
The Parliament of the Commonwealth of Australia

Inquiry into Australia's relationship with ASEAN

Joint Standing Committee on Foreign Affairs, Defence and Trade

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Canberra

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Foreword

In recent years the Joint Standing Committee on Foreign Affairs and Defence and Trade has focused on Australia's relationship with its northern neighbours. This has included major reports on relations with Indonesia, and with Malaysia. This report extends this focus by reviewing Australia's relationship with ASEAN, an organisation comprising ten countries to Australia's north.

ASEAN has become an important trading partner. ASEAN is now the sixth most important export destination for Australian goods and services, and Australia is the eighth most important source of imports for ASEAN.

The countries of ASEAN are also of a strategic importance to Australia. Political stability in the region and good international relations with ASEAN countries are therefore integral to Australia's security and prosperity.

Over the years ASEAN has expanded its engagement with the region through its dialogue partners, the creation of the ASEAN Regional Forum, and the East Asia Summit. This trend culminated in the 2003 Bali Concord II and the 2008 ASEAN Charter which formalised ASEAN as a legal entity and inter-government organisation.

Australia's relationship with ASEAN is multifaceted and operates on different levels. The report discusses the nature of those interactions which occur at government and non-government level and with ASEAN as a discrete entity or with individual member countries. Often that relationship proceeds through different avenues and levels simultaneously.

To illustrate this point, Australia has the free trade agreements (FTAs) with two countries in ASEAN – Singapore and Thailand – and treaties with Indonesia and Malaysia are contemplated.

During the course of the enquiry, Australia and New Zealand concluded an FTA with ASEAN. The agreement was the first multi-country FTA Australia had negotiated and was the most comprehensive treaty ASEAN had entered into. This FTA is regarded as a platform for further trade liberalisation both between Australia, New Zealand and ASEAN, and as a way of assisting ASEAN's plans to establish an ASEAN economic community by 2015.

The Committee considers that FTAs—bilateral and multilateral—will become an increasing part of the trade environment in which Australia operates. This will be ensured by the continued growth of Asia, and the trend towards trade and other forms of integration between countries.

Australia has had equivocal outcomes with respect to the FTAs with Singapore and Thailand. In particular the gains made by the Australian automotive industry in the Australia–Thailand FTA (TAFTA) have been countered by the emergence of non-tariff barriers.

The outcomes arising from TAFTA underscores the importance of quantifying the benefits or costs of such agreements once they are concluded. To date it appears that the policy of applying a greater focus on tariff barriers in trade negotiations, leaving a 'tail' of negotiation for non-tariff barriers, has not always appeared to work to Australia's immediate advantage.

Better information about the cost of non-tariff barriers would greatly assist Australia's trade negotiators. To this end the Committee has recommended that the Department of Foreign Affairs and Trade (DFAT) develop a single method of costing non-tariff barriers, to assist Australian FTA negotiators to identify, evaluate and target barriers to trade. As well, there should be annual reports to the Parliament on the impacts of individual trade agreements.

Trade in services provides significant opportunities for Australia and the telecommunications sector has been identified as a high priority for expansion of Australia's export trade. Further development in telecommunications, and knowledge-economy activities in general, would allow Australia to build on and go beyond the reliance on education and tourism, and enhance its efforts to achieve a more favourable balance of trade. Evidence provided by Telstra, however, suggested that telecommunications has tended to fall into the 'too-hard basket' within the process of free trade negotiations.

The Committee is convinced that telecommunications should be an important component of FTAs being negotiated with other countries and has recommended that DFAT ensure future agreements contain effective telecommunications chapters.

The recognition of professional qualifications is an important aspect of Australia's ability to trade with ASEAN member countries. The more widely Australian professional qualifications are recognised, the better Australia's position to cater to emergent demand in the region. The Committee has therefore made recommendations concerning the recognition of professional qualifications and that FTAs should include a professional services working group to assist in creating professional linkages, including mutual recognition agreements.

The Committee recognises the wide ranging and comprehensive contribution of Australian agencies to the security of the ASEAN region. The security status is bound to fluctuate, but the Committee is confident that the level of co-operation will ensure long-term success. Australian agencies should use the various forums provided by ASEAN and the focal point of Australia's diplomatic missions to establish and maintain agency-to-agency links and communications.

The Committee also notes the work being undertaken in the areas of biosecurity and health by Australia in collaboration with ASEAN member countries. The enhancement of biosecurity in ASEAN can expand outwards Australia's quarantine border and provide early warning and improved response to emerging threats. As well, work in the health area not only improves the well-being of ASEAN member countries and thereby its security, but also protects Australians travelling abroad.

The Committee considers that it is in Australia's interests to assist ASEAN member countries in securing their nascent nuclear infrastructure and their radioactive sources. ANSTO through its ongoing engagement with the region is well placed to provide that assistance and in the long term may be able to assist should ASEAN the member countries introduce nuclear-power.

The Committee welcomes the development of the ASEAN Charter and the creation of an ASEAN human rights body. The new body will raise the profile of human rights and will create an opportunity to bring human rights issues before ASEAN Ministers.

Banks such as the Asian Development Bank and the World Bank are in a position to progress human rights issues by setting conditions for loans. The Committee believes there is merit in Australia using its influence with the Asian Development Bank to have it meet the benchmark set by the World Bank as regards requiring core labour standards as a precondition for loans.

The Committee considers the ASEAN Social Charter, which is based on four international declarations, while limited in its coverage is nevertheless a positive development for human rights in the ASEAN region. Other matters of human rights concern in the ASEAN region include the exploitation of children, the sexual exploitation of women, and child trafficking.

The Committee is satisfied with the response provided by DFAT and the AFP concerning the provision of aid to Burma, and involvement of the AFP with the Burmese police force. Nevertheless, there needs to be constant awareness of the possibility that the Burmese authorities will misuse the Australian assistance provided, and a willingness to withdraw this assistance should such evidence come to light.

The continuing detention of the Burmese opposition leader Aung San Suu Kyi continues to be of concern. The Committee notes the recent statement by the Minister for Foreign Affairs welcoming the 'strong show of support by ASEAN and its constituent members for Aung San Suu Kyi and her immediate and unconditional release.' The Committee shares the Minister's grave concern over her continuing detention and calls for her immediate and unconditional release.

The Committee believes there are significant opportunities for Australia to offer leadership and technical assistance to ASEAN member countries as they face the challenge wrought by climate change.

In the Committee's view, Australia's present climate change engagements in the region, both government and non-government, are a good basis for meeting these challenges. They contribute to positive relationships in the region and, by enhancing capacity within ASEAN member states, build a foundation upon which future collaborations can occur.

Arising from its review of human rights issues and environment issues, the Committee considers that human rights including core labour standards and the environment should be pursued in future FTAs. Australia should also take the opportunity to introduce such issues (if they are not already included) when current FTAs are reviewed.

A theme pervading this report is that Australia's relationship with ASEAN is broadening and deepening. The relationship will continue to mature and change. Doubtless there will be challenges, but the Committee is confident the goodwill exists to overcome them.



Mr Michael Danby MP
Chair, Foreign Affairs Sub-Committee

Membership of the Committee

Chair	Senator M Forshaw	
Deputy Chair	The Hon D Hawker MP	
Members	Senator M Arbib (from 01/07/08 till 11/03/09)	The Hon J Bishop MP (from 11/03/09)
	Senator A Bartlett (till 30/06/08)	Mr M Danby MP
	Senator M Bishop	Ms A Ellis MP
	Senator M Cormann (till 23/09/08)	The Hon J Fitzgibbon MP (from 15/06/09)
	Senator A Eggleston (till 19/03/08)	Mr S W Gibbons MP
	Senator the Hon A Ferguson (from 01/07/08)	Ms S Grierson MP
	Senator M Fifield	Mr D Hale MP
	Senator M Furner (from 16/03/09)	The Hon I Macfarlane MP
	Senator S Hanson-Young (from 04/12/08)	Mrs L Markus MP (from 25/09/08)
	Senator the Hon D Johnston (from 23/09/08)	Ms S Mirabella MP (till 11/03/09)
	Senator L J Kirk (till 30/06/08)	The Hon J Murphy MP (from 20/03/09)
	Senator S Ludlam (from 26/11/08)	Mr R Oakeshott MP (from 20/03/09)
	Senator the Hon J A L (Sandy) Macdonald (till 30/06/08)	Ms M Parke MP
	Senator C M Moore	Ms K Rea MP
	Senator K O'Brien (from 01/07/08)	Mr B Ripoll MP
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	Senator R Trood	The Hon P Ruddock MP
	Senator R S Webber (till 30/06/08)	Ms J Saffin MP
	The Hon B Baldwin MP	The Hon B Scott MP
	The Hon A Bevis MP	Mr K Thomson MP (till 15/06/09)
Secretary	Dr M Kerley	
		Ms M Vamvakinou MP

Membership of the Foreign Affairs Sub-Committee

Chair Mr M Danby MP

Deputy Chair Mrs S Mirabella MP (till 11/03/09)

Members

Senator M Arbib (till 11/03/09)

Senator M Bishop

Senator the Hon A Ferguson

Senator M Fifield

Senator M Forshaw (*ex officio*)

Senator S Ludlam

Senator C Moore

Senator K O'Brien

Senator M Payne

Senator R Trood

The Hon A Bevis MP

The Hon J Bishop MP (from 11/03/09)

Ms A Ellis MP

The Hon J Fitzgibbon MP (from 15/06/09)

Ms S Grierson MP

Mr D Hale MP

The Hon D Hawker MP (*ex officio*)

The Hon I Macfarlane MP

Mrs L Markus MP

Mr R Oakeshott MP (from 20/03/09)

Ms M Parke MP

Mr S Robert MP

The Hon P Ruddock MP

The Hon B Scott MP

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Inquiry Secretary Dr John Carter

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Office Manager Mrs Donna Quintus-Bosz

Administrative Officer Mrs Sonya Gasper

Mrs Gillian Drew



Terms of reference

The Joint Standing Committee on Foreign Affairs, Defence and Trade shall examine and report on opportunities for expanding Australia's relationship with the countries of ASEAN, with particular attention to:

- opportunities to improve Australia's involvement in ASEAN;
- opportunities to enhance regional security through Australian involvement;
- free trade agreements with individual ASEAN countries;
- opportunities to enhance the regional economy;
- opportunities to improve cultural links; and
- the impact of global warming on the region.



List of abbreviations

AADCP	ASEAN-Australian Development Cooperation Program
AANZFTA	ASEAN-Australia-New Zealand Free Trade Area
AAS	Australian Academy of Science
ACMA	Australian Communications and Media Authority
ACTU	Australian Council of Trade Unions
ADMM	ASEAN Defence Ministers Meeting
AEC	ASEAN Economic Community
AFP	Australian Federal Police
ANSTO	Australian Nuclear Science and Technology Organisation
ANTF	Anti-Narcotic Task Forces
APEC	Asia-Pacific Economic Cooperation
APEC TEL MRA Taskforce	APEC Telecommunication and Information Mutual Recognition Arrangements Taskforce
APL	Australian Pork Limited
APT	ASEAN Plus Three
ARF	ASEAN Regional Forum

ASCC	ASEAN Socio-Cultural Community
ASEAN	Association of South East Asian Nations
ASEAN ISIS	ASEAN Institutes of Strategic and International Studies
ASEAN APOL	ASEAN Chiefs of Police
ATUC	ASEAN Trade Union Council
AWBC	Australian Wine and Brandy Corporation
BCA	Burma Campaign Australia
CEPU	Communications Electrical Plumbing Union
CPSU	Community and Public Sector Union
COCI	ASEAN Committee on Culture and Information
CPCS	Centre for Peace and Conflict Studies
CSCAP	Council for Security Cooperation in the Asia-Pacific
CSIRO	Commonwealth Scientific and Industrial Research Org.
DAFF	Department of Agriculture, Fisheries and Forestry
DBCDE	Dept of Broadband, Communications and the Digital Economy
DEEWR	Dept of Education, Employment and Workplace Relations
DFAT	Department of Foreign Affairs and Trade
DGICM	Director-Generals of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs
DIAC	Department of Immigration and Citizenship
DIISR	Department of Innovation, Industry, Science and Research
EAS	East Asia Summit
GATS	General Agreement on Trade in Services

GATT 1994	General Agreements on Tariffs and Trade
GDP	Gross Domestic Product
GFC	Global Financial Crisis
FAPM	Federation of Automotive Products Manufacturers
FCAI	Federal Chamber of Automotive Industries
FDI	Foreign Direct Investments
FPDA	Five Power Defence Arrangements
FTA	Free Trade Agreement
IAEA	International Atomic Energy Agency
IFCI	International Forest Carbon Initiative
IMF	International Monetary Fund
IP	Intellectual Property
IPCC	International Panel on Climate Change
MNOST	Multi National Operations Support Team
MOU	Memorandum of Understanding
NHMRC	National Health and Medical Research Council
PSI	Public Services International
RCA	Regional Cooperative Agreement
RPOA	Regional Plan of Action
RSRS	Regional Security Radioactive Sources Project
SAFTA	Singapore Free Trade Agreement
SEAMEO	South-East Asia Ministers of Education Organisation
SPS	Sanitary and Phytosanitary Capacity Building Program
SSGs	Special safeguards

STRACAPS	Standards, Technical Regulations and Conformity Assessment Procedures
TAFTA	Thailand Free Trade Agreement
TBBC	Thai-Burma Border Consortium
TCF	Australia's Textile, Clothing and Footwear Industries
VET	Vocational Education and Training
UNESCO	United Nations Educational, Scientific and Cultural Org.
WEHI	Walter and Eliza Hall Institute of Medical Research
WTO	World Trade Organisation



List of recommendations

Recommendation 1

The Committee recommends that the Department of Foreign Affairs and Trade develop a single method of costing non-tariff barriers, to assist Australian FTA negotiators to identify, evaluate and target barriers to trade.

Recommendation 2

The Committee recommends that the Department of Foreign Affairs and Trade reports annually to the Parliament on the impacts of individual free trade agreements.

Recommendation 3

The Committee recommends that when Parliamentary delegations visit South East Asian countries with which Australia has a free trade agreement, the Department of Foreign Affairs and Trade facilitate meetings with Asian policy makers to monitor progress with these treaties.

Recommendation 4

The Committee recommends that the Department of Foreign Affairs and Trade should ensure that future free trade agreements contain effective telecommunications chapters.

Recommendation 5

The Committee recommends that the Australian Government make representations to the Singapore Government with a view to assisting Engineers Australia, and other professions not covered by the free trade agreement, to obtain a mutual recognition agreement with Singapore.

Recommendation 6

The Committee recommends that future bilateral free trade agreements include a professional services working group to assist in creating professional linkages, including mutual recognition agreements and when existing free trade agreements which do not contain a professional services working group are reviewed, this issue should be pursued.

Recommendation 7

The Committee recommends that the Commonwealth Government should use its influence with the Asian Development Bank to ensure that the adherence to core labour standards become a precondition for loans.

Recommendation 8

The Committee recommends that human rights, core labour standards, and the environment be pursued in future free trade agreements and, when existing free trade agreements which do not contain such issues are reviewed, these issues should be pursued.

Recommendation 9

The Committee recommends that when the Department of Foreign Affairs and Trade reports annually to the Parliament under Recommendation 2, progress with regard to human rights, core labour standards, and the environment be included.

Introduction

Background to the inquiry

- 1.1 The Joint Standing Committee on Foreign Affairs, Defence and Trade (the Committee) regularly reviews Australia's relationships with other countries. In recent times it has focused on Australia's near neighbours such as Indonesia, Malaysia, and New Zealand. This is the first review undertaken by the Committee of Australia's relationship with ASEAN, an organisation comprising ten countries.¹

Importance of the Australia–ASEAN relationship

- 1.2 ASEAN is an important trading partner for Australia. It has a forecasted combined gross domestic product of US\$1450 bn in 2008 – a doubling since 2003. The countries of ASEAN are the sixth most important export destination for Australian goods and services, and Australia is the eighth most important source of imports for ASEAN.

1 Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, Vietnam.

- 1.3 The countries of ASEAN are also of a strategic importance to Australia being our nearest neighbours. Political stability in the region and good international relations with ASEAN countries are therefore integral to Australia's security and prosperity.

History of ASEAN and its relationship with Australia

- 1.4 ASEAN was created in 1967. Since then, it has undergone considerable development, as has its relationship with Australia and other countries.² There are four discernable stages in its development to date.
- 1.5 The first phase of ASEAN's development spans the 1960s to 1980s. During this period ASEAN was established, developed a working philosophy and began programming a style of meeting that was to form the basis of subsequent interactions between ASEAN members. Key events were:
- 1967 – ASEAN created, comprising Indonesia, Malaysia, the Philippines, Singapore and Thailand.
 - 1967 to 1975 – low key activities aimed at discussion and confidence building.
 - 1974 – Australia the first country to establish a multilateral relationship.
 - 1976 – Treaty of Amity and Cooperation.
 - 1976 – first Heads of Government Summit (since 1997, held annually).
 - 1979 – the first Post Ministerial Conference attended by ASEAN's dialogue partners.³
 - 1984 – Brunei joins ASEAN upon gaining independence.⁴
- 1.6 ASEAN's second phase of development in the 1990s saw an extension of its role. Of critical importance was the response to the 1997 Asian Economic Crisis, by ASEAN Plus Three. This period also saw moves toward more liberal trade arrangements between members, and an agreement to exclude nuclear weapons. During this period ASEAN

2 Unless indicated otherwise, information is taken from: *Exhibit No. 1*, Department of Parliamentary Services, Parliamentary Library, *ASEAN's regional cooperation and multi lateral relations: recent developments and Australia's interests*.

3 Australia, Canada, China, EU, India, Japan, New Zealand, Republic of Korea, Russia, United States. The UN Development Program also has dialogue status.

