

CHAPTER 5

DOING BUSINESS IN INDIA

*The potential of the Australia-India economic partnership is immense. Smart business people in Australia and India are aware of this and are working assiduously to develop their links. ... In areas of priority for India's development, Australian companies have great strengths. They are serious about India and they are here because they are the best at what they do.*¹

5.1 Australian business has been operating successfully in India for many years with Australia having had diplomatic representation in New Delhi since 1944, three years before India gained independence. However up until the 1990s the relationship generally lacked substance. The economic changes that have occurred in both Australia and India, especially in the current decade, have presented business with many new opportunities. The Deputy Prime Minister and Minister for Trade, the Hon Tim Fischer MP, while in India for the *New Horizons* promotion, noted the great potential for Australia and India to strengthen their partnership, building upon long established and valued ties. He added:

The Australian Government has made strengthening Australia's relations with India a priority. Given the need to eliminate for all time periods of limbo which have existed over the last forty years with Australia India relations, I am not interested in bilateral relations of tremendous tranquillity but rather tremendous expanding activity.²

5.2 The competitive advantages of the Indian market (see Box 5.1 below) are diverse, and operating in this 'foreign environment' is made somewhat easier by some common ground including language, member of the Commonwealth and of course cricket. As unusual as it may sound, it does offer some benchmark for not feeling totally alienated in the marketplace and there is the *familiar* face of an Australian organisation in ANZ-Grindlays which has offices scattered throughout India. However India has a number of facets: it is a Westernised country, a Third World country and it is an emerging global market.

1 *Australia India New Horizons: Towards the New Millennium*, speech by the Deputy Prime Minister & Minister for Trade, the Hon Tim Fischer MP, to launch the *New Horizons* Business Forum, New Delhi, 4 November, 1997.

2 *ibid.*

Box 5.1 India - Competitive Advantages

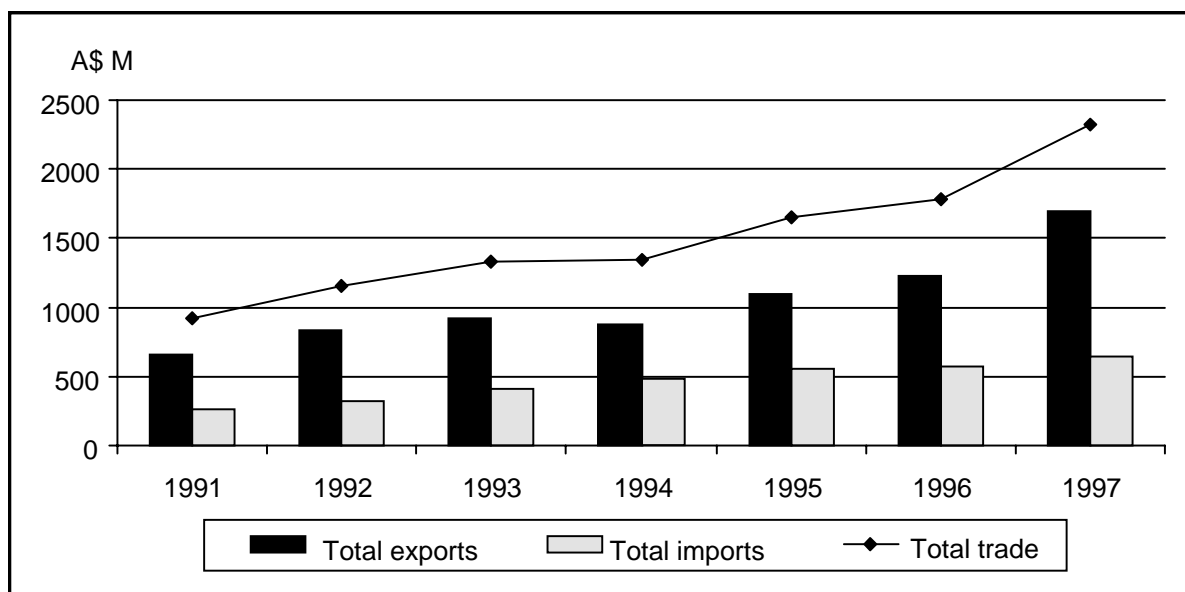
- One of the largest economies of the world.
- Strategic location - access to the vast domestic and South-Asian market.
- A large and rapidly growing consumer market - up to 300 million people constitute the market for branded consumer products.
- Foreign investment welcome; approval is required but is automatic in priority industries.
- Exchange controls reduced and the Rupee made convertible.
- Skilled manpower and professional managers available at competitive cost.
- One of the largest manufacturing sectors in the world, spanning almost all areas of manufacturing activities.
- Established free market infrastructure.
- Special incentives for export activities.
- Sophisticated financial sector.
- Vibrant capital market with over 9,000 listed companies.
- Well-developed R & D infrastructure and technical and marketing services.
- Policy environment that provides freedom of entry, investment, location, choice of technology, import and export.
- Well-balanced package of fiscal incentives.
- A long history of stable parliamentary democracy.

Source: *India Means Business*, Ministry of External Affairs, GOI and Arthur Andersen, July 1996.

Australia's Trade and Investment Performance

5.3 Australian trade and investment in India have picked up substantially in recent years. Since 1991, bilateral trade has grown by nearly 90 percent to reach A\$1.8 billion in 1996. Two-way trade figures for 1997 show a 23 percent increase on the previous year's figures and a \$1 billion increase, an increase of 43 percent, on the 1993 figures. India as a trading partner for Australia currently ranks in 17th position. Figure 5.1 shows Australian trade with India for the period 1991 to 1997 and clearly shows the increasing growth in total trade.

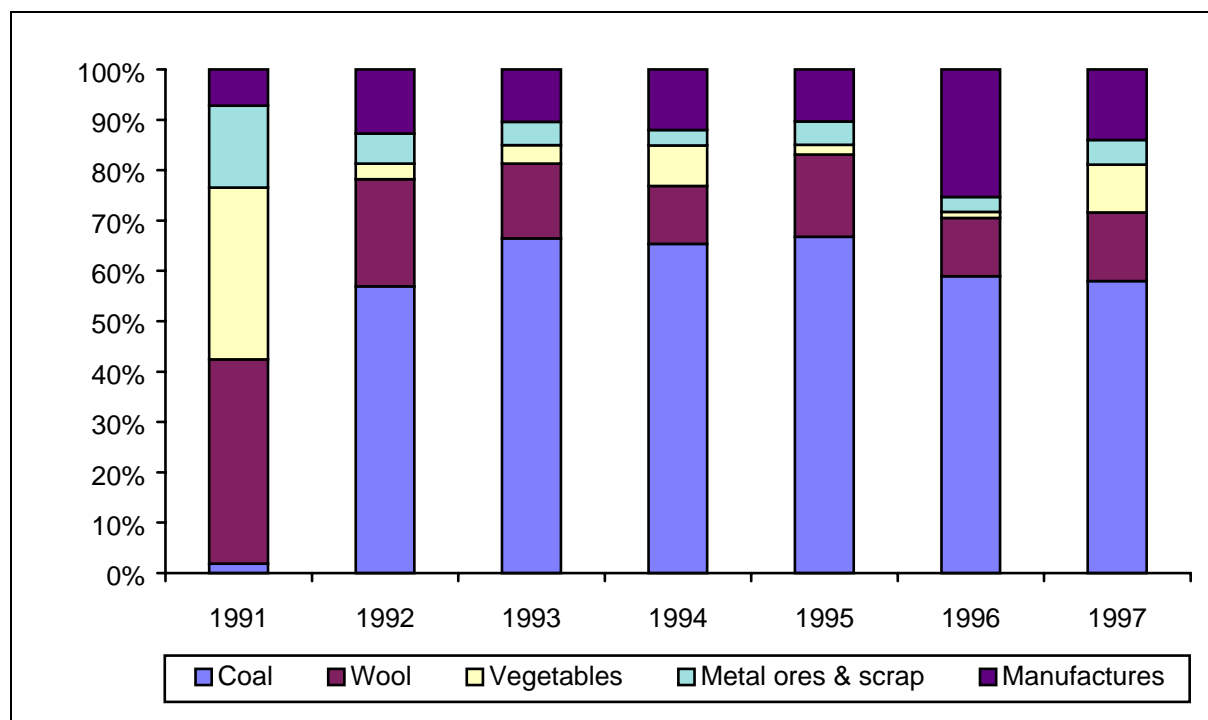
Figure 5.1 Australia's Trade with India, 1991 to 1997 (A\$ M)



Source: ASARC Exhibit No. 116.

