties to other markets may be hindering growth in the services sector. This is particularly evident in education, where Australian courses in the tertiary and vocational training sectors do not receive recognition given to higher profile US and UK providers. Recipients of scholarships from Middle Eastern governments may be required to enrol at universities in certain countries based on perceived course quality. In the case of the UAE, nine Australian universities are currently listed by the government as destinations for state-funded coursework, compared with 50 in the UK and 174 in the US. This reflects, in part, low awareness and regional

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175 Dr Nizar Farjou, Monash University, *Committee Hansard*, Melbourne, 17 October 2014, p. 33.

176 University of Wollongong, *Submission 45*, p. 5.

visibility of Australia's education sector offerings. This is despite the longstanding local presence of providers such as the University of Wollongong and Murdoch University, which have campuses in Dubai.<sup>177</sup>

## Barriers to Middle East investment relations

- 4.191 According to DFAT, there is a range of regulatory and operating environment issues in Australia cited by Middle East trade and investment interests. Just as Australian business can struggle to understand the nuances inherent to the Middle East, investors from that region may be less familiar with the Australian commercial landscape than Asian or European competitors.<sup>178</sup>
- 4.192 DFAT submitted that sovereign wealth funds – key investors in Australia – have raised concerns about features of Australia's taxation system and the regulatory environment. Some of these relate to different tax structures, especially given corporate incentives and a lack of income tax provisions in the Gulf. With much investment from the Middle East focused on commercial and agricultural property holdings, investors query the implications of different ownership categories, and capital gains losses on private, equity-type investments.<sup>179</sup>
- 4.193 DFAT stated that withholding tax payable on Australian dividends is also claimed by sovereign wealth funds as imposing effective limits for foreign interests. Sovereign wealth funds have also queried Australia's approach to sovereign immunity:
- Whilst the principle is accepted in practice, the rules governing exception from tax for government monies are subject to some limits. Investors with significant, existing portfolios in Australia are always keen to know whether to expect increased scrutiny by the Foreign Investment Review Board, though mooted changes to the threshold level have been met with some enthusiasm.<sup>180</sup>
- 4.194 Australia has negotiated tax treaties with more than 40 countries but in the Middle East only an investment promotion agreement with Egypt and a tax information exchange treaty with Bahrain:
- Tax treaties are also referred to as tax conventions or double tax agreements (DTA). They prevent double taxation and fiscal

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177 Department of Foreign Affairs and Trade, *Submission 9*, p. 25.

178 Department of Foreign Affairs and Trade, *Submission 9*, p. 26.

179 Department of Foreign Affairs and Trade, *Submission 9*, p. 26.

180 Department of Foreign Affairs and Trade, *Submission 9*, p. 26.



evasion, and foster cooperation between Australia and other international tax authorities by enforcing their respective tax laws.<sup>181</sup>

- 4.195 DFAT submitted that nine countries in the region have expressed interest in negotiating a double taxation agreement with Australia:

Whilst such agreements may not produce a direct tax benefit to Australia, they may foster the broader commercial relationship. There have also been a number of requests to negotiate Investment Promotion and Protection Agreements with Australia, with only one in place with a regional country to date (Egypt).<sup>182</sup>

- 4.196 Mr Zaib Al-Harb from the Kuwaiti Embassy to Australia told the Committee that further investment from Kuwait would be greatly encouraged by both governments negotiating treaties to end double taxation of investments and protect both nation's investors' rights:

We can work multilaterally with Australia and the GCC and bilaterally with Australia. You can think of our proposal to sign bilateral agreements – the avoidance of double taxation and the promoting and cultivating of investments. We believe that this will encourage more investors from our region, in particular from Kuwait, to consider Australia as a destination for foreign investments.<sup>183</sup>

- 4.197 Austrade's General Manager of Growth and Emerging Markets, Mr Grame Bartly, doubted taxation was much of an impediment to investment from Middle East:

At the end of the day, it is about the return on investment. If all the other factors are equal, the taxation is not a factor. If the return on investment is only affected by the taxation, then they would raise it as a factor.<sup>184</sup>

- 4.198 DFAT's First Assistant Secretary of the Middle East and Africa Division, Mr Marc Innes-Brown, recalled that every member country of the GCC had at 'one time or another' asked Australia to negotiate double taxation agreements, but if applications from investors to Australia's Foreign Investment Review Board (FIRB) were used as a gauge then investment

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181 Australian Taxation Office, *What are tax treaties?*, viewed 5 April 2016, <<https://www.ato.gov.au/General/International-tax-agreements/In-detail/Tax-treaties/What-are-tax-treaties-/>>.