4 *Background Note: Brunei Darussalam/Profile/Foreign Relations*, United States State Department, <<http://www.state.gov/r/pa/ei/bgn/2700.htm>> Accessed February 2009

expanded considerably beyond its initial five-country membership, strengthening its status as the representative body for the region. Key events were:

- 1992 – agreement to pursue ASEAN Free Trade Area results in some reduction in trade barriers.
- 1994 – ASEAN Regional Forum⁵ established with a view to extend ASEAN's role in sponsoring dialogue on security issues.
- 1995 – ASEAN creates Southeast Asia Nuclear Weapons Free Zone.⁶
- 1995 – Vietnam joins ASEAN.
- 1997 – Laos and Burma join ASEAN.
- 1997 – ASEAN Plus Three established (China, Japan and Republic of Korea). Its most significant activity has been to promote regional financial cooperation.
- 1999 – Cambodia joins ASEAN (delayed from 1997 due to Cambodia's internal conflict).

1.7 A third phase, in the first half of the 2000s, saw a considerable increase in levels of activity, and the creation of new instruments to address economic, security and environmental challenges in the ASEAN region. Key events were:

- 2002 – ASEAN Agreement on Transboundary Haze Pollution (yet to be ratified by Indonesia).
- 2003 – Bali Concord II introduces three pillars concept setting the framework for future ASEAN cooperation.
- 2005 – Burma relinquishes right to chair ASEAN, thereby avoiding embarrassment to ASEAN due to human rights concerns in Burma.
- 2005 – first East Asia Summit comprising ASEAN Plus Three together with Australia, India, and New Zealand.

5 Membership comprises ASEAN, its dialogue partners, and Mongolia, Pakistan, Papua New Guinea, North Korea, Sri Lanka.

6 *Bangkok Treaty (in alphabetical order) At UNODA, United Nations*, <[http://disarmament.un.org/TreatyStatus.nsf/Bangkok%20Treaty%20\(in%20alphabetical%20order\)?OpenView](http://disarmament.un.org/TreatyStatus.nsf/Bangkok%20Treaty%20(in%20alphabetical%20order)?OpenView)> Accessed February 2009.

- 2005 – ASEAN Regional Forum, announcement of the Asia-Pacific Partnership on Clean Development and Climate.⁷

1.8 ASEAN's fourth and most recent phase of development, since 2005, has seen the extension of the East Asian Summit process, and related meetings and instruments, which increasingly define ASEAN as a formal grouping. In response to this, there has been a substantial increase in diplomatic recognition and representation to ASEAN as a collective entity. Key events have been:

- 2006 – first meeting of ASEAN Defence Ministers.
- 2006 – ASEAN–Republic of Korea FTA concluded.
- January 2007 – agreement to advance the schedule for implementation of ASEAN Economic Community from 2020 to 2015.
- January 2007 – East Asia Summit, announcement of the Cebu Declaration on East Asian Energy Security.⁸
- November 2007 – adoption of ASEAN Charter formalising ASEAN's position in status and in law.
- November 2007 – Third East Asia Summit, announcement of Singapore Declaration on Climate Change, Energy and Environment.⁹
- November 2007 – Defence Ministers agree to expand discussions to include ASEAN dialogue partners.
- April 2008 – US nominates Ambassador to ASEAN.
- May 2008 – ASEAN organises donors conference in response to Cyclone Nargis, persuades Burma to allow deployment of Emergency Rapid Assessment Team.
- July 2008 – China appoints Ambassador to ASEAN; Japan announces plans to nominate Ambassador to ASEAN when ASEAN Charter comes into effect.
- July 2008 – Australia appoints Ambassador to ASEAN.
- August 2008 – ASEAN–India FTA agreement announced.

7 *Fact Sheet, Asia-Pacific Partnership on Clean Development and Climate*, http://www.asiapacificpartnership.org/pdf/translated_versions/Fact_Sheet_English.pdf Accessed February 2009.

8 *Cebu Declaration on East Asian Energy Security Cebu, Philippines, 15 January 2007*, <http://www.aseansec.org/19319.htm> Accessed February 2009.

9 <http://www.aseansec.org/21116.htm> Accessed November 2008.

- December 2008 – ASEAN Charter comes into effect.
- February 2009 – ASEAN–Australia–New Zealand FTA ratified.

Challenges facing ASEAN

- 1.9 There are several challenges facing the countries of ASEAN. These include:
- the widely differing stages of development both social and economic of the ASEAN countries;
 - tensions between:
 - ⇒ Thailand and Malaysia concerning the insurgency in southern Thailand;
 - ⇒ Singapore and Malaysia concerning a disputed island, recently awarded to Singapore; and
 - ⇒ Cambodia and Thailand over a disputed border area.
 - cross-border pollution from annual burning in Indonesia; and
 - the political situation and human rights in Burma.
- 1.10 Several of these issues are discussed in the chapters that follow.

Conduct of the inquiry

- 1.11 On 18 June 2008, the Minister for Foreign Affairs, the Hon. Stephen Smith MP referred to the Committee, an inquiry into Australia's relationship with ASEAN.
- 1.12 The Minister commented that Australia was committed to the ASEAN–Australia relationship and its role in various ASEAN-led regional forums including the ASEAN Regional Forum and the East Asia Summit. The Minister added that an inquiry would be timely given ASEAN's current focus on regional integration, and because the second phase of Australia's development cooperation partnership with ASEAN was aimed at supporting ASEAN's efforts to establish an ASEAN Economic Community and the implementation of the ASEAN–Australia Comprehensive Partnership's the Plan of Action.
- 1.13 The Chair of the Committee's Foreign Affairs Sub-Committee, Mr Michael Danby, MP announced the inquiry via media release on 11 July 2008 and

the inquiry was subsequently advertised in *The Australian* on 23 July 2008. Letters inviting submissions were also sent to State Premiers, Ministers, Commonwealth agencies, and a wide range of individuals and organisations with an expected interest in Australia's engagement with ASEAN.

- 1.14 The Committee received 48 submissions (listed at Appendix A), 9 exhibits (listed at Appendix B) and took evidence from 31 organisations and individuals during 6 public hearings in Canberra, Melbourne, and Sydney (listed at Appendix C).

Structure of the report

- 1.15 This report comprises nine chapters.
- 1.16 Chapter 2 describes current Australia–ASEAN interactions. These involve Australian Government interactions multilaterally with ASEAN as a whole, and bilaterally with individual ASEAN member states. Also discussed are interactions at the non-government level including the so called 'Track 2 interactions'.
- 1.17 Chapters 3 to 6 address trade between Australia and ASEAN member states. Chapter 3 considers the bilateral free trade agreements Australia has entered into with Singapore and Thailand and Chapter 4 discusses the newly signed multilateral free trade agreement between ASEAN, Australia, and New Zealand. Chapter 5 describes trade in goods, and Chapter 6 discusses trade in services.
- 1.18 Chapters 7 and 8 discuss regional security and human rights.
- 1.19 The final chapter, Chapter 9, considers the challenges posed by global warming for Australia and the countries of ASEAN.

Australia–ASEAN links

Introduction

- 2.1 This chapter discusses the nature and level of interaction between ASEAN, ASEAN nations, the Australian government and Australian non-government organisations. This is considered in the context of:
- the culture of ASEAN;
 - ASEAN’s increasing engagement with the region, including
 - ⇒ recent developments; and
 - ⇒ membership of other organisations; and
 - Australian interaction with ASEAN

The culture of ASEAN

- 2.2 ASEAN was founded in 1967 by five nations at the height of the Cold War.¹ The founding nations were acutely aware of the potential for

1 The founding countries were Indonesia, Malaysia, Philippines, Singapore, and Thailand.

Communist-led revolutionary movements and their vulnerability in relation to the major powers. They were also recovering from tensions between them.²

2.3 Economic development was also a concern. ASEAN members were dependent on the trade in primary produce with First World trading partners, who were perceived as unsympathetic.

2.4 Being unable to significantly influence the conditions affecting it, ASEAN maximised its members' diplomatic and political strengths and focused on discussion and confidence building. ASEAN:

... emphasised informality and loose arrangements, ... stressed the primacy of the sovereign equality of members and has generally avoided the exercise of overt leadership, and has sought gradual change based on consensus with cooperation preceding 'at a pace comfortable to all'.³

2.5 The principle of non-interference in the internal affairs of member countries was entrenched through the Treaty of Amity and Cooperation signed in Bali in February 1976. The treaty calls for signatories to commit to:

- non-interference in internal affairs of one another;
- settlement of differences or disputes by peaceful means;
- renunciation of the threat or use of force; and
- effective cooperation among themselves.⁴

2.6 ASEAN has a distinctive style of operation, termed 'the ASEAN way', which emphasises:

- frequent meetings and discouragement of top-heavy institutions, the key being annual Ministerial meetings;
- economic cooperation without producing serious disharmony, thereby creating an image of ASEAN as a stable and benign destination for foreign investment; and
- using ASEAN's collective drawing power to gradually include other major external countries in dialogue.⁵

2 Indonesia's 'Confrontation' of the new state of Malaysia, 1963-1966; and the Philippines' claim to the Malaysian state of Sabah, 1968.

3 *Exhibit No. 1*, pp. 4-5.

4 <<http://www.aseansec.org/1217.htm>> Accessed December 2008.

5 *Exhibit No. 1*, pp. 5-6.

ASEAN's increasing engagement with the region

- 2.7 ASEAN has progressively engaged with other countries in the Asia-Pacific region since its creation in 1967.

ASEAN's dialogue partners

- 2.8 ASEAN maintains relationships with countries known as 'dialogue partners' – non-members of ASEAN who have an identified interest in the ASEAN region.
- 2.9 Australia was the first country to establish a relationship with ASEAN in 1974 through the Australia-ASEAN Economic Cooperation Program, which provided multilateral economic assistance.⁶
- 2.10 In 1979, ASEAN invited the Foreign Ministers of its dialogue partners to a Post Ministerial Conference held after ASEAN's annual Ministerial Meeting. Australia is currently one of 10 ASEAN dialogue partners.⁷

ASEAN Regional Forum

- 2.11 The 1994 inaugural ASEAN Regional Forum (ARF) increased the number of nations interacting with ASEAN. Attending the ARF were the ASEAN member countries, its dialogue partners, and Mongolia, Pakistan, PNG, North Korea, and Sri Lanka.
- 2.12 The ARF was created in the context of strategic uncertainty following the demise of the Soviet Union, and the desire to engage major and regional powers such as China, the US, and Japan. The aim of the ARF was to 'sponsor multilateral discussions on regional security issues', with ASEAN playing a leading role. The ARF is now held annually following ASEAN's Ministerial and Post Ministerial Conferences.⁸

ASEAN Plus Three

- 2.13 The ASEAN Plus Three (APT) process was prompted by several factors including:

6 *Exhibit No. 1*, p. 47.

7 *Exhibit No. 1*, p. 5.

8 *Exhibit No. 1*, pp. 37-8.

- the Asian financial crisis which caused a focus on the need for greater cooperation to forestall future crises and to provide support to ASEAN nations in their dealings with the International Monetary Fund (IMF);
 - the stalling of APEC's momentum towards trade liberalisation;
 - the progressive development of the European Union and the North American Free-Trade Agreement; and
 - the rise of China as an economic power.⁹
- 2.14 The first meeting of the APT, held in Kuala Lumpur in 1997, was attended by China, Japan, and the Republic of Korea. It has continued to adopt a 'loose cooperative framework based on conferences and dialogue.' The dialogue is flexible in approach, with meetings between ASEAN and all three external members; between ASEAN and one external member; or just between the non-ASEAN members.
- 2.15 The APT process has promoted regional financial cooperation through two major initiatives:
- the Chiang Mai Initiative which enables currency swap arrangements between the central banks of participating states without recourse to the IMF; and
 - the Asian bond market which is intended to enable East Asian entities to borrow from each other's reserves in local currency denominations rather than in the currencies of the major industrial economies.¹⁰

East Asian Summit

- 2.16 The East Asian Summit (EAS) developed from a desire of the APT group to broaden dialogue to countries of a wider geographical area. It was stipulated, however, that countries attending the EAS:
- must be signatories of the ASEAN Treaty of Amity and Cooperation (or be prepared to sign it);
 - needed to be full ASEAN Dialogue Partners; and
 - had to have substantial relations with ASEAN.¹¹

9 *Exhibit No. 1*, p. 40

10 *Exhibit No. 1*, pp. 41-2.

11 *Exhibit No. 1*, p. 43.

- 2.17 Regarding potential members of the EAS, political tensions between China and Japan polarised the ASEAN member countries. Some ASEAN member countries supported China's view that the EAS should involve just the APT nations; other ASEAN member countries supported Japan's view that membership should be extended to include Australia, India, and New Zealand. In the end, Japan's view prevailed and the first EAS was held in 2005.¹²
- 2.18 The divergence in views remains, with Malaysia arguing that the APT is the best vehicle for building an East Asia Community and Japan arguing for a broader Australia-ASEAN Economic Cooperation Program based on the EAS grouping.¹³

Recent developments

- 2.19 Two recent developments in ASEAN's evolution have significantly affected Australia's interaction with ASEAN. The first – the Bali Concord II – has provided a framework for much of Australia's interaction with ASEAN member countries. The second – the ASEAN Charter – has the potential to raise the profile of ASEAN as a distinct entity in Australia's future relations with ASEAN.

Bali Concord II

- 2.20 The Bali Concord II, announced in 2003, introduced ASEAN's three pillars policy for underpinning future intra-ASEAN cooperation. The 'three pillars' were:
- political and security cooperation – development of an ASEAN Security Community (since 2007, referred to as ASEAN Political and Security Community);
 - economic cooperation – development of an ASEAN Economic Community; and
 - socio-cultural cooperation – development of an ASEAN Socio-Cultural Community.¹⁴
- 2.21 Since 2003, Australia's interactions with ASEAN can be seen to be consistent with and assisting ASEAN's goals as outlined in its three pillars objectives.

12 *Exhibit No. 1*, p. 44.

13 *Exhibit No. 1*, p. 46.

14 *Exhibit No. 1*, p. 8. Further details can be found at *Exhibit No. 1*, pp. 8-20.

ASEAN Charter

- 2.22 The ASEAN Charter was adopted in November 2007 and came into effect in December 2008. Under the Charter:
- ASEAN becomes a legal entity as an inter-government organisation;
 - ASEAN achieves status under international law and can enter into agreements in its own right;
 - two new positions of Deputy Secretary General are to be created, with open recruitment based on merit;
 - biannual ASEAN Summits are convened;
 - an ASEAN Coordinating Council is established, comprising ASEAN Foreign Ministers;
 - a Committee of Permanent Representatives to ASEAN is formed comprising representatives from each of the member states;
 - three ASEAN Councils are formed – for Political-Security, Economic, and Socio-Cultural Communities;
 - key high-level ASEAN bodies are to have a single chairmanship; and
 - an ASEAN Human Rights Body is established.^{15,16}
- 2.23 In March 2009, the ASEAN Secretary-General announced a restructuring of the ASEAN Secretariat to come into effect in April 2009. Four departments were created, three mirroring ASEAN's three pillars policy, and the fourth focusing on community and corporate affairs. Each department would be led by a Deputy Secretary-General.¹⁷

Membership of other regional organisations

- 2.24 Australia and the countries of ASEAN are members of various international bodies. In evidence to the Committee, three

15 *Exhibit No. 1*, p. 23.

16 *Press Statement by the Chairman of ASEAN on the Special ASEAN Foreign Ministers' Meeting*, ASEAN Secretariat, 15 December 2008.

17 ASEAN Secretariat, *Press Release, New ASEAN Secretariat for the ASEAN Community*, 25 March 2009. <<http://www.aseansec.org/PR-ASECRestructuring.pdf>> Accessed March 2009.

organisations were referred to as being important for Australia's interaction with ASEAN member countries:

- the International Atomic Energy Agency (IAEA);
- the Southeast Asian Ministers of Education Organisation (SEAMEO); and
- Asia-Pacific Economic Cooperation (APEC).

Membership of the IAEA

2.25 Seven ASEAN states are amongst the 145 member states of the International Atomic Energy Agency (IAEA).¹⁸ The goals of the IAEA, which arose from US President Eisenhower's 'Atoms for Peace' address to the UN in 1953, are nuclear verification and security, safety and technology transfer.¹⁹

Membership of SEAMEO

2.26 SEAMEO was established in 1965 following a meeting of education ministers from Laos, Malaysia, Singapore, Thailand, and South Vietnam, the Chairperson of UNESCO National Commission of the Philippines, and the Special Adviser to the US President. SEAMEO currently comprises the 10 ASEAN member countries and Timor Leste which joined in 2006. There are eight Associate Members, one Affiliate Member, and one Partner Country. Australia and New Zealand joined the organisation in 1974 as the second and third Associate Members. The SEAMEO secretariat is based in Bangkok.

2.27 The aim of SEAMEO is:

To enhance regional understanding and cooperation and unity of purpose among SEAMEO Member Countries and achieve a better quality of life through:

- the establishment of networks and partnerships;
- the provision of an intellectual forum for policymakers and experts;
- the promotion of sustainable human resource development.²⁰

18 Burma, Indonesia, Malaysia, Philippines, Singapore, Thailand, Vietnam. Cambodia joined in 1958 but withdrew in 2003.

19 <<http://www.iaea.org>> Accessed December 2008.

20 <<http://www.seameo.org>> Accessed December 2008.

Membership of APEC

- 2.28 APEC arose in 1989 from an informal dialogue of a group of 12 nations meeting in Canberra. Its secretariat is based in Singapore. APEC now has 21 member countries, seven of which are from ASEAN.²¹ As well, the ASEAN secretariat has official observer status.
- 2.29 The aim of APEC is set out under a 'three pillars' framework:
- trade and investment liberalisation;
 - business facilitation; and
 - economic and technical cooperation.
- 2.30 APEC's goals are to be achieved through 'promoting dialogue and equal respect for the views of all participants in making decisions based on consensus' rather than through entering into legally binding obligations.²²

Committee comment

- 2.31 Since its inception in 1967, ASEAN has assumed a culture of continuous discussion and confidence building, consensus decision-making, and incremental change. ASEAN has also been outward-looking, seeking to progressively engage with countries in the Asia Pacific region – a strategy which was confirmed when ASEAN chose to include non-Asian countries in the EAS rather than confine membership to the 13 nations of the APT.
- 2.32 For its relationship with ASEAN to be productive, Australia must recognise the ASEAN way of discussion, consensus, and incremental change.
- 2.33 An issue for the Committee is whether Australia's interaction with ASEAN is consistent with the consensus, incremental approach of ASEAN.