5.4 Australian exports to India are dominated by primary products. In 1997 India was ranked 12th as a principal market for Australian produce, with a trend growth of 12.6 percent for the period 1987 to 1997 and a percentage share of 4.6 percent. As a principal market for Australian produce exports of STMs, India was ranked 16th in 1997.³ Major Australian exports to India are coal, wool, copper, base metals and ores, diamonds, wheat, manufactures and vegetables. Australia's principal exports to India, 1991 to 1997, are shown in Figure 5.2 below.

Figure 5.2 Australia's Principal Exports to India from 1991 to 1997



Source: ASARC Exhibit No. 116.

5.5 From 1995-96 to 1996-97 Australian exports to India experienced a spectacular 26 percent growth. On figures for 1997, Australian exports to India totalled A\$1692 million which ranked India the 12th most important merchandise export market for Australia. This represented even greater growth in the Indian market of some 38.1 percent, for the period 1996 to 1997.⁴ Exports of manufactures in 1997 amounted to A\$190 million, a drop of A\$60 million, which Austrade says was largely due to the downturn in the Indian economy.

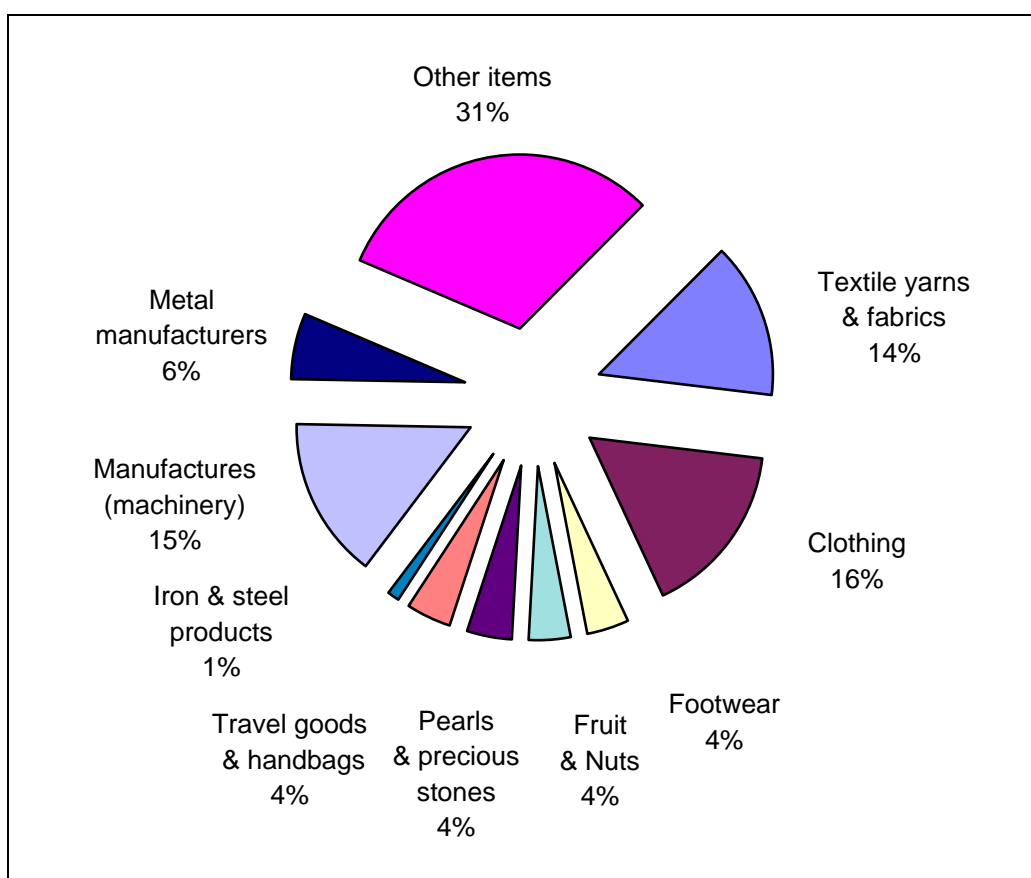
5.6 For the same period, 1997, Australian imports from India totalled A\$637 million - a doubling in value since 1992. The increase is attributable to steady growth in exports of textiles, clothing and footwear products, and fruit and nuts, which are included among our principal imports from India.⁵ Other major imports include travel goods, gems, carpets, manufactures, iron ore and concentrates. Australia's principal imports from India, in 1997, are shown in Figure 5.3 below.

3 DFAT, *Exports of Primary and Manufactured Products, Australia, 1996-97*, Commonwealth of Australia, January 1998.

4 DFAT, *Composition of Trade, Australia, 1997*, Commonwealth of Australia, May 1998.

5 DFAT Submission, p. S 746.

Figure 5.3 Australia's Principal Imports from India, 1997



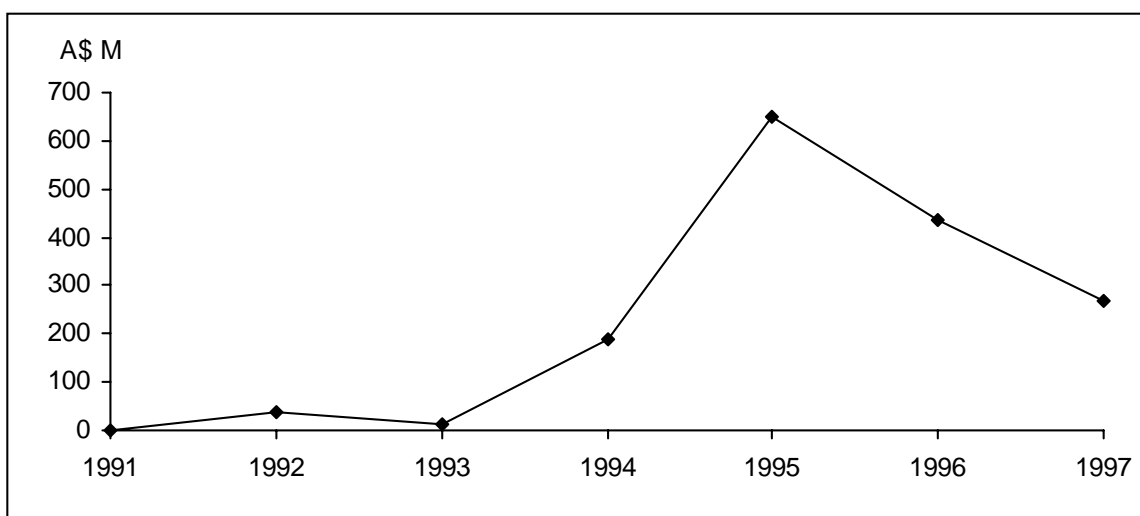
Source: ASARC Exhibit No. 116.

5.7 India's exports to Australia as a share of India's total exports were 1.3 percent in 1996 which put Australia in 21st position. The European Union in 1996 was the destination of 26 percent of India's exports followed by the USA at 17 percent, selected East Asian countries (such as Hong Kong, Singapore and Thailand) at 14 percent, OPEC at 10 percent, Japan at 7 percent. Russia as a destination only makes up 3 percent of exports.

5.8 In relation to India's imports, the Australian share of India's total imports is 2.6 percent which places Australia in 13th position. Imports from Russia and East European countries have declined and in 1996 the European Union led the way as the major source of India's imports, some 26 percent, followed by OPEC at 19 percent, USA at 11 percent, selected East Asian countries (mainly Singapore, South Korea and Malaysia) at 10 percent, Japan at 7 percent and Russia only at 2 percent.

5.9 On current trends it is expected that by the year 2000, India will be among Australia's top ten trading partners and Australia is already one of the top ten investors in India. From a low base in 1991 of some A\$21 million, Australian investment in India grew to a figure in 1995 of A\$650 million which placed Australia in 7th position as a source of foreign investment approvals. Key areas of investment cover banking and financial services, manufacturing, telecommunications, oil and gas, food processing, mining and automotive sectors. Currently Australian investment in India stands at approximately A\$700 million. Over the last two years, 1996 and 1997, Australian direct foreign investment (FDI) approvals have fallen (see Figure 5.4 below).