182 Department of Foreign Affairs and Trade, *Submission 9*, p. 26.

183 Mr Zaid Al-Harb, Embassy of the State of Kuwait, *Committee Hansard*, Canberra, 11 February 2015, p. 5.

184 Mr Grame Bartly, Austrade, *Committee Hansard*, Canberra, 26 November 2014, p. 4.

from the Gulf states remained strong. In 2014-15, the FIRB approved 38 separate investments by the UAE worth \$1.8 billion.<sup>185</sup> In 2013-14, the FIRB approved 33 separate investments by the UAE worth \$2.5 billion and 11 investment approvals from Kuwait worth \$2.6 billion.<sup>186</sup>

We are still getting lots of FIRB applications from the UAE every week, so it does not seem to be – a major impediment. Obviously there are various opportunities in the market that are attractive enough for them to go forward. But you are right – they have raised the DTA issue, as have a number of the other GCC countries at various times. So it is an issue out there. Their preference would be for us to go ahead and do that, but we need to weigh up the costs and benefits of that, including possible implications for Australian business in some sectors as well.<sup>187</sup>

4.199 In 2013, the Abu Dhabi Investment Authority (ADIA), the world's second largest sovereign wealth fund, became Australia's largest hotel owner by acquiring 31 Accor-branded hotels.<sup>188</sup>

4.200 The then Director of Aviation Policy at the Tourism and Transport Forum, Mr Justin Wastnage, argued that investing in Australian hotels can be challenging. Mr Wastnage recalled that the Emirates Group from Dubai faced a number of issues when investing \$125 million to open its One&Only Wolgan Valley luxury spa resort on 1600 hectares in the Blue Mountains, NSW:

This was a grand project, which probably would not have got off the ground had it not been for a large investment of money up front. There were dozens of hurdles and roadblocks put in the way by the New South Wales state government and also by the federal government, which almost prevented that project from going ahead. Probably another investor would have pulled the plug many years before. But it was the perseverance of Emirates Group that led that to going ahead.<sup>189</sup>

4.201 While Mr Wastnage praised efforts by Austrade and Tourism Australia to promote the investment opportunities in Australian tourism, he highlighted Australian tax laws on depreciation of assets as an issue faced by potential overseas investors in hotels:

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185 Foreign Investment Review Board, *Annual Report 2014-15*, p. 35.

186 Foreign Investment Review Board, *Annual Report 2013-14*, p. 31.

187 Mr Marc Innes-Brown, DFAT, *Committee Hansard*, Canberra, 26 November 2014, p. 4.

188 Department of Foreign Affairs and Trade, *Submission 9*, p. 53.

189 Mr Justin Wastnage, Tourism and Transport Forum, *Committee Hansard*, Canberra, 18 March 2015, p. 7.

There are some quirks of Australian tax law that make us less attractive than other destinations for that – notably, depreciation of assets. The fixtures and fittings inside a hotel depreciate much quicker than the actual shell, yet they have the same depreciation schedule. In other markets they have a different regime for fixtures and fittings versus the actual shell. That is the sort of thing that makes us less attractive.<sup>190</sup>

## **Delegation discussions relating to taxation treaties**

- 4.202 The absence of a double taxation treaty with Saudi Arabia was raised during the Committee delegation meeting with the Shura Council in Riyadh. The Vice Speaker of the Shura Council, HE Dr Mohammed Amin Jefri, declared that both countries should stop wasting time and sign a double taxation agreement that will eliminate the 20 per cent Saudi corporate tax and the 30 per cent Australian tax. The Ambassador of Saudi Arabia to Australia, HE Mr Nabil Mohammed A. Al Saleh, stated that Australia would stand to benefit. He referred to the \$2.5 billion in trade between Australia and Saudi Arabia being similar to Saudi Arabia's past trade with China, but after China signed a bilateral agreement with Saudi Arabia, trade with China grew to \$69 billion.
- 4.203 The Committee delegation also held a meeting with the Deputy Minister for Foreign Affairs, Dr Abdullah Al-Obaid, at the Ministry of Commerce and Industry in Riyadh. Dr Al-Obaid told the delegation that the Saudi government would like to attract more Australian investment in Saudi Arabia, and was allowing 100 per cent ownership of the investment. He noted the trade balance was mostly in Australia's favour but Saudi is a food importing country.
- 4.204 Issues associated with taxation treaties are further examined in Chapter 6.

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<sup>190</sup> Mr Justin Wastnage, Tourism and Transport Forum, *Committee Hansard*, Canberra, 18 March 2015, p. 7.



The delegation with the Speaker of National Assembly of Kuwait, HE Mr Marzouq Ali Al-Ghanim



Delegation inspects Sultan Center's Australian fruit with Ambassador Mr Warren Hauck



The delegation leader the Hon Teresa Gambaro MP at the Sultan Center supermarket



Sultan Center's Group International Director Mr Makram Malaeb holds an Australian meat pie at the Sultan Center, a leading supermarket in Kuwait



Kuwait Livestock Transport & Trading CEO, Mr Osmana Khaled Boodai, with delegation



The delegation visits aviation engineering hangar at the Australian College of Kuwait