Australian interaction with ASEAN

- 2.34 Australian interaction with ASEAN occurs on many levels; either with ASEAN itself, or bilaterally with the various ASEAN member
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21 Brunei, Indonesia, Malaysia, Philippines, Singapore, Thailand, Vietnam.

22 <<http://www.apec.org>> Accessed December 2008.

countries. It can be at government agency level or involve non-government bodies, often termed 'Track II' bodies.

- 2.35 Professor Milner told the Committee that the interaction of Track II bodies was an important aspect of the Australia-ASEAN relationship. He explained that Track II networks and organisations, which were formally independent of government but related closely to government officials and ministers, were a strong feature of the ASEAN region.²³

Australian government interaction with ASEAN

- 2.36 As noted above, Australia participates at the ministerial level at ASEAN's Post Ministerial Conference (which involves Australia's Foreign Minister), the ARF and the EAS. Submissions to the inquiry detailed the interactions at Minister level which included:
- ASEAN Economic Ministers-Closer Economic Relations meetings;²⁴
 - Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs (DGICM) + Australia Consultation meetings;²⁵
 - possible ASEAN Defence Ministers Meeting-Plus meetings;²⁶ and
 - ASEAN Chiefs of Police (ASEANAPOL) forum.²⁷
- 2.37 At the officials level, interactions included:
- ASEAN-Australia Forum; and
 - ASEAN-Australia Development Cooperation Program Joint Planning Committee.²⁸

ASEAN Regional Forum and Australian involvement

- 2.38 The ARF is an annual meeting of ASEAN, its dialogue partners, and five other nations. The Department of Foreign Affairs and Trade (DFAT) advised that the ARF was 'the region's principal forum for security dialogue and cooperation.' Australia's engagement was:

23 Professor Anthony Milner, *Transcript 12 September 2008*, p. 45.

24 DFAT, *Submission No. 24*, p. 287.

25 DIAC, *Submission No. 4*, p. 56.

26 DFAT, *Submission No. 24*, p. 293.

27 DFAT, *Submission No. 24*, p. 293.

28 DFAT, *Submission No. 24*, p. 287.

... aimed at strengthening [the ARF's] capacity to respond with practical measures to regional security challenges, taking into account the ARF's unique security mandate and membership.²⁹

- 2.39 In 1998, the meeting of ARF Foreign Ministers adopted a review of the ARF's achievements, conducted by Singapore – the ARF Chair at the time. The review suggested ways to maximise the ARF's effectiveness. DFAT noted that:

Australia strongly supported the Review's recommendation that the ARF's practical program of outreach, capacity building and preventative diplomacy focus on counter-terrorism and transnational crime, disaster relief, non-proliferation and disarmament, maritime security and peacekeeping.³⁰

- 2.40 The Committee discusses opportunities to enhance regional security in Chapter 7.

East Asia Summit and Australian involvement

- 2.41 The EAS comprises an annual meeting of ASEAN Plus Three and Australia, India and New Zealand. DFAT advised that Australia's participation in the EAS offered:

... an important opportunity to engage with ASEAN in the broader East Asia region in a number of key areas, including energy security, environment, finance, education, disaster mitigation and avian influenza.³¹

- 2.42 DFAT advised that the EAS had established an Economic Research Institute for ASEAN and East Asia and had commissioned a study into the 'possibility of a Comprehensive Economic Partnership in East Asia – essentially an EAS-wide FTA.'³²

- 2.43 The Committee discusses trade and FTAs in Chapters 3 to 6.

ASEAN–Australia Development Cooperation Program

- 2.44 DFAT told the Committee that Australia's multifaceted interaction with ASEAN, such as through the various ASEAN–Australian
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29 DFAT, *Submission No. 24*, p. 292.

30 DFAT, *Submission No. 24*, p. 292.

31 DFAT, *Submission No. 24*, p. 291.

32 DFAT, *Submission No. 24*, p. 291.

ministers meetings, the ARF, and EAS, had in 2007 led to the 'signing of the Joint Declaration on the ASEAN-Australia Comprehensive Partnership and the adoption of its associated Plan of Action.'³³ Progress on the Plan of Action would be reviewed annually by Ministers at the ASEAN-Australia Post Ministerial Conference.³⁴

2.45 Complementing this plan of action was AusAID's ASEAN-Australia Development Cooperation Program (AADCP). The AADCP commenced in 2002 as a six-year \$45 million program:

... aimed at promoting sustainable development by assisting ASEAN tackle priority regional development challenges through regional cooperation ... [and] engaged a significant number of Australian organisations, government departments, agencies and individuals through the development of project partnerships between appropriately skilled institutions in Australia and ASEAN.

2.46 The aim of the program, DFAT advised, was to:

- strengthen regional economic and social cooperation (including macro-economic and financial cooperation, economic integration, social policy formulation and systems, and ASEAN, Australia and New Zealand economic linkages);
- strengthen regional institutional capacities;
- strengthen science, technology and environmental cooperation; and
- expedite the new ASEAN Member Countries' integration into ASEAN by supporting their participation in ASEAN cooperation programs.³⁵

2.47 In 2007, a second phase of the AADCP focused on research providing 'ASEAN, other EAS members, and the ASEAN Secretariat with high-quality, high-priority and timely economic policy analysis.'

2.48 DFAT also provided details of the successor program to the AADCP through which \$57 million has been budgeted for 2008-15. The AADCP II aimed 'to promote economic growth, particularly in the region's poorer countries, through supporting ASEAN's effort to establish an ASEAN Economic Community by 2015.'

33 Mr Peter Woolcott, *Transcript 12 September 2008*, p. 2. The plan of action can be found at: DFAT, *Submission No. 24*, pp. 305-16.

34 DFAT, *Submission No. 24*, p. 291.

35 DFAT, *Submission No. 24*, p. 289.

- 2.49 DFAT's submission also added that Australia would second an Australian government representative to the ASEAN Secretariat to jointly manage the program and 'to provide economic research and policy advice on priority regional economic integration issues.'³⁶ A witness from AusAID provided further details of the AADCP II:

We have a research stream. ... This enables the [ASEAN] secretariat to commission research on high-priority regional issues and to use the best brains that are available within ASEAN or Australia to work on regional issues. We also have a program stream that enables ASEAN to identify the roadmap for getting to the [ASEAN] community by 2015 and what it needs to do to get there.³⁷

ASEAN Immigration Ministers meetings

- 2.50 DIAC told the Committee that Australia had annually been involved in DGICM meetings, termed DGICM Plus Australia. From 2007, Australia had had a standing invitation to attend the Australia Plus part of these meetings. Australia's approach, DIAC said, had been to:

... identify where we have shared interests, build on those and then develop training and other capacity building projects with ASEAN countries. For instance, in the last few years we have undertaken training and capacity building around areas such as document fraud examination and intelligence analysis in relation to population movements and people movements and English language training.³⁸

- 2.51 Countries involved in document examination initiatives were Indonesia, Malaysia, Philippines, Thailand, and Vietnam. Involvement was based on Australia's priorities and those countries' interests.³⁹

- 2.52 DIAC also advised that it participated in the ASEAN Immigration Intelligence Forum and was considering how to further enhance its involvement with ASEAN:

We are seeking opportunities to institutionalise our engagement more deeply and more broadly. For example, at the strategic level this may entail an exploration with ASEAN

36 DFAT, *Submission No. 24*, pp. 289–90.

37 Mr Richard Moore, *Transcript 22 September 2008*, p. 18.

38 Ms Arja Keski-Nummi, *Transcript 12 September 2008*, p. 14.

39 Mr Jacob Townsend, *Transcript 12 September 2008*, p. 15.

of priority areas of the ASEAN Plan in which we could agree cooperative programs. At the practical level, any such agreement would facilitate a higher tempo of joint action by ASEAN and Australia to, for example, share expertise in border management capabilities.⁴⁰

ASEAN defence and security meetings

- 2.53 The Department of Defence (Defence) told the Committee that ASEAN had recently initiated an annual ASEAN Defence Ministers Meeting (ADMM). In addition it had resolved to look at an ADMM Plus concept which would 'draw in defence ministers from other countries.'⁴¹
- 2.54 Nevertheless, the ARF, Defence commented, was 'the primary multilateral security forum in South-East Asia.' The annual ARF Security Policy Conference and the quarterly ARF Defence Officials Dialogue provided 'key opportunities for Defence to engage with senior ASEAN and ARF security officials.'
- 2.55 For some 15 years Defence had:
- ... attended and hosted ARF workshops and meetings which [had] provided substantial opportunities to develop closer relationships with ASEAN members. ... Australia [had] taken a leading role with other like-minded nations in promoting the need for greater practical cooperation between ARF members in areas such as peacekeeping, counterterrorism, disaster relief and maritime security.⁴²
- 2.56 The submission from Defence provided a list of nine workshops co-hosted by Australia and an ASEAN partner since 1998.⁴³
- 2.57 The submission also advised that in addition to its direct contacts with ASEAN, Defence attended the Shangri-La Dialogue.⁴⁴ This is an annual conference of the International Institute for Strategic Studies which was attended by regional defence ministers, chiefs of defence

40 DIAC, *Submission No. 4*, pp. 56-7.

41 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 41.

42 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 33.

43 Defence, *Submission No. 7*, p. 78-9.

44 Defence, *Submission No. 7*, p. 77.

and senior security officials of ASEAN and other Asia-Pacific countries.⁴⁵

2.58 The Committee discusses regional security further in Chapter 7.

ASEAN Chiefs of Police forum

2.59 ASEANAPOL meets annually with the aim 'to promote regional cooperation and collaboration and provide a focus on priority crime types in the region.' Australia formally became a dialogue partner in 2008.⁴⁶

2.60 The AFP told the Committee that while any initiatives arising from ASEANAPOL conferences were undertaken on a bilateral basis, most were 'under the mantle of ASEANAPOL and any directives or strategic level directives which come out of ASEANAPOL conferences.'⁴⁷

2.61 The AFP subsequently advised that, in response from ASEANAPOL for proposals from dialogue partners for initiatives to assist in capacity building, the AFP had proposed the Human Trafficking Investigations Training Program.⁴⁸ The proposal had been accepted and the first course would commence in April 2009. It would 'involve members from all of the ASEANAPOL countries' and would provide training for the management and investigation of human trafficking. Subjects such as 'victim support' would be included.⁴⁹

2.62 The AFP also engages bilaterally with the ASEAN member countries in other capacity building and training activities. These are discussed below and also in Chapter 7.

Australian government interaction with ASEAN member countries

2.63 Australian government agencies have many and varied bilateral interactions with individual ASEAN member countries. Such interactions are only reviewed by the Committee if there is a link with ASEAN, or if they are of relevance to subsequent aspects of this report.

45 Participants are the ASEAN member countries, Australia, Bangladesh, Canada, China, France, Germany, India, Japan, Mongolia, New Zealand, Pakistan, Republic of Korea, Russia, Sri Lanka, Timor Leste, UK, and US.

46 AFP, *Submission No. 35*, p. 442.

47 Commander Paul Osborne, *Transcript 2 October 2008*, p. 30.

48 AFP, *Submission No. 35*, p. 442.

49 Commander Paul Osborne, *Transcript 2 October 2008*, pp. 27-8.

- 2.64 DFAT told the Committee that although Australia has a multifaceted interaction with ASEAN as a discreet organisation, Australia mainly interacted with countries of the region on a bilateral country-to-country basis.⁵⁰ DFAT also told the Committee that if there were ASEAN-related issues, however, DFAT would make a representation to the ASEAN secretariat and also bilaterally to all the ASEAN members.⁵¹
- 2.65 DIAC told the Committee that it too adopted a similar multilateral/bilateral strategy when it consulted with the DGICM:
- ... in terms of DGICM meetings where we have then had discussions about shared agendas and shared training programs and more broader type of training programs, that then has flowed back into some of our bilateral relationships. I think the two actually are mutually beneficial to each other. Sometimes we can influence through the bilateral relationship; sometimes we can influence through the multilateral relationship more broadly to various countries within ASEAN. So, I would say that the two go quite well together.⁵²
- 2.66 A further example of this dual approach strategy was provided by the AFP which noted that it used ASEANAPOL as ‘forum to negotiate bilateral training initiatives.’ Training was provided by:
- the Jakarta Centre for Law Enforcement which was a joint-venture with the Indonesian National Police;
 - the Asia Region Law-Enforcement Management Program in Vietnam; and
 - Intellectual Property Crime Workshops in Bangkok.⁵³
- 2.67 Witnesses from other government agencies described how they focused on bilateral relations, and contacts established through other multinational organisations, with little reference to the ASEAN organisation as an initiation point.
- 2.68 The Department of Education, Employment and Workplace Relations (DEEWR) engages the region in two areas: education and workplace relations.
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50 Mr Peter Woolcott, *Transcript 22 September 2008*, p. 16.

51 Mr Peter Woolcott, *Transcript 22 September 2008*, p. 19.

52 Ms Arja Keski-Nummi, *Transcript 12 September 2008*, p. 16.

53 AFP, *Submission No. 35*, p. 442.

- 2.69 DEEWR advised the Committee that it maintained cooperative relations with SEAMEO, but had been involved in few collaborative activities because SEAMEO had been concentrating on its various centres of excellence. Recently, however, SEAMEO was showing 'greater interest in regional engagement on the internationalisation of education' with the aim of creating 'a structured framework for the regional integration and cooperation of higher education institutions' similar to the European Bologna process.⁵⁴
- 2.70 DEEWR told the Committee that it was aware of the move towards 'the creation of a single education sphere' and the need for Australia not to be 'blocked out of that nascent grouping'.⁵⁵ To that end Australia had hosted an Asia-Pacific Education Ministers' Meeting in 2006, which resulted in the Brisbane Communiqué.⁵⁶ This set out a range of objectives concerning the creation of an 'Asia-Pacific education space'. DEEWR added that this concept was being 'pursued by the department both bilaterally and in a range of multilateral forums.'⁵⁷
- 2.71 Regarding industrial relations, DEEWR told the Committee that it worked bilaterally with ASEAN member countries and through APEC's Human Resources Development Working Group with the aim of:
- ... playing an important role in developing the capacity of our regional neighbours to put in place effective labour markets, policies and programs that facilitate and promote economic development, productivity, sustainable development and thereby through that, poverty reduction, regional security ... to create a stable region.⁵⁸
- 2.72 IP Australia provided the Committee with details of its bilateral engagement with individual ASEAN member countries either on a one-to-one basis, through its membership of organisations such as the World Intellectual Property Organisation and APEC, or through projects funded by the AADCP and AusAID.⁵⁹

54 DEEWR, *Submission No. 23*, p. 273. The Bologna Process aims to create a European Higher Education Area by 2010.

55 Mr Scott Evans, *Transcript 12 September 2008*, p. 82.

56 DEEWR, *Submission No. 23*, p. 274.

57 Mr Scott Evans, *Transcript 12 September 2008*, pp. 82–3.

58 Mr Scott Evans, *Transcript 12 September 2008*, p. 77.

59 IP Australia, *Submission No. 15*, pp. 179–80.

- 2.73 IP Australia also identified opportunities for mutually beneficial engagement with ASEAN:
- strengthening collaboration with the ASEAN Working Group on Intellectual Property Cooperation which has primary responsibility for implementing the ASEAN IP Rights Action Plan 2004–2010, and other IP rights actions identified in the ASEAN Economic Community Blueprint;
 - working with ASEAN’s dialogue partners and other international organisations to assist ASEAN meet the goals of its ASEAN IP Rights Action Plan 2004–2010 and its ASEAN Economic Community Blueprint; and
 - providing advice and assistance to ASEAN in implementing key international IP treaties such as the Madrid Protocol on the International Registration of Marks, and the Patent Cooperation Treaty.⁶⁰

Australian non-government interaction with ASEAN

- 2.74 Non-government bodies and networks which interact with ASEAN or their non-government ASEAN counterparts are an important part of Australia’s relationship with the region.

Track II interactions

- 2.75 An important component of policy development in the ASEAN region is the so-called ‘Track II’ process. Track II organisations are defined as:

... a network of officials and non-official experts who can pool information and discuss their apprehensions and estimates of dangers, before beginning to evolve policy recommendations to their governments on an agreed basis.

... [it] becomes a forum for open, exploratory communication through which governments can better understand the causes of conflicts and of the processes that contribute to their escalation and perpetuation.⁶¹

60 IP Australia, *Submission No. 15*, pp. 181–2.

61 Harvard International Review, *Asia’s Informal Diplomacy*, <<http://www.harvardir.org/articles/998>> Accessed December 2008.

- 2.76 For ASEAN, such Track II organisations:
- 'are low-cost and low-risk, features that may be attractive for nations relatively new to formal diplomatic exchanges';
 - allow 'ideas to be floated freely in order to determine their general feasibility'; and
 - allow more frequent meetings and discussions than the formal ASEAN summit and ARF meetings.⁶²
- 2.77 Professor Milner drew attention to the principle Track II organisations in the Asia-Pacific:
- the ASEAN Institutes of Strategic and International Studies (ASEAN ISIS); and
 - the Council for Security Cooperation in the Asia-Pacific (CSCAP).⁶³
- 2.78 Asialink and St James Ethics Centre were also identified by Professor Milner as important Australian Track II organisations.⁶⁴ To this list, the Committee would add the Australian Strategic Policy Institute, the Centre for Democratic Institutions, and the Lowy Institute.
- 2.79 A submission from Professor Milner advised that CSCAP was 'the Premier second-track security organisation in the Asia-Pacific region.' Discussion topics at its recent meeting in September 2008, held in conjunction with Asialink, included 'security architectures in Asia, dilemmas in defence planning, security aspects of resource ownership in Australia and a series of updates on terrorism.' He added that Australian members co-chaired the CSCAP Study Groups on 'maritime security, the security implications of climate change and combating transnational crime.'⁶⁵
- 2.80 Professor Milner also described how Track II organisations operated:
- I do not mean [Track II organisations] work directly for governments; in some cases I think they might, but there is a familiarity there. In the Track II organisations, cabinet ministers will walk in and out and they will be chatting with them about potential policy developments or whatever. ... it is very important for us that Track II works with the
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62 Harvard International Review, *Asia's Informal Diplomacy*, <<http://www.harvardir.org/articles/998>> Accessed December 2008.