Figure 5.4 Total Approvals of Australian FDI in India, 1991 to 1997 (A\$ M)

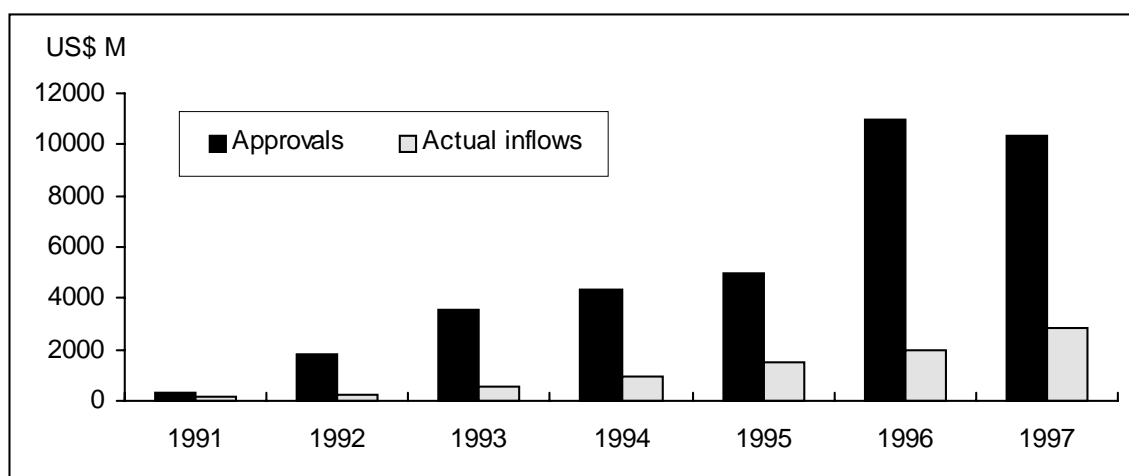


Source: ASARC Exhibit No. 116.

5.10 Under the Common Minimum Program (see Chapter 3) the former government set a target of US\$10 billion of FDI annually. In 1996 the figure was US\$2.5 billion, well short of the target but some 17 times higher than in 1991. The BJP-led Coalition Government is continuing the push for FDI and like the former government is aiming for investment in core areas such as infrastructure. For the first time the Government has initiated measures to decentralise the automatic approval of foreign direct investment in certain sectors (yet to be identified) by giving states direct jurisdiction to clear foreign investment up to a limit.⁶

5.11 In India last year there was a lift in FDI levels by US\$500 million to touch US\$3 billion and by August 1997 investment inflows had matched the entire FDI levels for the previous year, 1996 (see Figure 5.5 below).

Figure 5.5 Direct Foreign Investment: Actual Inflows versus Approvals (US\$ M)

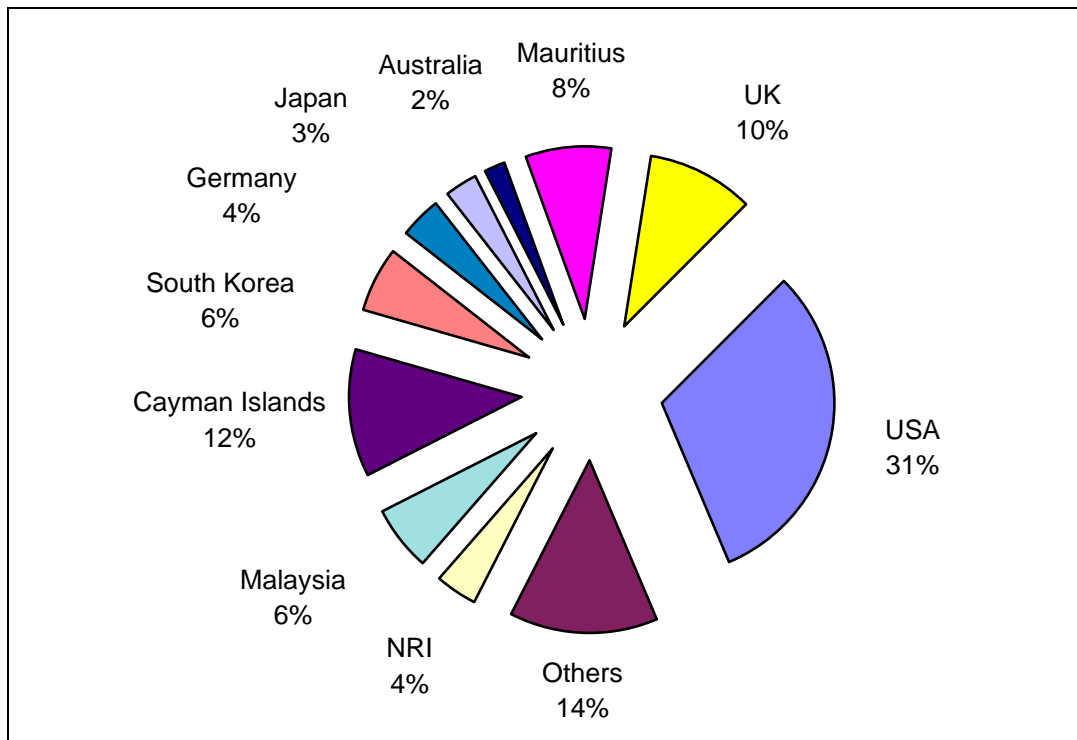


Source: ASARC Exhibit No. 116.

6 *The Economic Times*, 8 May 1998 (Indian daily newspaper).

5.12 This overall increase in FDI moved Australia as a source of investment in India from 7th to 9th position with Australia holding a 2 percent share of FDI approvals in India in 1997 (see Figure 5.6 below).

Figure 5.6 Countries with Significant Shares of FDI Approvals in 1997



Source: ASARC Exhibit No. 116.

Australian Presence in India

5.13 Some 75 Australian companies now have offices in India with the largest presence being ANZ Grindlays which has 56 branches (it will shortly merge nine of its branches) in 14 Indian cities. ANZ Grindlays is one of the largest foreign banks in India, as well as being one of the oldest. It operates a full service bank, servicing the needs of Australian corporates, government linked entities such as Austrade and individuals operating there. Appendix 7 provides a list of companies with a business presence in India.

Austrade

5.14 Austrade - the Australian Trade Commission - is the Commonwealth Government's international trade and inbound investment development agency. Its prime functions are to help Australian companies establish and market their products and services in world markets, to assist firms to invest in productive operations overseas and to attract foreign investment to Australia.

5.15 Austrade has five offices in India. A Senior Trade Commissioner is located in the Australian High Commission in Delhi, and Austrade runs the Consulate-General in Mumbai. The other three offices are located in Calcutta, Chennai and Bangalore and are operated within ANZ Bank premises.

5.16 As Austrade outlines in its brochure, *An Exporter's Guide to Austrade*, it provides a wide range of in-market services to businesses once they decide to export. These services, for which fees may apply, include:

- detailed market intelligence (about, for example, competition and market prospects for products and services);
- help in understanding overseas markets from the on-the-ground perspective;
- introductions to distributors and other market contacts (for example, cultural factors, distribution systems and government regulations);
- opportunities to promote exporters products and services through trade displays and missions; and
- listing on Austrade's Internet site - Austrade World Direct.

5.17 Austrade also assists Australian businesses to obtain work related to development projects sponsored by the multilateral development banks, such as the World Bank and Asian Development Bank, and United Nations agencies. Austrade looks for opportunities in areas where Australian companies are competitive - 'business-matching' - and by providing technical advice and other support to companies wishing to tender for projects.⁷ It also pursues a strategic approach, analysing sectors in which Australia has a comparative advantage with a view to building up opportunities for Australian business over the medium to long term. In the process, Austrade cooperates closely with State Governments and a National Manager of Multilateral Procurement has been appointed and operates out of Austrade's Sydney office. A multilateral procurement guide is in the process of being published to assist Australian companies to look at the opportunities of doing business with the multilateral development banks and the UN agencies.⁸

5.18 Most of the companies seeking assistance from Austrade are small to medium enterprises - they make up some 67 percent of the Commission's business. The larger companies such as SMEC and BHP have their own resources to pursue trade and investment opportunities with India.