63 Professor Anthony Milner, *Transcript 12 September 2008*, p. 46.

64 Professor Anthony Milner, *Transcript 12 September 2008*, p. 46.

65 Professor Anthony Milner, *Submission No. 42*, p. 462.

government departments and ministers, and it will make it more useful too. These discussions are important for many of our Australian Track II organisations as to how effective they can be with their partners around the region. It is the way the region works and is something where we are actually learning a bit from ASEAN.⁶⁶

- 2.81 The submission from Professor Milner reported on the ASEAN-Australia-New Zealand dialogue meeting hosted by the ASEAN ISIS:

Everyone in the room engaged in these discussions – and the frankness (and sometimes passion) of the exchanges was striking. Here some saw real evidence of the way Track II processes can help deepen regional engagement.

A number of practical ideas were floated – ideas for implementing the new FTA, a suggestion for an Australia-NZ role in the Chiang Mai initiative, a possible expansion of the long-standing ‘Five Power’ security arrangements (currently involving only Malaysia, Singapore, [UK,] NZ and Australia), a proposal to develop a special role for Indonesia and Australia representing ASEAN views in the G20 context.⁶⁷

- 2.82 Australia’s participation in the ISIS meeting included both non-government and government representatives from – Asialink, the Australian National University, the Lowy Institute, *The Australian* newspaper, the Office of National Assessments and Australia’s High Commissioner to Malaysia.⁶⁸

- 2.83 Professor Milner concluded that:

To be effective the Track II leadership needs to be well aware of the Track I agenda, testing or debating new ideas relating to or extending that agenda ... and in some circumstances might operate in areas where Governments themselves are wary of operating.⁶⁹

AusHeritage Ltd

- 2.84 AusHeritage Ltd draws its membership from state and national collecting institutions, universities, and private sector consulting

66 Professor Anthony Milner, *Transcript 12 September 2008*, p. 48.

67 Professor Anthony Milner, *Submission No. 42*, p. 463.

68 Professor Anthony Milner, *Submission No. 42*, p. 463.

69 Professor Anthony Milner, *Submission No. 42*, p. 461.

firms. It has a formal relationship with the ASEAN Committee on Culture and Information (COCI), underpinned by a MoU.⁷⁰

- 2.85 AusHeritage advised the Committee that the ASEAN Vision 2020 set COCI's objective as working towards 'the community conscious of its times of history, aware of its cultural heritage and found by a common regional identity'. Supporting this objective, AusHeritage had helped COCI develop a cultural web site of portable and a cultural mapping handbook for use in the ASEAN region.⁷¹
- 2.86 Witnesses from AusHeritage told the Committee that in its projects it usually dealt with individual ASEAN member countries, initially as a key dialogue partner who became the partner for the particular initiative. Often a further partnership was involved 'with people like UNESCO, the World Heritage Centre, the UN World Tourism Organisation and the Getty Conservation Institute.'⁷²

Australian Union interactions with ASEAN

- 2.87 The Australian Council of Trade Unions (ACTU) advised the Committee that it maintained close relations with the ASEAN Trade Union Council (ATUC) which was a network of trade unions from seven ASEAN member countries.⁷³ The ATUC had links with the Asia-Pacific body of the International Trade Union Confederation.
- 2.88 In addition, ACTU affiliates had 'bilateral relations with industry specific unions in ASEAN member countries and with their regional and global industry union, referred to as Global Union Federations.'⁷⁴
- 2.89 The ACTU told the Committee that it also 'worked closely with the Vietnamese General Confederation of Labour over a couple of decades on occupational health and safety development.'⁷⁵
- 2.90 Witnesses representing the Australian Services Union, the Community and Public Sector Union, and the Communications, Electrical and Plumbing Union told the Committee that their unions were affiliated to the international trade union global federation – Public Services International (PSI). The PSI had offices in Indonesia, Singapore, and Malaysia and conducted 'a series of training programs

70 AusHeritage Ltd, *Submission No. 10*, p. 110.

71 AusHeritage Ltd, *Submission No. 10*, p. 112.

72 Mr Vinod Daniel, Mr Graham Brooks, *Transcript 6 November 2008*, p. 87.

73 Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, Vietnam.

74 ACTU, *Submission No. 27*, p. 376.

75 Ms Alison Tate, *Transcript 2 October 2008*, p. 44.

in capacity building or trade union training programs for our affiliates in the region.' It was noted that the Australian Government also contributed through International Labour Organisation, Asian Development Bank, and World Bank projects in the region.⁷⁶

Science and technology organisations

2.91 The Committee received evidence from the following science and technology organisations:

- Australian Academy of Science (AAS);
- Commonwealth Scientific and Industrial Research Organisation (CSIRO);
- Australian Nuclear Science and Technology Organisation (ANSTO); and
- Engineers Australia.

Australian Academy of Science

2.92 The AAS advised that it belonged to two multinational regional organisations to which various ASEAN member countries belonged. These were:

- Federation of Asian Scientific Academies and Societies (membership of academies from Malaysia, Philippines, Singapore, and Thailand) which promoted 'greater awareness of the roles of science and technology in nation building and regional development'; and
- Inter-Academy Panel on International Issues (membership of academies from Indonesia, Malaysia, Philippines, Singapore, and Thailand) through which member of academies collaborated to provide advice on scientific aspects of critical global issues, such as 'scientific capacity building, science education, science and the media, access to scientific information, and mother and child health.'

2.93 Through these two organisations the AAS had facilitated the attendance of Malaysian and Thai science educators and policy officers at AAS professional development activities in Australia.⁷⁷

76 Mr David Carey, Mr Paul Slape, *Transcript 2 October 2008*, pp. 62, 64-5.

77 AAS, *Submission No. 7*, p. 92.

- 2.94 The AAS submission also provided information on the collaboration established by the Walter and Eliza Hall Institute of Medical Research and the Menzies School of Health Research with medical researchers in Indonesia and Thailand and Vietnam. The AAS concluded that medical research was 'an area that can potentially play an important role in assisting Australia to expand its relationship with ASEAN countries'.⁷⁸
- 2.95 The AAS, however, emphasised the role of government in its overseas collaborations:
- ... the sorts of entrees that we get into the ASEAN countries are usually initiated in the first instance at a government-to-government level, and then quite often the science and technology strategies of those countries are often driven from the government's sector then seeking the involvement of business. I think there is a greater degree of integration sometimes in ASEAN countries between government-run and government-owned research ...⁷⁹

Commonwealth Scientific and Industrial Research Organisation

- 2.96 CSIRO told the Committee that it did not have a multilateral ASEAN program. Instead, it interacted with ASEAN member countries on a bilateral basis under the umbrella of government-to-government relationships which had established bilateral science and technology agreements and MoUs, and through AusAID's Public Sector Linkage Program with individual countries.⁸⁰
- 2.97 CSIRO had been involved with most aspects of the ASEAN-Australia Economic Cooperation Program which commenced in 1974 and ran to 2004. Collaborative activities had been in the areas of 'food science and technology, biotechnology, microelectronics, non-conventional energy, marine science and technology management.'
- 2.98 Current work focused on sustainability issues and the role of science and technology in meeting these challenges. Research was funded by the Australian Centre for International Agricultural Research and AusAID and focused on 'sustainable agriculture, including animal diseases and natural resource management issues' ranging from

78 AAS, *Submission No. 7*, pp. 94–5.

79 Dr Susan Meek, *Transcript 12 September 2008*, p. 64.

80 Ms Melinda Spink, Dr Ta-Yan Leong, *Transcript 2 October 2008*, pp. 78, 81.

‘collaborative research to capacity building, technology transfer and commercial consultancy.’⁸¹

- 2.99 CSIRO also drew attention to a proposed jointly funded CSIRO-AusAID Environmental Research for Development Alliance which would ‘move the interaction between CSIRO and AusAID from tactical responses to a strategic level partnership’ to tackle more complex and important problems such as developing the knowledge and tools to successfully implement environment development aid in the Asia-Pacific region.⁸²

Australian Nuclear Science and Technology Organisation

- 2.100 ANSTO advised the Committee that it was involved in two multilateral cooperation programs with Asia-Pacific countries. These were:
- the Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology (which included Burma, Indonesia, Malaysia, Philippines, Singapore, Thailand, and Vietnam), conducted through the IAEA – a recent project was designed to improve regional radiological safety capabilities; and
 - the Forum for Nuclear Cooperation in Asia (which included Indonesia, Malaysia, Philippines, Thailand, and Vietnam) – recent projects included sponsoring a review of nuclear research reactor safety culture, and a radioactive waste management project.
- 2.101 ANSTO did not have any current bilateral nuclear cooperation arrangements with counterpart agencies in ASEAN, but had provided expertise under the IAEA’s Technical Cooperation Programme.
- 2.102 ANSTO also interacted with ASEAN member countries through its Regional Security of Radioactive Sources Project which was aimed to address the physical protection and security management of high-risk radioactive sources. This work was undertaken in cooperation with related programs of the IAEA and US Department of Energy National Nuclear Security Administration.⁸³

81 Ms Melinda Spink, *Transcript 2 October 2008*, p. 78.

82 Ms Melinda Spink, *Transcript 2 October 2008*, pp. 78–8.

83 ANSTO, *Submission No. 30*, pp. 423–4.

- 2.103 The Committee further discusses collaboration in science and technology later in this report in Chapter 7 and Chapter 9 when it discusses regional security and the impact of global warming.

Engineers Australia

- 2.104 Engineers Australia is the peak body for engineering professionals in Australia and represents some 80 000 members. The organisation has four overseas chapters, two of which are in Malaysia and Singapore. Engineers Australia told the Committee it had:

... fostered relationships with engineering organisations within ASEAN, including the institution of engineers in Singapore, Malaysia, Thailand, Indonesia and the professional engineering boards in these countries. Our involvement in the Washington and Sydney accords and the APEC Engineer Register, as well as our annual attendance at the conference of the ASEAN Federation of Engineering Organisations, has also helped to build partnerships in the region.⁸⁴

- 2.105 The Committee discusses Engineering Australia's endeavours to further its ASEAN relations through mutual recognition agreements in Chapter 6.

Committee conclusion

- 2.106 The Committee notes that Australia interacts with ASEAN on many levels, both the multilaterally with ASEAN as a discrete entity, and bilaterally with individual ASEAN member countries. The Committee agrees that discussions at the Track II level are an important adjunct to government level interactions. The Australian Government must be fully aware of Track II discussions, and Track II organisations must be aware of the government's strategic agenda. The Committee is pleased to note the involvement of government ministers and officials both in the discussions themselves and in subsequent behind-the-scenes briefings.⁸⁵

84 Ms Kathryn Hurford, *Transcript 12 September 2008*, p. 69.

85 Professor Anthony Milner, *Transcript 12 September 2008*, p. 46.

Trade relations and bilateral free trade agreements

Introduction

- 3.1 Faced with slow progress in the World Trade Organisation Doha trade negotiations, countries have adopted the strategy of entering into FTAs with their major trading partners. The aim of such FTAs is to boost bilateral trade by lowering barriers. Under this policy, Australia entered into FTAs with:
- Singapore in July 2003;
 - Thailand in January 2005;
 - United States in 2005; and
 - ASEAN, together with New Zealand, in February 2009.
- 3.2 The first three agreements were considered by the Committee in 2005 and reported separately.¹ In this chapter the Committee considers:
- the implications of the Global Financial Crisis on trade between Australia and ASEAN member countries;

¹ The Committee concluded at the time that it was 'too soon to make objective judgements about the lasting impact of the three FTAs'. JSCFADT, *Report 128, Australia's free trade agreements with Singapore, Thailand and the United States*, Canberra, 2005, p. 9.

- existing trading relationships between Australia and ASEAN member countries;
 - Australia's experience of current FTAs with Singapore and Thailand; and
 - the effects of current FTAs on specific Australian industries engaged in the export goods and services to ASEAN countries.
- 3.3 The new ASEAN-Australia-New Zealand FTA (AANZFTA), its anticipated effects, and the degree to which it can be expected to resolve challenges is discussed in Chapter 4.

Implications of the Global Financial Crisis

- 3.4 The scope of the Global Financial Crisis (GFC) became increasingly apparent over the course of the Committee's Inquiry. Although it is too soon to make reliable predictions, the GFC will undoubtedly have a significant impact on Australia's trade with ASEAN member countries.
- 3.5 DFAT told the Committee that conditions had changed rapidly even in the space of six months. It observed that 'the gravity of the global financial crisis' had resulted in countries in the region coming under 'a lot of domestic pressure'.²
- 3.6 There have been attempts to estimate the impact of the GFC on Australia. A senior commercial analyst noted that while 'Australia's status as a major importer of capital and a major exporter of basic materials presents a very complex forecasting problem in the current climate', it was clear that reduced access to finance and a downturn in commodities exports would have a negative effect on Australia's economy.³
- 3.7 The Reserve Bank of Australia concurred, noting that 'almost all of Australia's major trading partners are expected to experience growth rates of 2 percentage points or more below trends rates in 2009'. This

2 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 11

3 McKay, Huw 2008, 'The Impact of the GFC on the Chinese and Australian Economies', *Australia China Connections*, viewed 24/03/09
<<http://www.chinaconnections.com.au/Nov/Dec-2008/The-Impact-of-the-GFC-on-the-Chinese-and-Australian-Economies.html>>.

represented 'the most synchronised downturn in Australia's trading partners since the 1970s.'⁴

- 3.8 There are different views on the part China will play in determining Australia's fortunes under the GFC. One view is that Chinese industrial production 'will, in the year ahead, slow from 17 per cent, 18 per cent to 10 per cent', resulting in 'much less need for raw material imports than it had in recent years'.⁵ Another view is that 'Chinese growth should be quite resilient due to an assumed sensitivity to policy stimulus and a lack of financial linkages to the rest of the world', but that there will be negative effects for Australia from other sources, resulting in 'deceleration for Australia'.⁶
- 3.9 There are other more positive views, however. Tim Harcourt, Chief Economist of the Australian Trade Commission noted the continuing persistence of small to medium enterprises in the export trade, in spite of recent events. Such firms became 'better businesses with experience', and lower exchange rates for the Australian dollar domestic policy settings were helping exporters.⁷
- 3.10 This more optimistic view suggests that such exporters are resilient. Moreover:
- ... thanks to the economic reforms of the 1980s and 1990s ... Australia has built up a higher 'natural rate of exporting'. Overall exporters do things well – and their businesses are built for the long term. Many of our best exporting businesses know that the best way to survive the crisis is to prepare for the recovery.⁸
- 3.11 In short, 'exporters stay in the game even when things get rough'.⁹

Committee comment

- 3.12 The Committee acknowledges that its comments above concerning the implications of the GFC are limited, especially as the effects of the GFC and government responses have yet to be fully played out.

4 Reserve Bank of Australia, quoted in Harcourt, Tim 2009, *Survival skills – exporters and the GFC*, Australian Trade Commission, viewed 24/03/09
<<http://www.austrade.gov.au/Default.aspx?PrintFriendly=True&ArticleID=10008>>.

5 Harcourt, Tim & David Hale 2008, *Crunch time – what does the global financial crisis mean for Australia?*, AusTrade, viewed 24/03/09
<<http://www.austrade.gov.au/default.aspx?FolderID=1438&ArticleID=9471>>.

6 McKay, 2008, *The Impact of the GFC*

7 Harcourt, 2009, *Survival skills*.

8 Harcourt, 2009, *Survival skills*.

9 Harcourt, 2009, *Survival skills*.

- 3.13 It is the Committee's view, however, that Australia will benefit from adopting a long-term viewpoint on exports, and by continuing to provide support in an activity that is critical to Australia's future prosperity. Despite uncertainties about the GFC and its impact, Australia stands to gain by maintaining a focus on its capacity to export to ASEAN member countries.
- 3.14 The Committee sees value in adopting a strategic position on export trade that seeks to anticipate opportunities that will come with the easing of the GFC. In light of this, the Committee wishes to underscore the continuing importance of free trade agreements as ways to create favourable conditions for trade.

Current trade position

- 3.15 Trade forms a very significant part of relationships between Australia and ASEAN member countries. Trade with ASEAN accounts for the largest share (16 per cent) of Australian trade, and in 2007 the value of trade with ASEAN countries was \$55.2 billion.¹⁰
- 3.16 ASEAN member countries represent a very significant potential market for Australian goods and services. DFAT told the Committee that:
- ASEAN, Australia and New Zealand have a combined population of some 600 million people, with an estimated GDP of \$3.2 trillion dollars. Our trade with the ASEAN region exceeds our trade with Japan, China or the United States.¹¹
- 3.17 Australia struggles, however, to achieve a favourable balance of trade with ASEAN countries. In 2007, Australian exports of *goods* to ASEAN nations amounted to \$18 billion, but imports amounted to \$37 billion. Similarly, the value of exports for Australian *services* was \$7 billion, while imports were \$8.5 billion.¹²
- 3.18 For commodities trade such as those produced by its mining and agricultural industries, however, Australia enjoys a net surplus. For example, DAFF advised the Committee that ASEAN countries are Australia's 'largest agricultural export destination' and the second largest source of imports in this sector. This resulted in \$5.6 billion in

10 DFAT, *Submission No. 24*, p. 287.

11 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 2.

12 DFAT, *Submission No. 24*, pp. 287–8.

two-way trade in 2006-2007 and, within this, exports outweighed imports by a factor of 'almost five to one'. This was notable in the context of Australia's position as a net importer in many areas of trade.¹³

Need for a strong trade position

3.19 A review of export policies and programs provided to the Minister for Trade by David Mortimer and John Edwards in 2008 concluded that, if it is to keep net foreign liabilities within reasonable limits, Australia needs to ensure that it has a healthy export sector. If it cannot:

... the accumulation of net foreign liabilities relative to the size of the economy and the associated servicing commitments will eventually become so big that a potentially painful adjustment process would be likely.¹⁴

3.20 A country's ability to maintain a healthy services and manufactured goods sector, with strong export capacity, also correlates with other desirable characteristics:

... a nation's export performance is a measure of the capacity of its industries to successfully compete internationally. There is evidence to suggest that export industries and successful exporters within industries have higher productivity levels than those focused only on the domestic market.¹⁵

3.21 This is because 'international competition is the most common way in which new technologies, new management and marketing techniques, and new business styles are discovered, adapted and incorporated'.¹⁶

3.22 For these reasons, Mortimer and Edwards argued, Australia must seek to put itself on the best possible footing in trade with other countries. In this, trade with ASEAN member countries is particularly important because of their proximity to Australia, their rapid economic expansion and development, and the resurgence of Asia in the international order.

3.23 These last are new conditions. Mortimer and Edwards concluded that Australia for 'the first time in modern history ... will find itself part of

13 DAFF, *Submission No. 25*, p. 331.

14 David Mortimer and John Edwards, *Winning in World Markets – Meeting the competitive challenge of the new global economy, Review of Export Policies and Programs*, 2008, p. 19, <http://www.dfat.gov.au/publications/mortimer_report/mortimer_report.pdf> Accessed January 2009.

15 Mortimer and Edwards, *Winning in World Markets*, p. 19.

16 Mortimer and Edwards, *Winning in World Markets*, p. 19.

an ascendant and self-sustaining economic community within its own longitudinal extent'. In this, 'the tyranny of distance' will be replaced by 'the challenge of proximity' with respect to its regional neighbours.¹⁷

Committee comment

- 3.24 Australia's ability to further develop exports of manufactured goods and services depends, amongst other things, on its capacity to negotiate beneficial terms of trade with its trading partners. The rise of trading blocs and FTAs has made this more urgent. If Australia does not participate, it runs the risk of foregoing the benefits of liberalised trading arrangements, which are enjoyed by countries that do.
- 3.25 A number of agreements have come into being. Prominent among these have been FTAs between the USA and other countries and regions, including those with Australia and New Zealand, Canada, and South American countries.¹⁸ These developments have occurred against the backdrop of greater economic integration within the European Union, and WTO negotiations to liberalise trade between nations on a wider scale.
- 3.26 Together these developments – WTO negotiations and agreements, emergent trading blocs, and bilateral and multilateral FTAs – increase the importance of Australia positioning itself within this emerging environment, which is characterised by new levels of economic integration.¹⁹ To do this, Australia must hold a realistic appraisal of its position, and use all available instruments to best advantage.

Bilateral and multilateral free trade agreements

- 3.27 Arguments in favour of FTAs are that trade liberalisation – that is, the removal of trade barriers – benefits both partners in a trading relationship. Where barriers persist, business is constrained and this has adverse effects, in particular on employment.
- 3.28 In markets open to competition, greater freedom to do business leads to higher levels of business activity and investment, growth in employment, and greater prosperity.²⁰ These benefits are attributed to

17 Mortimer and Edwards, *Winning in World Markets*, p. 18.

18 *Exhibit 1*, p. 28.

19 *Exhibit 1*, p. 28.

20 *Exhibit 1*, pp. 7, 29.

both multilateral and bilateral FTAs. Australia is currently party to significant bilateral agreements with the ASEAN nations, Singapore and Thailand.

- 3.29 Australia has significant experience of FTAs with members of ASEAN, by virtue of agreements concluded with Thailand (TAFTA), and Singapore (SAFTA). While both have had significant consequences for Australian export industries, it is TAFTA that attracts the most attention, and at times controversy.
- 3.30 This experience shapes expectations of subsequent FTAs Australia has negotiated in the region, such as AANZFTA, and those currently underway, such as negotiations for a bilateral agreement with Malaysia, and early discussions with Indonesia. Are these are likely to improve or detract from Australian industry?

Singapore-Australia Free Trade Agreement

- 3.31 Australia's FTA with Singapore, SAFTA, came into force in July 2003.²¹
- 3.32 Despite a small population, Singapore's purchasing power 'equals or exceeds that of many countries in the EU'. Consequently, Australia has a larger volume of trade with Singapore than it does with any other member of ASEAN.²²
- 3.33 Singapore has a strong economy, based on a 'tradition as a duty-free port and a major trans-shipment hub', and successful industries in consumer electronics, information technology, medical technology and pharmaceuticals, amongst others. Many of these industries export to Australia.²³
- 3.34 In return, Singapore relies substantially on imports for food, and these account for a significant part of Australian exports to Singapore. The outlook for Australian food exports is regarded as 'strong', particularly in view of rising incomes in Singapore.²⁴
- 3.35 DAFF advised the Committee that Singapore was 'a major destination for portfolio exports' and that Australia's relationship with Singapore on agricultural exports was considered 'excellent.'²⁵ DIISR noted, however, that the main impacts of SAFTA on Australia-Singapore

21 DFAT, *Submission No. 24*, p. 295.

22 DFAT, *Submission No. 24*, p. 325.

23 *Exhibit 3*, p. 4.

24 *Exhibit 3*, p. 4.

25 DAFF, *Submission No. 25*, p. 336.

trade are not in these areas. In fact, Singapore had 'applied a zero tariff on [most] goods even before the agreement'.²⁶

Services under SAFTA

- 3.36 DIISR noted that Australian benefits gained from SAFTA generally arose from improvements in the trade in services. Much of this depends on a greater parity in standards between the two countries. This had resulted in increased access to the Singapore market for Australian exporters of 'education, environmental, telecommunications, and professional services'.²⁷
- 3.37 DFAT noted that there were specific benefits, including:
- ... national treatment and market access commitments for Australian education providers, improved conditions for joint law ventures involving Australian legal firms, recognition of a greater number of Australian law degrees, access for Australian companies to Singapore's government procurement market ... improved access for environmental service providers, removal or easing of residency requirements for Australian professionals, and improved short-term and long-term business entry conditions for Australians.²⁸
- 3.38 These are important developments. DIISR advised the Committee that the FTA 'went deeper and further than World Trade Organisation (WTO) commitments with regards to trade in services, technical barriers to trade, intellectual property, investment, and competition policy'.²⁹
- 3.39 DFAT noted that Australia's trade in services with Singapore has grown by an average of 11 per cent a year since SAFTA came into force.³⁰
- 3.40 Increased parity in standards is also important for other areas of Australia-Singapore trade – it reduces costs for Australian exporters by instituting a 'new framework for determining equivalence of Australian and Singaporean product standards and requirements',

26 DIISR, *Submission No. 14*, p. 170.

27 DIISR, *Submission No. 14*, p. 170.

28 DFAT, *Submission No. 24*, p. 296.

29 DIISR, *Submission No. 14*, p. 170.

30 DFAT, *Submission No. 24*, p. 296.

committing 'both countries to work towards harmonising mandatory requirements with international norms'.³¹

- 3.41 Consistent with this is 'a new system allowing for mutual acceptance of testing certificates and reports', with particular application to 'horticultural and other food-related products'.³²
- 3.42 Overall, SAFTA is considered to be a significantly liberalising agreement. In this, a key element is that it employs a 'negative list' system, under which 'unless a restriction is specifically listed in an annex to SAFTA, Australian companies will be treated the same as Singaporean companies'.³³

Balance of trade with Singapore

- 3.43 Concerns remain, however, over Australia's balance of trade with Singapore. The overall volume of trade is reported to have increased to 'A\$14.5 billion in 2007 compared to A\$9.4 billion in 2004', but 'Australia's trade deficit with Singapore has more than doubled in the same period'. This is due 'mainly to the increase in refined petroleum imports', but similar imbalances have also been evident in other areas.³⁴
- 3.44 Consistent with this, DFAT advised the Committee that in 2007 'merchandise exports to Singapore were valued at \$4 billion and imports were \$10.5 billion', and Australian exports of services were \$3.2 billion while imports were \$4.7 billion. Foreign investments by Singapore into Australia at the end of 2007 were \$32.3 billion, while Australian investment in Singapore was \$17 billion.³⁵
- 3.45 These figures represent cause for concern, but not in the same way as those for TAFTA, described below. Singapore as a highly-developed economy, based on more developed manufacturing and services sectors, has many of the characteristics to which Australia aspires. Singapore's superior position in the balance of trade is testimony to the fact that these are indeed worthy aspirations. Australia's trade position with Singapore shows how much further it has to go in order to achieve them.

31 *Exhibit 3*, p. 3.

32 *Exhibit 3*, p. 3.

33 *Exhibit 3*, p. 3.

34 *Exhibit 3*, p. 4.

35 DFAT, *Submission No. 24*, p. 325.

Thailand-Australia Free Trade Agreement

- 3.46 When TAFTA came into force in January 2005, it was notable that Thailand, with a population of 65 million, was the second-largest economy in the region, and one of the 'fastest growing'.³⁶
- 3.47 TAFTA has been successful in reducing tariff barriers to Australian exports:
- The introduction of TAFTA eliminated more than half of Thailand's 5 000 tariffs, accounting for nearly 80 percent of merchandise trade between Australia and Thailand.³⁷
- 3.48 The agreement also provided a process and framework to reduce those tariffs not removed by the agreement, 'over the next five to 15 years', which are expected to 'result in free trade for 95 percent of all trade between Australia and Thailand'.³⁸ Positive indicators are that TAFTA has increased two-way merchandise trade 'from \$6.8 billion in 2004 to \$12.3 billion in 2007'.³⁹
- 3.49 DFAT advised the Committee that in many sectors Thailand has achieved greater trade gains than Australia:
- Thai exports to Australia have increased from \$3.8 billion in 2004 to \$7.9 billion in 2007, while Australia's merchandise exports to Thailand have risen from \$3.1 billion in 2004 to \$4.4 billion in 2007.⁴⁰
- 3.50 DIISR commented that this may yet be remedied by elements of the FTA yet to come into force, under which 'Thai tariffs on virtually all non-agricultural goods exported from Australia to Thailand will be phased out by 1 January 2010'.⁴¹
- 3.51 Non-tariff barriers that have emerged over the life of the FTA have caused concern in Australia. The Federation of Automotive Products Manufacturers told the Committee that it feared that, even under the progressive relaxation of trade barriers provided for under TAFTA, key Australian export industries could experience serious setbacks before full liberalisation is achieved.⁴²
- 3.52 The consequences of TAFTA are complex. On one hand there are benefits to Australia for exports of commodities:
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36 *Exhibit 3*, p. 2.

37 *Exhibit 3*, p. 2.

38 *Exhibit 3*, p. 2.

39 DFAT, *Submission No. 24*, p. 296.

40 DFAT, *Submission No. 24*, p. 296.

41 DIISR, *Submission No. 14*, p. 170.

42 Ms Anna Greco, *Transcript 2 October 2008*, pp. 55, 50, 52.

Australia's exports to Thailand have risen by 44 per cent. In 2007, Australia's principal exports to Thailand were crude petroleum (A\$861 million), aluminium (A\$762 million) and gold (A\$551 million). In the Thailand market, the tariffs for some Australian agriculture and food products are 60 percent less than those for competitors from other countries.⁴³

3.53 On the other hand there have been considerable benefits to Thailand's manufacturing exports to Australia. These have seen Thailand establish itself as:

... an alternative source for electronics (computers and electrical machinery), motor vehicles and household goods. Imports of these goods have risen 105 per cent, 868 per cent and 93 per cent respectively since 2004.⁴⁴

3.54 Australian exporters see some aspects of the agreement as particularly disadvantageous. The Federation of Automotive Products Manufacturers told the Committee that there were significant levels of concern within the Australian automotive industry about uneven outcomes from TAFTA.⁴⁵

3.55 DFAT advised the Committee that in such cases Australia relies on an additional framework under the main agreement (the 'inbuilt agenda') to provide a remedy. However, in pursuing this further complications have arisen: the 'uncertain political situation' in Thailand has prevented progress on a number of questions Australia would like to address.⁴⁶

3.56 Australia may face similar challenges in its dealings with other ASEAN member nations. The main focus of concern, however, remains the trade barriers – tariff and non-tariff – that continue to be a feature of Thai-Australia trade. This is particularly the case for the automotive trade, discussed in detail in Chapter 5.

Proposed bilateral free trade agreements

3.57 Australia's experience with TAFTA and SAFTA will inform its negotiations for future FTAs. DFAT advised that negotiations began for an FTA with Malaysia in April 2005, and a feasibility study was launched in June 2007 into a possible FTA with Indonesia.⁴⁷

43 *Exhibit 3*, p. 3.

44 *Exhibit 3*, p. 2.

45 Ms Anna Greco, *Transcript 2 October 2008*, pp. 51-52.

46 DFAT, *Submission No. 24*, p. 296.

47 DFAT, *Submission No. 24*, pp. 296, 297.

- 3.58 An FTA with Malaysia represents significant opportunities for Australia. Statistics provided by DFAT show that Malaysia is Australia's third-largest trading partner amongst the members of ASEAN, and is Australia's 11th largest trading partner overall, exchanging \$12.8 billion in two-way trade in 2007.⁴⁸ Of this, merchandise trade amounted to '\$10.5 billion (exports of \$3.2 billion, imports of \$7.3 billion), while total two-way services trade was \$2.3 billion (exports of \$1.3 billion, imports of \$1 billion)'.⁴⁹
- 3.59 For Indonesia, negotiations toward an FTA are yet to begin in earnest, but evidence tendered to the Committee suggests that there would be significant benefits to Australia. DAFF told the Committee that Indonesia's prominence as a market for Australian export beef,⁵⁰ and the challenges Australia has faced there with respect to tariff barriers,⁵¹ could together make such an FTA rewarding for Australia.
- 3.60 DFAT advised the Committee that there are other parts of trade which are areas of mutual interest between Australia, Malaysia and Indonesia, and which promise 'substantial benefits', including the provision of education.⁵² The Federation of Automotive Products Manufacturers also identified automotive manufacture as a potential area of benefit.⁵³
- 3.61 At the final public hearing, DFAT told the Committee that there had been no diminution of interest from Indonesia for pursuing an FTA following the signing of AANZFTA.⁵⁴
- 3.62 The Committee draws conclusions regarding free-trade agreements at the end of the next chapter which discusses AANZFTA.

Free trade agreements and non-tariff barriers

- 3.63 Free trade agreements are intended to remove barriers to trade and increase mutual prosperity. The apparent simplicity of this aim is belied by the complexities of achieving a balance between interests of nations party to the agreement, and the challenges of implementation.

48 DFAT, *Submission No. 24*, p. 297.

49 DFAT, *Submission No. 24*, p. 324.

50 Mr Paul Morris, *Transcript 2 October 2008*, p. 12.

51 Mr Paul Ross, *Transcript 2 October 2008*, p. 6.

52 DFAT, *Submission No. 24*, pp. 296, 300.

53 Ms Anna Greco, *Transcript 2 October 2008*, p. 50.

54 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 6.

- 3.64 High levels of complexity are also generated by the combination of tariff and non-tariff barriers. There were different assessments on the relative importance of non-tariff barriers. DAFF told the Committee it rated tariff and non-tariff barriers at a similar order of magnitude, and commented on challenges posed by the potential for rapid change in either case.⁵⁵
- 3.65 Other, secondary, sources described non-tariff barriers as being, arguably, ‘a more serious challenge’ than those created by tariffs:
- The protective and taxing effect of [non-tariff barriers] is substantially higher than that of formal tariffs that apply to trade. [non-tariff barriers] raise the price of products in the region, making exports less competitive, and undermining the impact of tariff reductions.⁵⁶
- 3.66 The Australian Wine and Brandy Corporation told the Committee this was so for Australian wine exports.⁵⁷ DAFF made similar observations regarding the influence of religious constraints on the export of Australian meat to ASEAN countries,⁵⁸ and the influence of ‘import licensing and food labelling’ over Australian agricultural exports in the region.⁵⁹
- 3.67 DFAT told the Committee that in negotiating AANZFTA on behalf of Australia it was well aware of the significance of non-tariff barriers.⁶⁰ However, the complexity of the task of dealing across all categories and types of trade barrier has, in practice, reduced the capacity of DFAT negotiators to address them:
- We recognise that the non-tariff barriers are major issues here that need to be tackled. Quite frankly, it has not been possible to progress that as far as we would have liked in the context of the regional FTA because it has been difficult enough just focusing on tariff reductions and tariff elimination commitments.⁶¹
- 3.68 DFAT advised the Committee that this has led Australia to rely on ‘work programs’ appended to FTAs (such as TAFTA’s ‘inbuilt

55 Mr Paul Ross, *Transcript 2 October 2008*, p. 6

56 *Exhibit 1*, p. 7 quoting Oxford Analytica, *ASEAN: Non-tariff barriers threaten integration hopes*, 12 August 2008.

57 AWBC, *Submission No. 1*, p. 2.

58 Mr Paul Ross, *Transcript 2 October 2008*, p. 6; DAAF *Submission No. 25*, p. 337.

59 DAFF, *Submission No. 25*, p. 337.

60 *Exhibit 1*, p. 7; Mr Michael Mugliston, DFAT, *Transcript 12 September 2008*, pp. 7-8.

61 Mr Michael Mugliston, *Transcript 12 September 2008*, p. 7.

agenda'⁶²), in which signatories undertake to resolve such matters within specific time-limits.⁶³ There is, however, general acknowledgement that progress through these avenues is slow.⁶⁴

Committee comment

- 3.69 Contemporary trade relations are complex. Tariffs and similar mechanisms are explicit factors that fall more readily within the scope of trade negotiations, and within the broader scope of policy and action by governments.
- 3.70 Other obstacles to trade such as non tariff barriers are more difficult to negotiate. These can take the form of:
- differences in standards;
 - caps on foreign ownership;
 - different kinds of subsidy, and
 - unnecessarily bureaucratic processes for approvals and permits.
- 3.71 Non-tariff barriers are more difficult to quantify, and to target, manage and control through a trade negotiation process. Australia's recent experience of outcomes from such negotiations suggests that non-tariff barriers do indeed present special challenges.
- 3.72 Distinctions between tariff and non-tariff barriers are linked to the range of views on Free Trade Agreements described in this report. More positive statements are made by government departments responsible for negotiating free-trade agreements. These describe important progress made on reducing tariffs and similar explicit barriers to trade.⁶⁵
- 3.73 On the other hand, industry representatives have encountered non-tariff barriers in their daily business within the ASEAN region. From industry's perspective, concessions gained at the negotiating table on tariffs can be undermined by the more fluid behaviour of non-tariff barriers. This can foil attempts to liberalise markets, and has led to concerns that Australia's trading partners are achieving a higher level of benefit from free-trade agreements.
- 3.74 Both are valid points of view. There are indeed positive and negative outcomes that have come from the FTAs Australia has concluded thus far. Questions over the overall level of benefit to Australia remain

62 DFAT, *Submission No. 24*, p. 296

63 Mr Michael Mugliston, *Transcript 12 September 2008*, pp.7-8

64 *Exhibit 1*, p. 7.