5.19 With the rise in Indian demand for manufactured goods and the narrowing gap between actual and potential absorption, Australia is well placed with its network of five Austrade offices in India to identify the increasing business opportunities for Australian small to medium companies, taking into account the variations in the marketplace and the regulatory framework including the level of overseas investment allowed under the *National Agenda for Governance*.

5.20 **Recommendation 11**

7 Austrade/DFAT briefing on Multilateral Procurement to the Trade Sub-Committee, JSCFADT, 27 May 1998.

8 *ibid.*

The Committee recommends that:

The Australian Government maintain and continue to strengthen its network of Austrade offices across India.

5.21 Austrade runs the Export Market Development Grants scheme (EMDG) which is designed to encourage Australian exporters to seek out and develop overseas markets. Under the scheme, eligible businesses are reimbursed for part of the export marketing costs they incur. The eligible expenditure categories are:

- overseas representation;
- overseas market visits;
- communication costs;
- product samples;
- trade fairs, literature and advertising; and
- marketing consultants.⁹

5.22 Austrade runs an Export Hotline **13 28 78** which is the starting point for prospective exporters. There is also the Austrade World Direct website¹⁰ which provides information including an *Asia Update* site.

5.23 The site provides information under a number of headings: what has happened in Asia with the currency crisis; what this means for Australian exporters; should exporters stay in Asian markets; what should you do; how can Austrade help; and want to know more about specific economies which looks at eleven countries. With the push to increase our trade relations with India, the Committee was surprised to see that India was not one of the listed Asian economies which business could get information on from the website, even given that the focus was on the economies affected by the crisis in North East and South East Asia. At a time when the currency crisis is biting in certain Asian economies the listing of India, with the provision of information on its economy and minimal fallout from the crisis, could trigger business to examine India as an alternative market to their lost export markets. As the introduction to the site states 'Exporters need to get accurate information about the specific countries and industry sectors of interest to them before making business decisions. Austrade can provide up to date information and market intelligence, and can help you to find new customers and alternative markets'.

5.24 **Recommendation 12**

The Committee recommends that:

Austrade include information on India in its *Asia Update* on the Austrade World Direct Website.

5.25 A number of new government initiatives have been introduced to provide hands-on assistance to Australian companies to assist them to export. One initiative is *TradeStart* which focuses on small new exporters and potential exporters in regional and rural Australia. It disseminates Austrade services to new small exporters via partnerships with industry associations, state and local governments and business enterprise centres in local

9 *An Exporter's Guide to Austrade*, Austrade Brochure.

10 <<http://www.austrade.gov.au>>

communities.¹¹ Another initiative is the creation of *Industry Advisory Panels* (IAPs) which advise Austrade on strategic direction and government-industry coordination of marketing efforts. The panels meet every six months and comprise leading representatives of agribusiness, automotive, biotechnology, communications, infrastructure, marine and mining industries. The biotechnology IAP has ceased to exist.

5.26 Furthermore the Australian Government 'convenes an annual North East/South East Asia Conference of senior representatives of State Government trade promotion agencies to provide updates on trade developments and emerging export opportunities in the region and to identify options for closer Federal-State cooperation'.¹² The Committee, in view of the emerging importance of India and the South Asia region to Australian trade and investment, sees merit in an annual conference to cover South Asia.

5.27 **Recommendation 13**

The Committee recommends that:

The Australian Government convene an annual South Asia Conference of senior representatives of State Government trade promotion agencies to provide updates on trade developments and emerging export opportunities in the region and to identify options for closer Federal-State cooperation.

Impediments to Business

5.28 Although India is an exciting economy in the process of reform, there are nevertheless difficulties to doing business in India. Whilst not wishing to concentrate on the negative, given the significant positives that are to be found with India, the Committee was mindful that it was necessary to point to the major impediments to Australian trade and investment.

Perceptions of Australia

5.29 A common theme underlying the diverse range of evidence given to the Committee was the general lack of awareness and appreciation that Indians had about the different aspects of Australia, its way of life, culture and business and technological capabilities.

5.30 There appears to be a set 'perceptual map' of Australian culture, society and other aspects that contribute to Australian life. This was clearly illustrated in the Australian International Education Foundation (AIEF) study and the many contradictions in perceptions include:

- sheep farming - advance economy;
- European culture - multicultural education - 'All White Policy';
- advance social system - small population;

11 TOOS 1998, p. 219.

12 *ibid.*

- first world economy - advanced standards - sheep farming - rural life - richest country in the world;
- sheep farmers - sports culture;
- vibrant and striving towards a higher standard of living;
- rural life - advanced in sciences;
- no sophisticated technology or advanced in scientific practices;
- government funding; and
- small population - large land mass, etc.¹³

5.31 It is clear that these misconceptions need to be addressed. Following on from the 1996 *Australia India - New Horizons* promotion there is a need for a continuing communication campaign to raise the level of awareness of Australia, its culture and capabilities. The Australian Government has the responsibility to continue to create an awareness in India of the excellence of Australia. The Committee sees the development and airing of short, ongoing communication campaigns, perhaps tied into Australia's national day - Australia Day - as an effective way to begin to address the lack of awareness and misconception problem.

5.32 **Recommendation 14**

The Committee recommends that:

The Australian Government develop an ongoing communication campaign to promote Australia as a clever country in India.

Tariff and Quantitative Restrictions

5.33 The AIBC, in its submission to the Committee, pointed out that major impediments to the growth of Australian exports to India include high import duties and quantitative restrictions. The agreement between Australia and India reached last November has produced a better situation for Australia on the issue of quantitative restrictions which will provide opportunities of genuine interest to Australia such as canned vegetables, a variety of prepared or preserved fruit, orange juice and solar water heaters. India in its recently released 1998 Exim policy announced some modification of the list of import restrictions which involved the movement of items off the restricted list onto the SIL (special import license) and the free or OGL lists. Some 340 items were taken off the restricted list and placed on the OGL of which it appears that 298 had been negotiated in agreements by India with other countries including Australia. Of those items that Australia had negotiated last year to be placed on the priority list for removal of quantitative restrictions, only 43 seem to appear to have been the subject of the latest movement under the revised Exim policy, leaving 178 items on the priority list.

13 Exhibit No. 47.

5.34 Other goods among the so-called 'freely importable' 340 items are frozen prawns, fresh oysters, squid, paper products, video cameras, compact disc recorders and diabetic drinks.¹⁴ The catch is that all 340 items will continue to attract the prevailing import tariff - which *The Australian Financial Review* reports is an average of seventy percent. However all importers face the same high tariffs.¹⁵

5.35 India has traditionally operated a high tariff regime but has been progressively reducing its maximum tariffs. For instance in 1996 the maximum import tariff on non-consumer goods was reduced from 85 percent to 40 percent and the average tariff was brought down from 33 percent in 1995 to 27 percent in 1996. The dispersion of tariff rates has been reduced systematically so that in April 1995 there were only 8 rates of custom duty compared to 22 in 1991.¹⁶ A 2 percent surcharge is levied on all imports. Customs and excise revenue form a major part of the Indian Government's tax collection. In the recently announced 1998-99 interim Budget, customs and excise revenue alone comprises 65.8 percent of the Government's targeted tax collection.

5.36 **Recommendation 15**

The Committee recommends that:

The Australian Government continue to press the Indian Government to remove its tariff and quantitative restriction barriers to trade and investment.

Bureaucratic Delays

5.37 Another area of difficulty faced by Australian companies in dealing with India is the Indian bureaucracy. It is slow to react and as Shand and Kalirajan point out the pace of reform can be tempered by the bureaucrats who 'previously controlled large sectors of the economy through the 'license raj' and with influential positions in a plethora of public sector enterprises'.¹⁷ Although the 'license raj' has just about gone, Austrade confirms they are still very influential.¹⁸

5.38 The cumbersome nature of the Indian bureaucracy means that:

... decisions announced by Indian authorities are not always enacted upon quickly or effectively to enable the change envisaged to take place. It would appear that many such initiatives are seen as longer term objectives and the necessary will to implement the changes is often lacking below the top policy making decision area. Invariably bureaucratic delays inhibit effective communication of policy changes

14 *The Australian Financial Review*, 'India opens its door to imports', 18 April 1998.