65 See for example DFAT, *Submission No. 24*, p. 295.

complex: it is possible that short-term sacrifices may lead to longer-term benefits, and reductions in one area of trade may be compensated by improvements in another.

- 3.75 Amongst this complexity, however, it is vital that Australia is satisfied that it is able to conclude successful FTAs that foster Australia's interests, at the same time as they contribute to wider prosperity in its region.

ASEAN-Australia-New Zealand Free Trade Area

Introduction

- 4.1 As noted in Chapter 3, a wide range of benefits (and challenges) arise from bilateral free-trade agreements. Even greater benefits, however, may be anticipated for agreements that cover groups of nations. Lowering barriers to trade across a number of countries brings with it a greater ability to access business opportunities, to encourage investment synergies, and to market goods and services on a greater scale. The recently signed AANZFTA is therefore expected to be a highly significant treaty.

Impact of the agreement

- 4.2 DFAT told the Committee, that the main effect of AANZFTA would arise from it being a 'platform' for further trade liberalisation.¹ Subsequent to its release, DFAT gave the Committee a more complete description of the unique nature and significance of AANZFTA.

¹ Mr Michael Mugliston, *Transcript 12 September 2008*, p. 10.

4.3 The agreement was the first multi-country FTA that Australia had negotiated and was the most comprehensive treaty ASEAN had entered into. DFAT added that AANZFTA was:

... the largest free trade agreement Australia has signed, covering 21 per cent of Australia's trade in goods and services – valued at \$103 billion in the 2007-08 financial year ...

Australia stands to gain from this agreement across many sectors, including exports of industrial goods, agricultural products and services. Through this FTA, Australia has achieved significant tariff elimination over time, from the more developed ASEAN member countries and Vietnam, on between 90 and 100 per cent of tariff lines covering 96 per cent of current Australian exports to the region.²

4.4 DFAT also described the anticipated present and future benefits of AANZFTA:

In addition to the market access gains from the FTA, AANZFTA provides a platform for Australia's ongoing engagement with ASEAN that will help to ensure that Australia's competitiveness in the region is not undermined. AANZFTA is a forward-looking FTA with built-in agendas and review mechanisms in areas such as non-tariff measures, rules of origin, services and investment, which are aimed at having AANZFTA's commitments expand and deepen over time, in line with the development of the ASEAN economic community.³

4.5 A further distinctive feature of AANZFTA lay in its relationship with economic integration between countries in the region. DFAT told the Committee that this was a 'major driver' for AANZFTA, and identified strong links between AANZFTA and plans to establish an ASEAN economic community by 2015.⁴

4.6 From this description it is clear that AANZFTA occupies a distinctive position within Australia's trade apparatus. The following sections summarise the main features of AANZFTA, and considers its implications for key aspects of Australia's trade with ASEAN member countries.

2 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 2.

3 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 3.

4 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 5.

The agreement

4.7 AANZFTA was signed at Cha-am, Thailand, on 27 February 2009. It was tabled in parliament on 16 March 2009 and will come into force on 1 July 2009 if it is ratified by a minimum of four signatory countries. DFAT predicted, based on past experience, that ASEAN a member countries would move 'within a reasonable period' to ratify the agreement.⁵

4.8 AANZFTA includes chapters on:

- Trade in goods and Rules of Origin;
- Trade in services, including Annexes on Financial Services and Telecommunications;
- Customs procedures and Sanitary and phytosanitary measures;
- Movement of natural persons; and
- Investment and Intellectual Property.

4.9 External Annexes display important detailed information on:

- Schedules of Tariff Commitments (Annex 1);
- Product Specific Rules (Annex 2);
- Schedules of Specific Services Commitments (Annex 3); and
- Schedules of Movement of Natural Persons Commitments (Annex 4).

Objectives

4.10 The objectives of AANZFTA are to:

- 'progressively liberalise and facilitate trade in goods ... through ... progressive elimination of tariff and non-tariff barriers'
- 'progressively liberalise trade in services'
- 'facilitate, promote and enhance investment opportunities'
- 'establish a cooperative framework for strengthening ... investment and economic links'

5 Mr Michael Mugliston, *Transcript 16 March 2009*, pp. 3, 6.

- ‘provide special and differential treatment to ASEAN Member States’.⁶

4.11 This is consistent with the approach taken within ASEAN – to respect differences between member states while working toward closer ties and greater efficiency.

Main elements

4.12 A central provision of AANZFTA is that parties accord each other ‘National Treatment’ – that is, that each ‘shall accord to the nationals of each other Party treatment no less favourable than it accords to its own nationals’.⁷

4.13 To support this, AANZFTA provides a number of mechanisms:

- It provides methods to identify which goods, services or entities originate or belong to the Free Trade Area, through Rules of Origin and Certificates of Origin.⁸
- It establishes a series of Committees to administer the Agreement. These include the FTA Joint Committee, Goods Committee, Rules of Origin Sub-Committee, SPS Sub-Committee, and the STRACAP (standards) Sub-Committee.⁹
- It creates avenues for consultation and dispute settlement.¹⁰ This includes a requirement for each signatory country to create Arbitral Tribunals through which disputes and complaints may be resolved.¹¹
- The Agreement stipulates methods through which to establish transparency¹² and contact.¹³

6 *Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)*, Chapter 1, Article 1, p. 3.

7 AANZFTA, Chapter 13, *National Treatment*, Article 4, Paragraph 1, p.184.

8 AANZFTA, Chapter 3, *Rules of Origin*, p. 14 ff.

9 AANZFTA, Chapter 16, *Institutional Provisions*, Article 1, pp.203-4.

10 See AANZFTA, Chapter 17, *Consultations and Dispute Settlement*, p. 206 ff. See also Dr. Milton Kirche, *Transcript 16 March 2009*, p. 17.

11 See for example AANZFTA, Chapter 8, *Trade in Services*, Article 12, Paragraph 2, p. 97.

12 Transparency entails the public availability of information on standards or judgements, including to non-national entities wishing to operate in a particular country covered by AANZFTA. See AANZFTA, pp. 68, 94, 112, 126, 136, 139, 157, 190.

13 Contact entails the provision of ‘Contact Points’ through which non-national entities can engage national representatives on particular aspects of trade. See AANZFTA, pp. 11, 57, 68, 95, 194, 231.

4.14 These measures demonstrate the character of AANZFTA. The intention is to bring signatory states into a greater state of consistency and dialogue on matters of trade. In line with this, AANZFTA displays a strong emphasis on consistency in standards and technical regulations, including for Intellectual Property.¹⁴

A 'platform' for other agreements

4.15 Before it was released, DFAT told the Committee that AANZFTA would operate as a 'platform' or 'framework', drawing on and affirming agreements already in force, and fostering new agreements between signatory states.¹⁵

4.16 This is borne out by the released text, which throughout displays strong linkages to GATT 1994, GATS and WTO agreements.¹⁶ AANZFTA itself is established under provisions of GATT 1994 and GATS.¹⁷ 'National Treatment', and other key features of the Agreement, also reference GATT 1994.¹⁸

4.17 AANZFTA allows parties to adopt new agreements which 'accelerate and/or improve tariff commitments made under this Agreement'.¹⁹

4.18 Conversely, there are clear directions that 'no Party shall adopt or maintain any prohibition or quantitative restriction' on imports.²⁰ Similar indications apply to non-tariff measures and their transparency – that the only kind of change that is permissible is to reduce them and make them more transparent.²¹

4.19 The combined effect is to facilitate progress toward trade liberalisation, and make increases in trade protection more difficult. To the extent that AANZFTA is effective, this will ensure that changes in trade settings

14 See AANZFTA, Chapter 6, *Standards, Technical Regulations and Conformity Assessment Procedures*, p. 61 ff, and Chapter 13, *Intellectual Property*, p. 183 ff.

15 Mr Michael Mugliston, *Transcript 12 September 2008*, p. 10.

16 For references to GATT 1994 see for example AANZFTA Chapter 1, *Establishment of Free Trade Area, Objectives and General Definitions*, Articles 4, 5 & 6, pp. 8-9. For WTO Agreement, see Chapter 1, Article 3, p. 8.

17 GATT 1994, Article XXIV and GATS Article V, cited in AANZFTA, Chapter 1, Article 2, p. 4.

18 GATT 1994, Article III, cited in AANZFTA, Chapter 2, Article 4, p. 8.

19 AANZFTA, Chapter 2, *Trade in Goods*, Article 2, pp. 7-8.

20 AANZFTA, Chapter 2, Article 7, Paragraph 1, p. 9.

21 AANZFTA, Chapter 2, Article 7, Paragraphs 2 & 3, p. 9.

within the free trade zone will ultimately lead toward further liberalisation.

Tariff settings

- 4.20 The body of AANZFTA defines and provides central principles, administrative bodies and means of redress, among other things. Specific tariff *settings*, and timelines for their reduction and removal under the Agreement, are contained in Annex 1 - *Schedules of Tariff Commitments*.
- 4.21 Tariff settings for each signatory are contained in a separate spreadsheet. Settings are commensurate with levels of economic development – spreadsheets for more developed ASEAN member states show lower tariffs, while for some countries tariffs continue at high rates in the near term. However, future targets show reductions.
- 4.22 After the release of AANZFTA, DFAT commented on tariffs under AANZFTA. DFAT told the Committee that a significant attribute of AANZFTA was that ‘exclusions from tariff commitments have been kept to a minimum’, and ‘generally do not exceed one per cent of a country’s national tariff lines’.²²
- 4.23 DFAT also told the Committee that tariff settings under AANZFTA were bound to settings applied by each signatory country as at 1 January 2005. These ‘bindings’ imposed an obligation on these countries not to raise tariffs beyond the rates at that date. This was significant because these tariff rates were most often lower than bindings under WTO agreements. Consequently, AANZFTA in many instances represented an advance over tariffs under WTO.²³

Specific areas of trade

- 4.24 AANZFTA makes specific reference to two areas of trade in services significant to Australia.

22 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 3.

23 Mr Michael Mugliston, *Transcript 16 March 2009*, pp. 3, 11.

- 4.25 The Annex on Financial Services focuses on transparency.²⁴ There have been instances where an absence of transparency has hindered Australian companies wishing to do business in the ASEAN region. Improvements in this area could be significant to Australia, in view of expertise and the possibility of growth in this area, subject to the financial crisis.
- 4.26 In relation to the Annex on Financial Services, DFAT told the Committee that:
- On investment, AANZFTA will create greater transparency and certainty for Australian investors in the region. It establishes a regime of investment protections; including an investor-state dispute resolution mechanism. AANZFTA includes useful commitments in other trade-related areas, such as intellectual property, as well as an economic cooperation component to provide technical assistance and capacity building to developing ASEAN countries – to assist in implementation of the FTA. This cooperation is an integral part of the FTA and Australia has committed to provide up to \$20 million in funding for worthwhile projects over a five-year period.²⁵
- 4.27 The Annex on Telecommunications binds parties to ‘prevent suppliers ... from engaging in or continuing anti-competitive practices’ and, importantly, requires parties to establish a ‘Telecommunications regulatory body ... not accountable to ... any supplier of public telecommunications networks or services’.²⁶ In the past, Australian firms have been frustrated in their attempts to find such an arbiter while operating within the ASEAN region.

Rules of Origin

- 4.28 Central to AANZFTA are provisions for Rules of Origin, ‘which liberalise the conditions under which products may receive tariff preferences within the ASEAN – Australia and New Zealand region’.²⁷ They are intended to allow signatory nations to trade with one another on a consistent basis,

24 See AANZFTA, Chapter 8, *Annex on Financial Services*, Article 5: *Regulatory Transparency*, p. 112.

25 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 3.

26 AANZFTA, Chapter 8, *Annex on Telecommunications*, Article 11, *Telecommunications Regulatory Body*, pp. 118, 127.

27 DAFF, *Submission No. 25*, pp. 336-7.

irrespective of which nation they are dealing with in any particular transaction.

4.29 DFAT advised the Committee that this 'will help Australian and ASEAN industry develop greater linkages into regional production chains', increasing efficiency and maximising benefits from trade.²⁸ Modelling by DIISR suggested that in its most 'liberalising' form, AANZFTA would increase Australian Gross Domestic Product (GDP) by \$48 billion by 2020.²⁹

4.30 Given the 'geographic proximity' of ASEAN members to Australia, DAFF regarded AANZFTA as 'an important foundation for the future prosperity of Australian agricultural exporters'. On the other hand, DAFF noted, Rules of Origin were more readily negotiated than more 'far-reaching tariff liberalisation' for Australian agricultural exporters, and this showed the limits to current progress on trade liberalisation.³⁰

Movement of 'natural persons'

4.31 On occasion, exporting industries can find their ability to do business is limited by restrictions on the movement of persons – referred to as 'natural persons' – such as representatives or staff of exporting companies. DFAT told the Committee that AANZFTA represented a considerable improvement on former arrangements in this regard.³¹

4.32 Particularly notable is that greater freedoms apply across a wider spectrum of business activity, including 'investors, goods sellers, and service suppliers'. DFAT advised this was a significant advance on WTO agreements, which only contained more liberal arrangements for services exporters. DFAT noted, however, that the significance of these changes was greatest for Australian *services* exporters to ASEAN member countries.³²

4.33 The Committee notes that the APEC Business Travel Card was introduced in 1997 as a means to facilitate business travel between participating countries. The card:

28 DFAT, *Submission No. 24*, p. 295.

29 DIISR, *Submission No. 14*, p. 170.

30 DAFF, *Submission No. 25*, p. 337.

31 Mr Michael Mugliston, *Transcript 16 March 2009*, pp. 13-14.

32 Mr Michael Mugliston, *Transcript 16 March 2009*, pp. 13-14.

... allows business travellers pre-cleared, facilitated short-term entry to participating member economies. The [card] removes the need to individually apply for visas or entry permits, saving valuable time, and allows multiple entries into participating economies during the three years the card is valid. Card holders also benefit from faster immigration processing on arrival via access to fast-track entry and exit through special APEC lanes at major airports in participating economies.³³

- 4.34 Most ASEAN member countries participate in the scheme,³⁴ and therefore their business communities benefit from this initiative.

Greater economic integration

- 4.35 AANZFTA is part of a larger process of economic integration within ASEAN and allied nations. This process could, over time, result in an ASEAN Economic Community (AEC), that would share a 'seamless production base' along similar lines to those envisaged for the European Union and similar trading blocs.³⁵ There are also linkages between AANZFTA and other longer-term developments, designed to result in the:

... elimination of the remaining intra-ASEAN tariffs and the large number of non-tariff barriers, creating an effective intellectual property regime, fully liberalising trade in services, and relaxing barriers to flows of capital and skilled labour in all sectors.³⁶

- 4.36 For members of such a community, the benefits of economic integration could be significant, reducing operating costs by 25 per cent and increasing aggregate GDP in the ASEAN region by 10 per cent.³⁷
- 4.37 These long-term developments make it critically important that Australia continue to develop its involvement in trading agreements with ASEAN nations. In view of Australia's engagement with them, its proximity and current high levels of trade, a future for Australia within an integrated economic zone based on ASEAN would be considerably more attractive than one without. Questions remain, however, as to how Australia can

33 <http://www.apec.org/apec/business_resources/apec_business_travel0.html> Accessed May 2009.

34 Burma, Cambodia and Laos do not participate in the scheme.
<<http://www.immi.gov.au/skilled/business/apec/>> Accessed May 2009.

35 *Exhibit 1*, p. 7.

36 *Exhibit 1*, p. 7.

37 *Exhibit 1*, p. 7.

join with ASEAN nations to establish relationships of reliably mutual benefit. The record for Australia's existing Free Trade Agreements demonstrates the challenges Australia faces in this regard.

Implications of AANZFTA for services exports

- 4.38 DFAT told the Committee that Australia had 'secured a good outcome on services' under AANZFTA. It had produced 'increasing certainty' for Australian services exporters 'across a range of sectors', including 'professional services, education, financial services and telecommunications'.³⁸
- 4.39 DFAT also told the Committee that AANZFTA's commitments on services were an improvement on the commitments ASEAN member countries had offered in the WTO Doha Round negotiations.³⁹
- 4.40 Nevertheless, DFAT acknowledged that negotiations on services had 'been a very difficult area of negotiation within ASEAN'. This had chiefly been due to 'the so-called ASEAN-first policy', in which ASEAN member countries were not prepared to make commitments with an external partner which went beyond internal ASEAN commitments. This, DFAT told the Committee, had been a constraint on progress.⁴⁰
- 4.41 This less positive side of AANZFTA negotiations was reflected in attempts to liberalise markets for legal services. DFAT told the Committee that legal services continued to be 'a very sensitive area for ASEAN because it is a profession in ASEAN countries that is very defensive':
- Australia was not able to obtain any improvements on the existing WTO situation with regard to legal services in Malaysia, nor were we able to improve on current SAFTA levels of commitment in relation to Singapore on legal services.⁴¹
- 4.42 DFAT advised the Committee that there were also barriers in to trade liberalisation for legal services in the Philippines. Australia's response would be to 'to use the built-in agenda to review', and to adopt a long-

38 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 3.

39 Mr Michael Mugliston, *Transcript 16 March 2009*, pp. 15-16.

40 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 12.

41 Mr John Larkin, *Transcript 16 March 2009*, p. 12.

term view so that Australia was in a good position to export legal services when more liberal conditions eventuated.⁴²

Relationships between bilateral and multilateral agreements.