15 *ibid.*

16 Exhibit No. 74.

17 *ibid.*

18 Austrade Transcript, p. 258.

and leave potential investors striving to deal with technical issues that in policy terms would seem to be less relevant.¹⁹

5.39 Public sector enterprises, such as the coal industry, are being opened up to FDI and it is envisaged that the old administrative ways will give way eventually to greater efficiencies.

5.40 Australia is playing a role in assisting change to take place within Indian Government and judicial systems. Last year the AIC sponsored a study tour to Australia by the Executive Director of the Indian Council of Arbitration, a body 'which mainly looks after the promotion of trade and commerce with a view to preventing disputes that come in the business community'.²⁰ The study tour was the first stage in a project to help develop mediation and alternative Indian dispute resolution (ADR) capacity and practices. The second stage of the project was a training workshop in mediation practices held in the cities of Delhi, Mumbai and Calcutta in January this year. The workshop aims were to promote effective use of legal mediation practices within Indian business, government, the judiciary and legal practitioners. The development of mediation practices will have significant benefits for foreign investors in India, reducing litigation costs and delays which add to the cost of a project.

5.41 **Recommendation 16**

The Committee recommends that:

The Australian Government continue the work that is being done to provide the Indian Government and judiciary, and business with Australian expertise in administrative and legal practices.

Development Import Finance Facility (DIFF)

5.42 The issue of the disbanding of DIFF arose throughout the inquiry. DIFF provided a concessional, mixed credit finance package to developing countries for the purchase of Australian equipment. At the time of its termination, 35 percent of DIFF project finance was provided by AusAID, with the balance raised commercially by the Export Finance and Insurance Corporation (EFIC). The loss of the scheme poses a problem in trying to reconcile the purpose (focus) of Australia's aid program with such a scheme and the strategy of the Government to strengthen Australia's trade and foreign investment performance.

5.43 There is no doubt that successful Australian investment in India has been gained through the ability to provide concessional finance for projects. It is a cut throat market to win overseas investment projects and Australia's competitors are providing concessional finance which means that Australia will lose valuable export opportunities and the opportunity to develop trade and investment networks.

5.44 White Industries was awarded a contract to build an open cut coal mine in India (the Piparwar project), as well as a coal preparation and coal handling plant together with train loading facilities. The contract totalling about \$550 million was awarded to White Industries in 1989 with the funds for the project coming from Coal India Limited, plus

19 AIBC Submission, p. S 536.

20 Kwatra Transcript, p. 55.

\$206 million of Australian money loaned to Coal India with no interest and drawn down over five years and payable back over ten years. The \$206 million was provided by EFIC supported by a \$6.5 million DIFF grant to EFIC. The project was completed in October 1997. Coal India has already repaid \$72.26 million, more than the Government through the DIFF scheme has put into the project.

5.45 As the East Asia Analytical Unit pointed out in its 1994 report, *India's Economy at the Midnight Hour: Australia's India Strategy*, in discussing the largest Australian business deal with India, the White Industries Piparwar project:

Equally important was the competitive soft loan package provided by EFIC/AIDAB under the DIFF scheme. India is a major recipient of aid-supported export credits from countries like Germany and France which were already collaborating with India on the coal mine construction front. To win the contract, Australia and White Industries needed to make a soft loan offer that could match other countries' proposals.²¹

5.46 White Industries confirmed with the Committee that the Piparwar project would not have gone ahead without the DIFF funding. Furthermore the lack of a soft loan facility has been an enormous factor in the company not being able to get further work despite the success of the project for Coal India and the fact that it is the only coal mining project to have been completed.

5.47 The Committee was particularly interested in exploring the benefits of the project and the return on the DIFF/EFIC investment to the Australian economy. The direct cost to Australia was the \$61.5 million DIFF grant and the direct benefit to Australia was \$89.1 million, giving a net benefit on the DIFF investment of \$27.6 million. For the Piparwar project the net direct benefit may be summarised as follows:²²

Direct cost to Australia DIFF(grant)	\$61.5 million
Direct gain to Australia	\$89.1 million
Net benefit	\$27.6 million
The direct gain has been calculated as:	
Wages	
Total spent on wages	\$88,900,000
Average annual wage	\$30,260
Equivalent man years	2,938
Average PAYE tax	\$7,260
Total PAYE tax paid	\$21,328,949

21 *India's Economy at the Midnight Hour: Australia's India Strategy*, report of the East Asia Analytical Unit, Department of Foreign Affairs and Trade, Commonwealth of Australia, 1994, p. 149.

22 White Industries reply to a Question On Notice, 12 December 1997.

Unemployment Benefits (DSS)		
Total man years		2,938
Average annual benefit payable		\$18,000
Total benefit payable if employment not available		\$52,881,692
Goods and Services		
Total spent on goods and services		\$64,100,000
Assumed profit margin		20%
Total profit earned		\$12,820,000
Tax paid on profit		\$4,615,200
Total Australian Direct Gain		
EFIC fee		\$9,000,000
EFIC bonus		\$1,250,000
Tax receipts	PAYE	\$21,329,000
	Company (est)	\$4,615,000
Unemployment benefit savings		\$52,882,000
		<u>\$89,076,000</u>

5.48 White Industries advise that the indirect benefits for Australia derived from projects such as Piparwar include the reputation of Australia and its companies being enhanced through the transfer of technologies from Australia to India. The technology transfer has created benefits including:

- implementation of mine rehabilitation schemes resulting in reforestation programs which help improve the global environment - this is in line with the Government's greenhouse strategy;
- an improvement in the efficiency of energy usage in the mining operations through the use of the electrical powered in-pit crushing and conveyor haulage systems;
- improvement in the efficiency of the power generation process where washed coal with a lower ash content is burnt;
- reduction in the impact of the mining operation on the local environment through the implementation of mitigation measures for air, noise and water pollution;
- social benefits from cleaner living environment adjacent to the mining operation; and
- increase in the technical skills of mine employees resulting from the 65 man months of training carried out in Australia as well as extensive on-site training of Indian employees.²³

5.49 The Western Australian Government is critical of the abolition of DIFF:

23 *ibid.*

With India placed as the world's largest renewable energy market, the abolition of DIFF proved a major setback for project development and commercialisation of research undertaken by Australian and international institutions, in particular the United Nations sponsored International Centre for the Application of Solar Energy (CASE) [based in Perth] and the Cooperative Research Centre for Renewable Energy and related Greenhouse Abatement Technologies.

The "Green DIFF" scheme was an ideal market entry mechanism for Western Australian Environmental management companies to address specific environmental problems affecting overseas countries. CASE had submitted an application to AusAid for "Green DIFF" for the electrification of 552 villages through solar photovoltaic Power Packs in Rajasthan, India.²⁴

5.50 The 'Green DIFF' funding of this project would have helped Australian industry to increase their exports to India, to set up joint ventures, organise licensing arrangements etc. Moreover as the WA Government points out, 'After developing an understanding of the Indian market, and with the assistance of CASE, Australian exporters would have also been able to export their products and services for other externally funded projects from the World Bank, Global Environment Facility and the Asian Development Bank'.²⁵ The significance of the multiplier effect was not lost on the Committee.

5.51 SMEC, with some 60 to 70 percent of its work coming from the multilateral agencies especially the World Bank and the Asian Development Bank, says the Australian Government can support Australian companies in the Indian market through the aid program which is an essential support for business as it allows Australian companies to demonstrate their capability in Indian conditions. The issue of introducing a new concessional finance facility, as recommended by the Simons Report, and how it might be reconciled with the policy framework of the Australian aid program needs to be addressed as a matter of urgency, otherwise it should be looked at outside the umbrella of AusAID. The Foreign Minister late last year said the reintroduction of soft loans would depend on the future aid budget outcomes.²⁶

5.52 **Recommendation 17**

The Committee recommends that:

The Australian Government, as a matter of priority, reintroduce a mixed credit or soft loan facility as part of its strategy to strengthen Australia's trade and investment performance.

Visa Issue

5.53 The Committee received evidence, generally of an anecdotal nature, that Indians wishing to travel to Australia, either for business or on a personal visit, experienced

24 WA Government Submission, p. S 821.

25 *ibid.*

26 *The Australian Financial Review*, 'Soft foreign aid begins, and stays, at home' by Geoffrey Barker, 24 April 1998.

difficulties in getting a visa. Although the evidence tended to be of an anecdotal nature, the Committee was surprised at the continuing expression of concern at the difficulties that were being encountered.

5.54 The Department of Immigration and Multicultural Affairs (DIMA) outlined for the Committee initiatives it had taken to improve visa issue around the world. DIMA informed the Committee that since August 1996 new long-stay temporary business arrangements have been in place which provide for the entry of overseas business personnel for periods ranging from three months to four years. The principle underlying the reforms is to benefit Australia and its key trading partners. The changes provide for simpler entry with a new single business entry class with more flexible definitions of skills and streamlined processing of applications with waiver of labour market testing for key activities and simpler and faster health checking.²⁷

5.55 Other initiatives which DIMA has introduced, particularly in areas where there are clear economic benefits for Australia, are:

- the Electronic Travel Authority (ETA) which is a virtually invisible authorisation process for the traveller and is granted at the time of ticket purchase. ETA is now available to more than 60 percent of visitors;
- Australian Business Access Card which will further streamline border processing and the APEC Card which will facilitate the mobility of frequent business travellers through the APEC countries; and
- the establishment of a Business Advisory Panel (BAP) comprising senior business people which will identify the needs and expectations of business clients and provide advice on how DIMA can best improve the delivery of services relating to all forms of business entry.

5.56 The streamlined visa facility, the ETA, is not available for travel from India. It has been implemented in those countries which provide the greatest number of visitors and tourists to Australia, such as Japan, the US and the UK. The issue for DIMA, however, is the bona fides of travellers. DIMA drew attention to the bona fides of both Indian business people and tourists wishing to visit Australia - 'many applications require close scrutiny to establish bona fides as there remains a high degree of fraud and misrepresentation'.²⁸

5.57 One aspect of visa issue which received criticism was that all applications were sent to Delhi for processing and this often created unacceptable time delays for business people. DIMA has now opened a visa issuing service in Mumbai which, at the time DIMA gave evidence to the Committee, it says will assist DIMA's overall development of more sophisticated visa procedures for genuine business visitors and will provide more convenient and effective access to business people in that area.

5.58 Furthermore DIMA notes that India is increasing in importance as a major source of students with a 44 percent increase in student visa grants in 1995-96 making Australia the second most popular education destination for Indian students. The Department points out that although there are many genuine potential students, India remains a high risk market in

27 DIMA Submission, p. S 9.

28 *ibid.* p. 10.

terms of documentation and visa fraud. The Department also comments that there is concern that some agents representing Australian education providers overlook the bona fides concerns when promoting Australian education, hence student visa applicants, other than government sponsored or secondary exchange students are subject to more stringent vetting.²⁹

5.59 The Committee takes the view that with India identified by the Australian Government as a market of major importance offering significant opportunities for further trade and investment, it is necessary for DIMA to balance the concerns over bona fides with the necessity to provide prompt visa issue to Indian visitors, especially those engaged in business.

5.60 **Recommendation 18**

The Committee recommends that:

The Department of Immigration and Multicultural Affairs examine ways to provide timely visa issue to Indian nationals seeking to travel to Australia for business.

5.61 The Government's announcement in the 1998-99 Budget to introduce a new visitor charge for applicants from those countries that are seen as high risk does nothing to alleviate the concern expressed about visa issue in India. It will serve to imbed even further the negative view towards the bona fides of visitors in general from India.

5.62 Another issue encroaching on the area of visas that was of concern to the Committee was raised by the NCSAS, which suggests that an apparent conflict exists between Australia's immigration and educational objectives. This conflict appears to affect Australia's ability to compete internationally for Indian students who wish to undertake any form of study or training in Australia. NCSAS compared the program operating in the United States to that operating in Australia where a student studying in the United States is permitted by US Immigration to stay on and complete work experience for three or six months. Australia is very reluctant to contemplate this. NCSAS suggests that, in this way, 'the United States has been poaching on the intellectual and scientific training and the skills and brilliance of the Indians'.³⁰ As far as America is concerned, it benefits its economy to have the services of the brightest and best in their respective fields. Although it was recognised by the Committee that Australia and the United States have differing economic needs, the issues of education and business migration should be further examined.

5.63 **Recommendation 19**

The Committee recommends that:

The Departments of Immigration and Multicultural Affairs and Employment, Education, Training and Youth Affairs further examine the links between business and educational entry to Australia.

Critical factors for Commercial Success in India

29 *ibid.*

30 NCSAS Transcript, p. 103.

5.64 The Committee received much evidence on the factors which are necessary for success in the Indian marketplace. This evidence is best summarised by SMEC in its submission to the Inquiry. SMEC, with twenty years of experience in India, maintains the following factors are critical for success:

- **good local partners:** it is essential to find good local associates and local staff; these are never easy to find anywhere but they are available in India and companies should choose agents, associates or staff with great care with the intention of building long term relationships; there appear to be good opportunities for Australian contractors in India, but joint venture arrangements with local firms are mandatory and there seems to be a reluctance to enter into such arrangements;
- **technology transfer:** following decades of relative isolation Indian professionals are anxious to absorb the best international practice; there is a universal expectation of effective technology transfer through training in India or Australia, technical workshops, secondments to enterprises, etc; if anything, expectations in this area are growing and technology transfer packages need to be developed in a highly professional manner if they are to be competitive;
- **bureaucratic intelligence:** India shares with Australia a Federal system based on strong state rights, so major projects can take a long time to be approved and negotiated; it is important to understand bureaucratic processes in both Delhi and the provinces if companies are to identify potentially viable projects; local staff are a key asset in this respect;
- **links with financial institutions:** the growing trend towards private infrastructure development means that effective links with financial institutions is becoming an important criterion for success in project development; packaging local and international equity and loan finance for build, operate and transfer (BOT) projects is becoming as important as technical capability; and
- **repatriation of earnings:** there are no restrictions on the repatriation of earnings by foreign companies, but every transaction requires Reserve Bank approval and delays are commonplace; however, the Indian Government does seem to be addressing this problem in the context to measures to introduce full convertibility of the rupee.³¹

5.65 India is in fact a series of markets and there are vast regional and state variations. The former Senior Trade Commissioner to India told the Committee that 'if you are a small company, it is quite possible to do business with just one part of India. If you are setting up joint ventures, some states are very good but others like Bihar are very bad'.³²

5.66 Austrade reinforced the point that one needs patience. Patience is:

... an Indian virtue that our businessmen have to learn. You have to get the time frame right. It invariably takes longer than you would expect. You do need local knowledge: knowledge about how business

31 SMEC Submission, p. S 929.

32 Austrade Transcript, p. 258.

is done and knowledge about the local culture. You can learn that over time but you can also buy those skills through an agent, an employee or a consultant.³³

5.67 A further piece of advice is that companies operating in India need to be selective:

... India is absolutely awash with opportunities and also with many people - fix-it people, I call them - who can get the job done for you. I think it is a great trap; I think that companies have to be very selective. They have to choose over the opportunities and have a look at what obstacles are there, especially if you need government type approvals. ... Generally, it is a lot cleaner and quicker to do business in the private sector than in the public sector.³⁴

5.68 A strategy which companies in Australia are following is the employment of NRIs. There are a number of major Australian companies which have employed, in Australia, Indian nationals to manage or advise on their Indian interests. Non-resident Indians are able to provide a company with indispensable background knowledge, an innate understanding of India, its culture and business environment, and are highly qualified in their chosen field. The presence of the Indian-born project manager at White Industries was pivotal in the company winning the Piparwar project.³⁵

Australia's Competitors in the India Market

5.69 Australia is not alone in recognising India as a growth market and a country which offers mutual commercial benefit. The United States and the UK are both countries that are actively pursuing trade and investment opportunities in India as are Japan, Germany and Canada. The UK is the second largest investor behind the US, and UK investment in India hit an all time high in 1997. The Canadian Governor General, accompanied by a high level trade delegation, visited India in late March 1998 and signed two agreements to develop telecommunications network in India over the next four years.