- 4.43 As a party to bilateral agreements with ASEAN countries, and the new multilateral agreement with ASEAN and New Zealand, Australia must decide how best to coordinate between them. Are current and future bilateral agreements likely to be the most rewarding avenues, or will multilateral agreements replace them?
- 4.44 Prior to the release of AANZFTA, DFAT responded to the Committee's questions on this by identifying separate functions for bilateral and multilateral agreements with ASEAN. In its view, bilateral agreements were the proper forum for negotiations on the specifics of tariff and non-tariff barriers, and the provision of time-lines to reduce them. Multilateral agreements on the other hand provided a 'framework' that supports, and provided a basis for bilateral negotiations.⁴³
- 4.45 This is analogous to the use of WTO settings as templates and benchmarks for other trade agreements.⁴⁴

Choosing which free trade agreement to use

- 4.46 In trading with those ASEAN members nations which had a bilateral FTA with Australia, exporters will need to decide whether to trade under AANZFTA or under the bilateral FTA because the outcomes, although similar, might not be identical.⁴⁵
- 4.47 DFAT told the Committee that clarity and ease-of-use had been part of DFAT's stated objectives in the context of negotiating AANZFTA.⁴⁶ Australian exporters would have to examine only a handful of tariff lines, which had consistent standard nomenclature, and the associated rules of

42 Mr John Larkin, *Transcript 16 March 2009*, p. 12.

43 DFAT, *Submission No. 24*, 9. 295; Mr Michael Mugliston, *Transcript 12 September 2009*, p. 10.

44 See for example *Exhibit 1*, p. 7, and DIISR, *Submission No. 14*, p. 170.

45 Mr Michael Mugliston, *Transcript 12 September 2008*, P. 5.

46 Mr Michael Mugliston, *Transcript 16 March 2009*, pp. 8-9.

origin to decide whether to use AANZFTA or the bilateral FTA if it was available.⁴⁷

4.48 DFAT added that it had upgraded its support for exporters who could contact DFAT for assistance, but added that exporters had expressed positive responses to the documentation.

4.49 The Committee notes the advice from the Australian Wine and Brandy Corporation that multilateral agreements were considered the instrument of choice where smaller volumes of trade were distributed amongst ASEAN countries.⁴⁸

Levels of liberalisation

4.50 A focus of concern throughout the Inquiry has been the levels of trade liberalisation in domestic markets, for both Australia and its ASEAN trading partners.

4.51 The ACTU suggested to the Committee that across-the-board liberalisation was an unrealistic approach in view of Australia's experience of continuing trade barriers, and deteriorations of balance-of-trade, after FTAs have been concluded.⁴⁹

4.52 The ACTU considered that a better response was to adopt a pattern of 'partial liberalisation', based on a case-by-case assessment of barriers and opportunities between Australia and another trading partner.⁵⁰In line with this, the ACTU called for 'an end to the modelling of prospective FTAs on the basis of comprehensive liberalisation of all sectors'.⁵¹

4.53 The ACTU also proposed that Australia employ a 'positive list' of areas of trade to be liberalised, rather than the negative list approach employed by Singapore.⁵²These views echo those of a number of contributions by Australian labour organisations.⁵³

47 Mr Michael Mugliston, *Transcript 16 March 2009*, pp. 8-9.

48 Mr Michael Mugliston, *Transcript 16 March 2009*, pp. 8-9.

49 AWBC, *Submission No. 1*, p. 8.

50 ACTU, *Submission No. 27*, p. 404.

51 ACTU, *Submission No. 27*, pp. 391-2.

52 ACTU, *Submission No. 27*, p. 407.

53 ACTU, *Submission No. 27*, pp. 385-6; *Exhibit 3*, p. 3.

Committee comment

- 4.54 The Committee considers that FTAs – bilateral and multilateral – will become an increasing part of the trade environment in which Australia operates. This will be ensured by the continued growth of Asia, and the trend towards trade and other forms of integration between countries. With this in mind, the Committee endorses the Australian government's current series of engagements on trade with ASEAN member states, and encourages it to continue with all possible vigour.
- 4.55 The Committee recognises that free trade negotiations are inherently complex and have the potential for both positive and negative effects on aspects of Australia's economy.
- 4.56 In view of the apparent inequalities arising from TAFTA, the Committee emphasises the importance of Australia achieving favourable outcomes in such negotiations. It also underscores the importance of knowing exactly what are the benefits or costs of such agreements once they are concluded.
- 4.57 This puts considerable pressure on negotiators, who are obliged to focus on tariff-based barriers as more of a known-quantity, despite the key significance of non-tariff barriers. Under present conditions, Australia's capacity to arrive at favourable outcomes is stretched. In view of the importance of these negotiations, the Committee believes that an increase in analytical resources is warranted.
- 4.58 There are also opportunities to capture better levels of information about non-tariff barriers, so that these can be costed and compared on a like-to-like basis. If this could be achieved, the resulting simplification would be a significant enhancement to the process of trade negotiation, and Australia's capacity to negotiate favourable outcomes.
- 4.59 As well, it is important that a regular reporting mechanism be introduced, showing the consequences for Australia of its FTAs.

Recommendation 1

- 4.60 **The Committee recommends that the Department of Foreign Affairs and Trade develop a single method of costing non-tariff barriers, to assist Australian FTA negotiators to identify, evaluate and target barriers to trade.**

Recommendation 2

- 4.61 **The Committee recommends that the Department of Foreign Affairs and Trade reports annually to the Parliament on the impacts of individual free trade agreements.**
- 4.62 The Committee makes further recommendations on FTAs and the reporting of outcomes in Chapter 9 after it has discussed human rights issues and the environment.

Recommendation 3

- 4.63 **The Committee recommends that when Parliamentary delegations visit South East Asian countries with which Australia has a free trade agreement, the Department of Foreign Affairs and Trade facilitate meetings with Asian policy makers to monitor progress with these treaties.**

Trade in goods

Introduction

- 5.1 This chapter considers the effects of FTAs on selected Australian export industries. The Committee did not receive evidence from all areas of the goods for export sector, but considers that the evidence which was received provides an effective snapshot on these matters.
- 5.2 Australian automotive industry raised concerns that are representative of the manufacturing sector. Those raised by Australian Pork Ltd are representative of niche-market primary producer exporters. These illustrate important dimensions of the export trade, including the various forms of non-tariff barriers that affect Australian trade to ASEAN countries, and the significance of emergent multilateral trade agreements.

Winners and losers

- 5.3 Over the course of the Inquiry, witnesses and submissions attested to the diversity of Australian exports to ASEAN countries, and the variety of conditions they encountered. In keeping with the proposition that trade liberalisation engages 'offensive' and 'defensive' interests,¹ where

1 Ms Ruth Gallagher, *Transcript 12 September 2008*, p. 24.

industries expect to gain or lose, witnesses told the Committee of the benefits or deficits they had experienced in trading with ASEAN member countries.

- 5.4 DAFF told the Committee that ASEAN member countries were the 'largest export destination' for Australian agricultural products and were the second-largest source of imports of agricultural products to Australia.² DAFF provided the example of Indonesia which was Australia's single biggest export market for beef cattle, making up by far the greatest proportion of Australia's cattle exports – 500,000 head out of a total of 600,000 in 2007.³
- 5.5 DIISR told the Committee that Australian pharmaceuticals, chemicals and plastics industries also anticipate positive outcomes from increasing trade liberalisation, particularly from AANZFTA.⁴
- 5.6 Similarly, the Australian Wine and Brandy Corporation (AWBC) argued that AANZFTA was likely to help resolve some difficulties it experienced in dealing with individual ASEAN member countries. AWBC advised that these dealings were hampered by inconsistencies in approach – some ASEAN member countries had defended higher imposts on imported alcohol products on religious grounds, but in practice such measures had protected domestic producers from overseas competition.⁵
- 5.7 On the other hand, DIISR advised the Committee that the removal of protection had resulted in a considerable and ongoing shrinkage of business for the Australian Textile, Clothing and Footwear industries (TCF). There appeared to be few expectations of recovery, in light of the differences in labour costs between Australia and ASEAN countries.⁶
- 5.8 In each of the areas where Australia stands to gain, the successful adoption and implementation of standards is critical to success. This applies to Intellectual Property in the case of pharmaceuticals; and to Country of Origin labelling, and sanitary and phytosanitary standards, for wine, pork and other agricultural products.⁷

2 Mr Paul Morris, *Transcript 2 October 2008*, p. 2.

3 Mr Paul Morris, *Transcript 2 October 2008*, p. 13.

4 Ms Ruth Gallagher, *Transcript 12 September 2008*, p. 31; Sub.14, p. 8.

5 Australian Wine and Brandy Corporation, *Submission No. 1*, pp. 5-6

6 DIISR, *Submission No. 14*, pp. 171-172; ACTU, *Submission No. 27*, pp. 99-100.

7 Ms Ruth Gallagher, *Transcript 12 September 2008*, p. 31; AWBC, *Submission No. 1*, pp. 7-8; DFAT, *Submission No. 29*, pp. 419-20; Mr Paul Morris, *Transcript 2 October 2008*, pp. 2-3.

Committee comment

- 5.9 Free trade agreements produce winners and losers amongst domestic industries. Higher labour costs in Australia will continue to represent a point of vulnerability for some industries, such as TCF. While Australian automotive industries face a similar challenge (see below), the Committee expects that these sectors will continue to attempt to meet these challenges through business and product innovation.
- 5.10 The Committee considers that the success or otherwise of an FTA should be judged by the net benefit in the short, medium, and long term. That is not to say that parts of particular sectors should be abandoned because they are considered 'losers' in an FTA. A diverse marketplace is essential to a robust economy. It is the role of the FTA negotiator is to realise benefits as broadly as possible, and the role of government is to assist businesses that may not benefit to find profitable markets in the new environment.

Automotive trade

- 5.11 DIISR advised the Committee that while the two-way automotive trade between Australia and ASEAN countries had markedly increased over the last decade, Australian exports to ASEAN member countries had decreased.⁸
- 5.12 DIISR added that there was a perception that TAFTA had exacerbated Australia's poor balance of trade with Thailand in terms of automotive products. Since TAFTA came into force, Thai automotive imports to Australia had risen by 89%.⁹ DFAT told the Committee that in dollar terms vehicle imports to Australia from Thailand had 'almost doubled' between 2005 and 2008.¹⁰
- 5.13 The Federation of Automotive Products Manufacturers (FAPM) told the Committee of initial enthusiasm by industry toward TAFTA. The Australian automotive industry had expected increased export opportunities, but experience had shown otherwise.¹¹

8 DIISR, *Submission No. 14*, p. 171.

9 DIISR, *Submission No. 14*, p. 171.

10 Mr Peter Woolcott, *Transcript 22 September 2008*, p. 12.

11 Ms Anna Greco, *Transcript 2 October 2008*, p. 52.

- 5.14 The Federal Chamber of Automotive Industries (FCAI) told the Committee of a similar experience:

When the Thai-Australia Free Trade Agreement was negotiated, the automotive industry did support it at that time. We believed that it provided an opportunity to initiate a process with a key ASEAN economy which had a large automotive sector.¹²

- 5.15 FCAI added that 'in practice, the greater proportion of ... benefits have flowed to Thailand'. Moreover, there had been 'a range of non-tariff barriers imposed by the Thais after that agreement was put in place'.¹³

- 5.16 DFAT told the Committee that in theory these could be addressed by TAFTA's 'inbuilt agenda', but in practice, the political situation in Thailand had obstructed this avenue.¹⁴

Production volumes

- 5.17 FAPM told the Committee that declining overseas sales would have a significantly negative effect on the sustainability of automotive production in Australia. A characteristic of the automotive industry was that minimum national production thresholds must be achieved; otherwise economies of scale – and therefore viability – would be in doubt. FAPM described this as 'most important constraining factor in the industry'.¹⁵

- 5.18 In the Australian automotive industry, production volumes have fallen progressively from a high-point of 'just over' 400,000 vehicles per year in 2000,¹⁶ to current production levels at between 300,000 and 333,000 vehicles per year.¹⁷ FAPM told the Committee that this left Australian production volumes 'perilously low', and that 'there is no way our industry can become any more competitive without increasing volumes'.¹⁸

- 5.19 However, the viability of the Australia automotive industry is not based on raw production volumes alone, but also on the proportion of the domestic market it is able to command. Here too, FCAI told the Committee, matters had deteriorated:

12 Mr Andrew McKellar, *Transcript 2 October 2008*, p. 53.

13 Mr Andrew McKellar, *Transcript 2 October 2008*, p. 53.

14 Mr Peter Woolcott, *Transcript 12 September 2008*, p. 5.

15 Ms Anna Greco, *Transcript 2 October 2008*, p. 50.

16 Ms Anna Greco, *Transcript 2 October 2008*, p. 59.

17 Mr Andrew McKellar, *Transcript 2 October 2008*, p. 51.

18 Ms Anna Greco, *Transcript 2 October 2008*, p. 50.

The market share of locally produced vehicles is now less than 20 per cent. Five or six years ago it was around the mid-30s, and if you go back to 10 years ago then it would have been 50 per cent or more. So that is the extent of the change in the market that has occurred over a period of a decade. The local manufacturers' market share in their own home market has declined to that extent.¹⁹

- 5.20 When these two factors are considered together, it is clear that the Australian automotive industry faces considerable challenges in maintaining viability. Speaking of Australia's automotive parts industry, FAPM told the Committee that:

Australia has the second lowest production-to-sales ratio in the world. The only country that has a smaller one is Slovakia, which is producing only about 220,000 vehicles a year. This compares with countries like the US, which produces about 12 million vehicles a year; Japan, 11 million; and Germany, six million. Even Thailand produces 1.2 million vehicles a year. Indonesia and Malaysia also are producing far more vehicles than Australia: they produce well over 500,000.²⁰

- 5.21 FAPM identified this last figure as similar to the productive volume necessary to put the Australian industry in a better position. For this, a production volume of 400,000 vehicles per year was considered a minimum, and while 500,000 was 'a much better figure'.²¹

- 5.22 Further, FAPM commented that these factors created a sense of urgency for the Australian automotive industry. TAFTA may provide further avenues for negotiation under the 'embedded process', but in the meantime advantages inadvertently given to off-shore automotive manufacturers were likely to have an impact on the Australian industry. Impacts that were apparently short-term could have significant long-term implications:

The concern for our sector is that the more the Asian suppliers gain share and volume, the more they can invest in innovation – which we like to think is very much where developed countries such as Australia prevail – and the more volume they have over which to amortise those investments.²²

19 Mr Andrew McKellar, *Transcript 2 October 2008*, p. 60.

20 Ms Anna Greco, *Transcript 2 October 2008*, p. 50.

21 Ms Anna Greco, *Transcript 2 October 2008*, p. 51.

22 Ms Anna Greco, *Transcript 2 October 2008*, p. 51.

Committee Comment

- 5.23 From these descriptions it is clear that the Australian automotive industry is far from assured of its sustainability. To become so, it must produce more vehicles and ensure that it is able to market them, successfully, into both export and domestic markets.
- 5.24 There are challenges and opportunities. On one hand, the volume of trade each year in Australia's domestic market now stands at around 1 million vehicles.²³ This represents an opportunity for Australian manufacturers for whom, if they are able to account for a sizeable proportion of these sales, it would form a basis for industry viability and further exports. On the other, Australia is regarded as a high-cost environment for automotive manufacture, making competition with exports more of a challenge.²⁴
- 5.25 Under such conditions, and with current variations in world-wide consumer demand, this makes it more important that Australia negotiates the best possible access for its industry to markets in the ASEAN region.
- 5.26 Regarding TAFTA, the Committee is concerned that present settings are in effect a license for other automotive manufacturers wishing to gain special access to the Australian domestic market. Placement of manufacturing operations in Thailand is sufficient to ensure that their products can be landed in Australia tariff-free. In combination with lower production costs in Thailand, this gives off-shore manufacturers the opportunity to sell automotive products that are less expensive than those locally produced.

Non-tariff barriers

- 5.27 As for other areas of trade considered in this chapter, obtaining good access entails attention to non-tariff barriers. For TAFTA in particular, the progress on tariffs has been overshadowed by non-tariff measures that were introduced after the agreement was concluded.
- 5.28 DIISR advised the Committee that the 'restructuring' of excise on vehicles sold in Thailand, applied relative to engine capacity, was central to Australian concerns. This had resulted in a new price penalty for some Australian vehicles. Although strictly speaking it did not discriminate between nations, the 'excise effectively disadvantages exports of Australian-made vehicles, because Australia produces mainly larger-engine vehicles'. The Ford Territory, for example, is reported under the

23 Mr Andrew McKellar, *Transcript 2 October 2008*, p. 60.

24 Mr Andrew McKellar, Ms Anna Greco, *Transcript 2 October 2008*, p. 57.

new arrangements to suffer a '30 percent disadvantage over its main competitors'.²⁵

- 5.29 The ACTU expressed concerns that the combination of 'tariff elimination on Australia's part' and 'the failure of the FTA to deal appropriately with non-tariff barriers' had led to large trade deficits. In the case of Thailand, the ACTU suggested that this had seen the trade deficit increase by 177% to \$2.8 billion.²⁶
- 5.30 DFAT officials responsible for negotiating free trade agreements told the Committee that tariffs remained the 'immediate focus', reflecting the overall approach on such matters.²⁷ DFAT added, however, that there were concerns over non-tariff barriers, and whether excise provisions in Thailand were in compliance with the agreement. Unfortunately, Thailand's political turmoil had halted further dialogue on these matters.²⁸
- 5.31 These factors have a wider significance to the extent that they foreshadow Australia's fortunes in future FTAs. The Committee consistently expressed the view that Australia should take steps to ensure that its experience of non-tariff barriers in the context of TAFTA would not be repeated under AANZFTA or other future agreements.²⁹

Automotive parts

- 5.32 Discussion to this point has focused primarily on the export and import of whole vehicles. However, Australia's capacity to manufacture and trade in automotive parts is also critically important to the viability of the Australian automotive industry, and this too is influenced by trade barriers in the ASEAN region.
- 5.33 FAPM told the Committee that parts manufacture makes a significant contribution to the critical mass of the local industry. For most vehicles produced in Australia '75 to 80 per cent of a car is not designed or made by a vehicle manufacturer ... [it] is actually made up by the suppliers of systems and components'.³⁰

25 DIISR, Submission No. 14, p. 172.

26 ACTU, Submission No. 27, p. 390.

27 Mr Michael Mugliston, *Transcript 12 September 2008*, p. 8.

28 Mr Peter Woolcott, *Transcript 22 September 2008*, p. 11.

29 *Transcript 22 September 2008*, p. 12.