5.70 DFAT reports that:

Since June last year the United States, in particular, has made an effort to boost its trade and investment relationship with India. In an apparent policy shift away from equal treatment of India and Pakistan, the US made it clear that, as an emerging economic giant, India would be among the United States' top ten priority markets. Against that background, the US staged a number of high level visits to India, most notably by US Secretary of State Madelaine Albright (in November 1997) and Commerce Secretary Daley, who took with him a business delegation (in December). President Clinton was to have visited in

33 *ibid.*

34 *ibid.*

35 *India's Economy at the Midnight Hour*, *op. cit.*

February [1998], but this was deferred as a result of the Indian elections. The Heads of State of the UK, Russia and France, and the Prime Minister of Italy also visited in late 1997/early 1998, primarily to pay their respects during India's 50th anniversary year.³⁶

5.71 Already a delegation from the US-India Business Council has visited India to make a first hand assessment of the economic policies of the new Government.³⁷

5.72 In particular sectors Australia is pitted against the Israelis in the agricultural field, the Italians and Germans in equipment and industrial machinery and the Americans in larger industrial investments such as power, as well as the insurance sector.³⁸

5.73 In the light of the activity of Australia's competitors and the recent Indian federal election, the Committee cannot emphasise in strong enough terms the urgent need for a visit to be made at the senior Federal Minister level to India. As discussed in Chapter 4 (paragraphs 4.46 to 4.49) there are difficulties in maintaining the trade impetus and highlighting Australia's expertise and the Committee has made recommendations on visits and trade missions to promote Australia. To this end the Committee hopes that the Deputy Prime Minister and Minister for Trade, the Hon Tim Fischer MP, will, following the lifting of sanctions, undertake a visit to India taking with him a trade delegation to pursue Australia's trade and investment interests.

New Business

5.74 Despite the high level of competition that Australian businesses face in India, DFAT provided the Committee with examples of contracts secured or investments made by Australian business since June 1997, including:

- Kinhill Pty Ltd winning an engineering consultancy and feasibility study contract for the upgrade of 1500 kilometres of major roads and highways in Tamil Nadu;
- Biotech International signing a joint venture agreement for commercialisation of a bleaching enzyme (developed in Australia) with Esvin Bio-Systems Ltd;
- Telstra winning Indian Government approval to enter into network design, telecom hardware and software and consultancy services. The Foreign Investment Promotion Board (FIPB) approved the company's proposal to invest US\$30 million in five years to back its operations; and
- The FIPB recommending approval of a joint venture between Rio Tinto MD and the Orissa Mining Corporation to develop iron ore mines.³⁹

Issues Affecting Australian Business in India

36 DFAT Submission, p. S 995.

37 AAP, sourced from Asia Pulse, New Delhi, 31 March 1998, 'Indian government committed to reforms: business council', 31 March 1998.

38 AICC Transcript, p. 133.

39 DFAT Submission, p. S 997.

5.75 Two issues which Australian companies investing in India may need to address are the environment and the area of child labour. A third issue is the matter of intellectual property and trade.

Environment

5.76 When investing in overseas countries environmental issues are of significant importance to the successful undertaking of an investment project. DFAT alerted the Committee to the environmental issues which face Australian investors in India (see Box 5.2 below)

5.77 In early April 1998, India hosted the first assembly of the Global Environment Facility (GEF). The GEF provides grant funds to developing countries for activities which aim to protect the global environment. The GEF has four defined focal areas - biological diversity, climate change, international waters and ozone layer depletion. Over 160 member nations participated in the meeting which reviewed the general policies of the GEF and evaluated its operation.

Box 5.2 Environmental Issues: Pluses and Minuses for Australian Investors

A number of large-scale investment projects, many of which involve foreign investment, have experienced delays or remain in limbo because of legal and procedural questions arising out of environmental and humanitarian concerns. Issues such as degradation of the environment, and displacement and inadequate compensation of people affected by the projects have been highlighted because of effective lobbying by local NGOs and community groups.

Under the Environment (Protection) Act, 1986, the Ministry for Environment is responsible for environmental clearances. The Law Ministry, the Ministry of Mines, and in high-profile cases, the Prime Minister's Office, are also key players. Environmentalists have argued that more stringent laws and processes are required to ensure that greater account is taken by state governments and private firms to protect the environment, conserve natural resources and protect local community rights. These issues have attracted significant media attention in the context of debate about the pace and scale of the economic reform process.

Following are some recent examples:

- A recent Supreme Court judgement has banned mining activities in forest areas. Mines which were in existence prior to the Forest Conservation Act, 1980, will not be affected. A committee has been established under the Ministry of Mines to examine the ramifications of the decision.
- The Mangler-based 1,000 MW coal power project finally received environmental clearance in June 1996 after a review process which took nine months. The terms of the Ministry's clearance stipulated that in addition 'to providing advanced technology, the company must also deliver on its promises to conduct extensive, long-term environmental monitoring of the region'.
- Protests continue on environment grounds against P&O Ports Australia's project to build a port at Dahanu in Gujarat in an area considered an ecologically fragile zone.
- The Tehri Dam project in the Western Himalayas, first approved in 1972, has been mired in controversy for environmental and safety reasons, but also because it will involve the relocation of about 100,000 people.

At the same time, the rising concern in India about the state of the environment points to an opportunity for Australian businesses to market "green" technologies. Some of the projects being pursued as part of the follow-up program to the *New Horizons* promotion (and which are under consideration for Australia-India Council funding) tackle a number of India's environmental problems. For example: one project concerns the provision of training in environmental inspection and regulation; one promotes bilateral collaboration in developing a national water watch program; and another (which involves the Australian Geological Survey Organisation and the Indian Ministry of Agriculture) aims to help India develop sustainable management practices for the use of groundwaters in irrigation (which relates also to issues of salination, pollution and desertification).

Source: DFAT Submission, p. S 753.

Child Labour

5.78 Child labour is a serious issue for India. DFAT outlined the situation for the Committee in its submission and this is summarised in Box 5.3.

Box 5.3 The Child Labour Issue

Exploitive child labour is a serious and widespread problem in India. The Indian Government estimates that there were 17.5 million child workers in 1995. The International Labour Organisation (ILO) puts the figure at 44 million while non-government organisations claim the figure is even higher. Not all working children in India (many of whom work in the informal sector in domestic or rural settings) are engaged in harmful or dangerous work. However, a very large number work in conditions that are exploitative. An estimated 15 million children are bonded labourers, working in conditions of virtual slavery and open to a wide range of abuses.

The Government of India acknowledges the problem and is committed to addressing it. India has ratified most of the key international human rights treaties, including the UN Convention on the Rights of the Child which obliges states to protect children from exploitative child labour. The Indian Constitution prohibits the employment of children under 14 years of age in factories, mines, or other hazardous employment. Moreover, India has extensive legislation in place to address exploitative child labour. The problem is that it has been unable to fully implement and monitor this legislation.

The National Authority for the Elimination of Child Labour, established in 1994 within the Ministry of Labour, is charged with the implementation of the Government of India's nearly AUD 400 million dollars program to combat child labour. This program includes enhanced enforcement of child labour laws, income supplements for families, and subsidised school lunches in areas where child labour is concentrated. The Government of India has also introduced a labelling system - the "Kaleen" mark - which will apply to all carpets produced for export and certify that they have been produced without the use of exploitative child labour.

The Indian judicial system has also taken a more active role, and this was most recently evidenced by the Indian Supreme Court declaration in December 1996 that child labour was "banned". Acting on public interest litigation the Court also: ordered that any employer found in breach of the Child Labour (Prohibition and Regulation) Act 1994 must contribute nearly A\$1000 to a rehabilitation fund as well as pay compensation of A\$700 to each child; ordered state Labour ministries to ensure that an adult relative of a child labourer replace the child; and ordered state ministries to ensure education for each former child labourer.

As noted, a major part of the problem is the lack of enforcement of child labour laws which is the responsibility of state governments. The continuing prevalence of child labour can also be attributed to social acceptance of the practice and the failure of many state governments to make primary school education compulsory.

Despite a greater openness on the part of Indian governments to acknowledge the problem, it is an area of sensitivity, reflecting the complex economic, social, cultural and developmental factors that underlie the problem. India has been a forceful proponent of G 77 views in the trade and labour standards debate, arguing against the development of a social clause within the World Trade Organisation as well as the use of trade related measures to promote observance of core labour standards.

As part of international efforts to combat child labour, the ILO has commenced work on drafting a new legal instrument which specifically address the most damaging forms of child labour. The ILO's annual International Labour Conference will discuss child labour in 1998 and 1999 with a view to adopting new international legal standards.

Australia is not convinced that the WTO is the right place to discuss core labour standards such as child labour. An OECD study has found no empirical evidence linking low labour standards to unfair trade advantages. The study failed to demonstrate that trade mechanisms would be effective or that the WTO could make a significant additional contribution to addressing these issues. The use of such trade measures, on the other hand, could be a guise for protectionism. Australia looks to the ILO as having the central role in strengthening adherence to internationally recognised labour standards. The Government has stressed poverty reduction as the central objective of the aid program which is strongly reflected in the initiatives announced in the budget to give the aid program a sharper humanitarian focus. Our aid program also includes projects designed to improve the quality and accessibility of basic education and rehabilitative measures aimed directly at helping working children (eg programs to provide basic health and legal aid).

Source: DFAT Submission, p. S 740.

5.79 The Committee received very little evidence in public hearings on the issue. The Indian High Commissioner did inform the Committee that there has been substantial progress in dealing with the issue of child labour. There are instances of sweat shops which governments alone cannot clamp down on. Largely, he said, it is the NGOs which are playing a very active role in India in addressing this.⁴⁰

5.80 He cited the situation where:

Skills like carpet making are passed from father to son. Where it is a family occupation, it is very difficult to tell the father that he cannot employ a 12-or 13-year-old boy at home to add to the family's income. But we are now discouraging organised child labour; the state governments are clamping down very hard.⁴¹

5.81 The Indian Government has devised a system of marking products to certify and ensure that they do not have child labour content. The High Commissioner believes that some of the mechanisms that have been worked out in India, in close cooperation with voluntary organisations, are the best guarantee that sweatshops do not find their work productive.

5.82 The Committee was told that in the leather strapping factories:

... you will often see 8-and 10-year olds sitting on the floor in groups of 10 doing the really simple work. ... those kids have a choice in life: they can go to work where they really are well respected and get some sort of care, or they can be on the streets. There is no education system that can take the capacity that India needs and, therefore, work is almost like a small education for them.⁴²

5.83 **Recommendation 20**

The Committee recommends that:

The Australian Government endorse and actively support the adoption of international legal standards that combat child labour.

Intellectual Property and Trade

5.84 The Australian Government sees intellectual property and trade as an important emerging issue. As TOOS 98 sets out:

Intellectual property is an integral element of the global trading system. It was recognised as far back as the Paris Convention for the Protection of Industrial Property of 1883 and the Berne Convention for the Protection of Literary and Artistic Works in 1886. More recently, rapid technological developments and the 'information

40 Indian High Commissioner Transcript, p. 332.

41 *ibid.*

42 Horseland Transcript, p. 677.

revolution' have intensified the issue, resulting in the 1994 WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS provides a comprehensive framework for the international protection of a range of intellectual property rights relating to patents, copyright, trademarks, industrial designs, layout designs of integrated circuits, geographical indications and trade secrets.⁴³

5.85 One of the key features of the evolving framework is the increased emphasis on enforcement of intellectual property rights. TRIPS requires members, including Australia and India, to adhere to the substantive provisions of the Berne Convention as well as provide for several additional categories of works and new rights. Moreover TRIPS requires members to provide an adequate level of enforcement for intellectual property rights.

5.86 The Copyright Agency Limited (CAL) provided the Committee with an insight into the difficulties faced by foreign right holders to have copyright enforcement on their works. By way of background CAL is a not-for-profit company which is the authorised collecting society for the administration of the statutory license (contained in the Copyright Act 1968) regulating copying by educational institutions and institutions assisting people with disabilities in Australia. On behalf of its members, CAL is party to a number of agreements with the Federal, State and Territory Governments concerning certain print based copying under the Act, and also offers voluntary licenses for the print based copying of CAL's members' works by various organisations including business colleges, religious organisations, corporations and press clipping services.⁴⁴

5.87 CAL is a member of the International Federation of Reproduction Rights Organisations (IFRRO) which represents collecting societies and national and international authors' and publishers' associations from around world. IFRRO has standing with, makes submissions to, appears before and is present with observer status at the World Intellectual Property Organisation (WIPO) and at UNESCO. It also makes submissions to the EC and other international bodies on behalf of copyright owners.⁴⁵

5.88 CAL confirmed with the Committee that intellectual property is the fastest growing area of the Australian economy, with copyright the fastest growing area of intellectual property. Print is the largest sector within copyright, outstripping software and film. Moreover copyright industries have about 5 percent of GDP. Copyright is the only basis on which the book industry rests in economic terms. In 1996 CAL distributed some A\$12.12 million to its members.

5.89 Copyright is 'aimed at affording authors an incentive to disseminate their work balanced against the interests of users in having access to those works on fair terms'.⁴⁶ Maintaining this balance, CAL says, is becoming more difficult, given the rapid expansion of trade in copyright based material, networked digital information transfer and the introduction and widespread use of reproduction technologies which make it impractical, if not

43 TOOS 1998, p. 207.

44 CAL Submission, p. S 15.

45 CAL Transcript, p. 3.

46 CAL Submission, p. S 18.

impossible, for right holders to effectively administer their reproduction rights on an individual basis.

5.90 India's professional and educational sectors rely heavily upon access to current information and educational materials. However given the relative cost of original publications, comparative ease in making reproductions, and the difficulties of enforcing copyright, many users of copyright material have tended to do so illegitimately. CAL points out that the sheer size of the Indian market, particularly the educational sector, means that the potential financial gain from increased user compliance and conversely loss resulting from widespread unauthorised copying may be very substantial. For example, CAL reports that there are approximately 160 universities and institutions of higher learning, 7000 secondary colleges and 115 million school children in India, contributing to a literate population estimated at around 250 million people

5.91 In the absence of effective enforcement, foreign right holders, including Australians, will continue to refrain from making their works available in India, thereby depriving both right holders of access to the potentially lucrative Indian markets and Indian users of access to foreign works. CAL maintains that the establishment of a right holders' representative organisation (RRO) will encourage compliance with international and domestic provisions, by 'assisting users to obtain permission for the legitimate use of works protected by copyright through a single organisation with minimal administrative burden'.⁴⁷ Greater compliance, or rather the remuneration resulting from collected license fees, would, according to CAL, give all right holders greater economic incentive to make their works available in India.

5.92 CAL is of the view that:

... there has never been a better time to work with Indian right holders and the Indian government towards the establishment of a RRO in India. The Indian copyright law explicitly recognises collecting societies ...⁴⁸

5.93 **Recommendation 21**

The Committee recommends that:

The Australian Government, in cooperation with the Copyright Agency Limited, examine strategies to assist India to establish a reproduction rights organisation, RRO.

5.94 The Committee's awareness of the importance of intellectual property rights was heightened as a result of CAL's evidence. Copyright has not been afforded the attention within government circles as it has not been seen a significant issue in terms of trade, probably because, as CAL puts it, it has been stigmatised as an 'arty' issue.

5.95 The recognition in TOOS 98 of the importance of intellectual property rights, the Committee feels, goes some way in addressing the concern of the CAL that most sectors of

47 *ibid.* p. S 19.

48 *ibid.* p. S 20.

government appear to have a limited understanding of copyright issues and the essential role that copyright plays in supporting trade in copyright based materials.

5.96 It is significant that in August 1997, the Minister for Trade announced the establishment of the WTO Intellectual Property Obligations and Enforcement Unit (IPU) within DFAT's Trade and Negotiations Division. According to TOOS 98, the IPU will focus on TRIPS and its renegotiation and will monitor developments in other international intellectual fora such as the WIPO.

5.97 **Recommendation 22**

The Committee recommends that:

The WTO Intellectual Property Obligations and Enforcement Unit, in the Trade and Negotiations Division of the Department of Foreign Affairs and Trade, monitor developments in international intellectual fora in relation to India.