30 Ms Anna Greco, *Transcript 2 October 2008*, p. 50.

- 5.34 FAPM added that due to this integral role in the manufacture of new vehicles, structural disadvantage in export markets for Australian automotive parts manufacturers had an impact on automotive manufacturing capacity overall. If parts manufacturers failed, in the face of unfavourable conditions for trade, this would have consequences for other players in the automotive industry, which might put the industry's sustainability further in doubt.³¹
- 5.35 This applies in two senses. First, Australian suppliers lose contracts due to price structures they are unable to match, and this leads to shrinkage of the domestic industry. Second, domestic manufacturers may choose to move overseas to take advantage of lower-cost business conditions. As FAPM told the Committee:

If the product can be produced, let's say in Thailand, and then imported into Australia without any tariff, and you have got a cheaper country in which to operate, even for our tier 1s, you say, 'Let's start looking at operating in Thailand; we can't afford to continue producing in Australia.' A number of our tier 1s have set up operations in Thailand where operating costs are so cheap. They have tax holidays and employees' costs and all the other associated costs are so much lower, and then there is no tariff there. It is easier to produce over there and then bring it into Australia and that then becomes the benchmark price.³²

- 5.36 In either case, FAPM told the Committee that this amounted to a loss of critical mass, with further consequences for other businesses and the industry as a whole:

Every contract lost to an overseas supplier weakens the local industry. If this trend is not arrested, it will lead to large component suppliers' local operations not being viable, which will mean my closure too.³³

Parts and non-tariff barriers

- 5.37 A variety of non-tariff influences that contribute to unfavourable trading conditions were identified by FAPM, including:
- 'custom regulations' requiring 'excessively detailed classifications';
 - a lack of time-limits on customs clearance;

31 Ms Anna Greco, *Transcript 2 October 2008*, p. 50.

32 Ms Anna Greco, *Transcript 2 October 2008*, p. 55.

33 Ms Anna Greco, *Transcript 2 October 2008*, p. 52.

- 'excessive requirements for paperwork'; and
 - 'cost-downs', where 'the Thai price [is] used as a benchmark and local suppliers have to either meet or beat that benchmark, irrespective of any other costs – operating costs or supply input costs'.³⁴
- 5.38 Importantly, non-tariff barriers encountered by Australian automotive parts exporters also involved levels of 'assistance' that were significantly higher than those provided by Australia. The Committee noted that assistance for automotive products from Thailand were much greater (\$18,000) than those for Australian products (\$3,000), on a per-car basis.³⁵

Current conditions

- 5.39 Thus far, this chapter has noted the fears and concerns of the Australian automotive sector in the face of current and future FTAs. While valid, they fall short of representing the full scope of current conditions, because current conditions present opportunities, as well as difficulties, for Australian automotive exporters.
- 5.40 The experience of Ford Australia illustrates both sides FTAs. When exported to Thailand, Ford Australia's *Territory* model fell foul of Thailand's excise changes. With a better appreciation of Thai excise arrangements, however, Ford Australia is now preparing to manufacture and export another, smaller capacity, model that will not attract excise when Thailand moves to excise-free settings for smaller-capacity vehicles in 2010.³⁶ FCAI told the Committee that exports of the new model were scheduled for 2011.³⁷
- 5.41 DIISR told the Committee that despite initial problems with exporting to Thailand, Ford Australia was regarded as 'one of the strongest supporters of an agreement within ASEAN'.³⁸

Future directions

- 5.42 Challenges persist in relation to trade liberalisation in the automotive sphere. Allowances for the special needs of developing countries are

34 Ms Anna Greco, Transcript 2 October 2008, pp. 51-2.

35 Transcript 2 October 2008, p. 59; Ms Anna Greco, Transcript 2 October 2008, p. 52.

36 Ms Ruth Gallagher, Transcript 12 September 2008, pp. 24-5.

37 Mr Andrew McKellar, Transcript 2 October 2008, p. 53.

38 Ms Ruth Gallagher, Transcript 12 September 2008, p. 24.

embedded in a number of frameworks for trade, including the current Doha round of WTO negotiations.³⁹

5.43 On the other hand, FCAI told the Committee that AANZFTA is capable of modifying and improving upon current settings for automotive trade between the Australia and Thailand under TAFTA, giving 'Australian automotive manufacturers a greater opportunity to access [the Thai] market over and above what is in the bilateral agreement'.⁴⁰

5.44 Subsequent to it being signed, DFAT told the Committee that AANZFTA contained a response to the kind of difficulties seen for automotive exports under TAFTA. These new measures are 'reciprocal commitments', under which Australia has

... committed to giving our ASEAN negotiating partners zero duties – that is, tariff elimination – on entry into force of the AANZFTA. That is for all ASEAN countries except three: Indonesia, Malaysia and Thailand. In those cases we have made reciprocal commitments.⁴¹

5.45 DFAT gave an example:

Indonesia has committed to eliminate tariffs on those vehicles in 2019. Therefore, we will not eliminate tariffs on imports from Indonesia on similar small-sized motor vehicles until 2019. In our tariff schedule we have corresponding schedules for Malaysia and Thailand, which are therefore based on reciprocity.⁴²

5.46 Regarding Australia's proposed scheme to reduce carbon emissions, FAPM expressed concern that this should not add, unduly, to the other challenges faced by the industry – there was a perception that a marked disparity between the obligations of domestic and overseas manufacturers in this regard would harm the Australian industry. To remedy this, FAPM proposed a 'carbon tax on imports', providing for a level playing field for domestic and imported products under an Australian carbon reduction scheme.⁴³

39 Mr Andrew McKellar, *Transcript 2 October 2008*, p. 54.

40 Mr Andrew McKellar, *Transcript 2 October 2008*, p. 55.

41 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 4.

42 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 4.

43 Ms Anna Greco, *Transcript 2 October 2008*, p. 53.

Committee comment

- 5.47 The Committee welcomes the advent of the AANZFTA reciprocal commitment mechanism. This will be welcome in areas of Australian industry where tariff imbalances, such as those perceived under TAFTA, have caused concern.
- 5.48 The Committee takes the view that the experience of the Australian automotive industry in exporting to ASEAN member countries shows that trade liberalisation is, and will continue to be, a complex field. Countries often attempt to maximise the benefits of trade liberalisation while at the same time applying layers of protection over elements of the domestic economy.
- 5.49 To date it appears that the policy of applying a greater focus on tariff barriers in trade negotiations, leaving a 'tail' of negotiation for non-tariff barriers, has not always worked to Australia's satisfaction with regard to its automotive industry, and alternatives must be considered. It would be enormously beneficial if a common measure or denominator were to be developed that would allow calculations of the relative benefits or costs of liberalising agreements regardless of whether particular settings were regarded as tariff or non-tariff barriers (see Recommendation 1).
- 5.50 Australia's experience of automotive trade with ASEAN countries further underscores its complexity. Under such conditions, there is a temptation to identify a particular instrument as the best means of achieving progress. The skill required by the present situation, however, is to orchestrate the bilateral and multilateral instruments currently in place, and those coming into being, to achieve best results.
- 5.51 For this reason, Australia should welcome the advent of AANZFTA, making the best use of its possibilities in order to modify trade relationships that have at times caused anguish in Australia.
- 5.52 It is noteworthy that the rapid growth experienced by the Thai automotive industry over the last decade is not solely attributable to trade barriers. Rather, FAPM told the Committee, this growth has occurred because the Thailand has been able to put into place 'industry, tax and trade policies that all align'.⁴⁴ This raises the possibility that Australia too could create better conditions for domestic automotive industries through better coordination.

44 Ms Anna Greco, *Transcript 2 October 2008*, p. 55.

Pork

- 5.53 The Australia pork export industry also encounters obstacles and opportunities in its trade with ASEAN countries. These illustrate other dimensions of Australia's trade relationships in the region. Local conditions vary from country to country, producing variations in levels of demand for Australian pork and unique challenges for the industry.
- 5.54 Australia's exports of pork into the region rely on the kinds of instruments – particularly those relating to food labelling and safety standards – for which multilateral agreements appear to be best suited. This is notable in view of the facilities available under AANZFTA.

Level of demand

- 5.55 APL advised the Committee that while Muslim Indonesian and Malaysian consumers did not eat pork, both countries had substantial ethnic Chinese populations who consumed pork like other ethnic Chinese populations in ASEAN countries. Indeed, Indonesia had the highest population of overseas Chinese in the world, and this group's preference for pork and affluence which correlated to meat consumption, meant they were a significant source of demand for Australian pork.⁴⁵
- 5.56 APL added that there was also strong demand from other predominantly non-Muslim ASEAN countries, such as the Philippines, Thailand and Vietnam. Problems with pig diseases in the Philippines and Vietnam reduced the ability of these countries to meet demand from domestic production, and this again created opportunities for the Australian export industry.⁴⁶
- 5.57 The Philippines' rising population also indicated that it would continue to be an important export market. As well, Vietnam relied on imports for 80% of its domestic needs.⁴⁷
- 5.58 APL told the Committee that the outlook for pork demand was positive. Together, pig meat and chicken meat 'dominated' meat production and consumption in the ASEAN region, and levels of demand for meat in

45 Australian Pork Limited, *Submission No. 26*, p. 355.

46 Australian Pork Limited, *Submission No. 26*, pp. 358, 362.

47 Australian Pork Limited, *Submission No. 26*, pp. 358, 362.

general, were rising in line with GDP growth. Within this picture, pork was significant as a 'widely consumed' source of protein.⁴⁸

Cultural differences

5.59 Australian Pork Limited (APL) told the Committee that cultural preferences played a large part in determining the level and nature of demand for food imports in ASEAN. Their effects could be unexpected: two prominent members of ASEAN, Indonesia and Malaysia, were predominantly Muslim, and this might be expected to curtail Australian pork exports. While this undoubtedly reduced the overall volume of pork traded to these countries, internal cultural pressures had a downward impact on *domestic* pork production, and this had created opportunities for Australian producers to cater to ethnic minorities.⁴⁹

5.60 Other cultural differences were identified by APL:

- Consumers in a number of ASEAN countries, in contrast to Australia, favoured pork from 'freshly slaughtered animals', sold in 'wet markets'.⁵⁰
- Consumers of pork in ASEAN countries showed a preference for different cuts of pork. Pig offal accounted for a significant component part of demand in Thailand, the Philippines and Vietnam and, as a result, tariffs applied to these products were more significant than if they were consumed at rates similar to those in Australia.⁵¹
- High levels of cultural variation between ASEAN members resulted in different levels of demand for particular kinds of meat, of which the influence of Islam on demand for pork was only one example. In other countries Buddhist influence had a similar effect on beef consumption.⁵²

Market niche

5.61 APL told the Committee that Australian pork exporters had responded to this complex marketplace by creating a niche in the ASEAN market which

48 Australian Pork Limited, *Submission No. 26*, pp. 345-6, 348. See also FAOSTAT, *Protein Consumption Quantity*, <http://faostat.fao.org/site/610/default.aspx#ancor> accessed 2 February 2009.

49 Australian Pork Limited, *Submission No. 26*, pp. 355, 361.

50 Australian Pork Limited, *Submission No. 26*, p. 358.

51 Australian Pork Limited, *Submission No. 26*, pp. 351, 358, 362.

52 Australian Pork Limited, *Submission No. 26*, pp. 348-9.

matched Australian production capacity. This followed the so-called ‘Singapore model’ – ‘fresh chilled pork, in a niche affluent market, and which is cost efficient to ship’. A number of ASEAN countries were regarded as amenable to this approach, given their proximity to Australia and rising their GDP.⁵³

5.62 The niche described by APL entailed a ‘focus on those markets which can be sustained over the cycle of exchange rate fluctuations; and that can support a high quality/high price chilled pork positioning’. In effect, this ‘means primarily focusing on developing and strengthening trade with ASEAN countries who are experiencing sustained economic development’.⁵⁴

5.63 APL added that this approach envisaged high quality rather than high volume for Australian pork exports. This suited Australia’s production capacity, and protected the Australian pork export trade from perceptions that ‘agricultural trade liberal liberalisation will result in a “flood of imported Australian product” into the domestic market.’⁵⁵

Barriers to trade

5.64 However much this approach is designed to reduce anxiety on the part of domestic producers in ASEAN countries, barriers to trade continue to persist. APL drew attention to the range of barriers that could beset other export industries. These included:

- tariffs;
- ‘financial support’ to producers;
- ‘growing domestic regulatory and compliance requirements’; and
- quotas.⁵⁶

5.65 With regard to tariffs, APL cited Thailand as a problematic case where, under TAFTA, tariff barriers remained high (33 per cent), with long timelines for tariff reduction – TAFTA provided for zero tariffs on pork by 2020. In contrast, lamb and sheep meat reached the same point in 2010. As noted above, pork offal was subject to particular restrictions. This was

53 Australian Pork Limited, *Submission No. 26*, p. 346.

54 Australian Pork Limited, *Submission No. 26*, pp. 345-6.

55 Australian Pork Limited, *Submission No. 26*, pp. 364-5.

56 Australian Pork Limited, *Submission No. 26*, pp. 342, 352, 358.

compounded by the Most Favoured Nation status applied to some of Thailand's other trading partners.⁵⁷

- 5.66 APL advised the Committee that in the Philippines, tariff mechanisms also interacted with quota arrangements. Further tariffs ('special safeguards' or 'SSGs') were placed on imported product to protect domestic production when a certain level of overseas product came into the market.⁵⁸ SSGs, which were intended to protect national industries from flooding by offshore products, were also a feature of the trade in pork with Thailand.⁵⁹
- 5.67 APL also advised the Committee of further non-tariff barriers that were significant to Australia's pork exports to ASEAN countries. These illustrated both the complexity of trade in the region and the promise of avenues currently being pursued.
- 5.68 APL noted the significance of these matters with regard to disease. On one hand, Australia prized its relatively disease-free status with regard to pork production, and industry representatives encouraged a firm position on maintaining biosecurity controls.⁶⁰
- 5.69 On the other hand, APL raised objections that other ASEAN countries, such as the Philippines, reserved the right to exercise a 'broad discretionary power to reject imports when there is perceived to be a risk of disease'. In the absence of further qualification, argued APL, this constituted another form of non-tariff barrier.⁶¹

Brand-recognition

- 5.70 A further challenge emerges in connection with product identification and branding, and their relationship with cultural practice. In its submission, APL argued that consumers in Singapore were unlikely to have a clear sense that they were eating Australian pork, even though Singapore represented a very significant market for the Australian product.⁶²
- 5.71 APL explained that pork in Singapore was sold through so-called 'wet markets', where un-packaged meat was offered for sale. Consumers were less able to identify Australian product if it was sold without clear packaging and labelling. This opened the possibility of various kinds of

57 Australian Pork Limited, *Submission No. 26*, p. 351.

58 Australian Pork Limited, *Submission No. 26*, p. 358.

59 Australian Pork Limited, *Submission No. 26*, p. 352.

60 Australian Pork Limited, *Submission No. 26*, p. 365.

61 Australian Pork Limited, *Submission No. 26*, p. 361.

62 Australian Pork Limited, *Submission No. 26*, p. 350.

misrepresentation – in particular, substitution of meat from a cheaper source which was sold as Australian pork, and offering frozen/thawed meat in place of chilled Australian pork meat. These practices reduced the perception of quality associated with Australian pork, and weakened the degree to which Australian meat was clearly identifiable to Singaporean consumers.⁶³

Committee comment

- 5.72 In the view of the Committee, the challenges encountered by Australian pork exporters to the ASEAN region are significant. Important in themselves, they also illustrate the challenges likely to be encountered by other Australian export industries. As for Australian automotive exports, it is clear that non-tariff barriers to Australian pork exports are as or more important than explicit, tariff-based barriers. As such, it is imperative that they become a more central part of trade negotiations.
- 5.73 It is also clear that while the adoption of consistent standards across the region may, on the face of it, appear less important than other dimensions of negotiations on trade they are an important avenue through which to resolve difficulties encountered by Australian exporters, including those in the pork industry.
- 5.74 It is clear, for example, that discussion over standards for disease-protection could descend into claim and counter-claim. The solution is to ensure that a science-based approach is broadly adopted within the region. Australia has a significant role to play in promoting this, particularly through leading by example and strengthening capability within ASEAN (see Chapter 7).
- 5.75 Similarly, the fate of Australian pork in Singapore's wet markets can be resolved through the wider and more consistent adoption of country of origin labelling – a central element of AANZFTA. The present absence of a clear brand for Australian pork, in spite of promotional efforts, is clearly not acceptable.
- 5.76 The Committee considers this a signal example of the way in which local cultural variations can stifle the marketing of Australian products within the ASEAN region. If country of origin labelling is implemented such that it resolves these challenges, it may develop into a useful tool for resolving similar problems with other Australian products.

63 Australian Pork Limited, *Submission No. 26*, p. 350.

- 5.77 To date, Australia has made significant investment in promoting standards and increasing technical capacity in the ASEAN region, through which to support them. The Committee suggests, on the basis of the experience of Australian pork exporters, that this contribution to the capacity of other countries is indeed a fruitful avenue, through which Australia can further its own interests while making a positive contribution to those of its neighbours.
- 5.78 The Committee notes that Australian pork faces other challenges that are not specific to ASEAN countries, but which have an impact on Australia's pork exports to ASEAN. These stem from Australia's plans to adopt a carbon pollution reduction scheme. Another important influence is the financial support other countries provide to their pork export industries: in particular Canada, the United States and Denmark.⁶⁴
- 5.79 In the view of the Committee, these features underscore the importance of Australia's continued focus on WTO negotiations, at the same time as it continues to focus on current multilateral, bilateral, and follow-up trade negotiations within the ASEAN region. This broader task represents a considerable challenge for Australia in marshalling and applying its resources – even in terms of conducting negotiations alone – while maintaining a sense of perspective and proportionality.

64 Australian Pork Limited, *Submission No. 26*, pp. 366-7, 364.

Trade in services

Introduction

- 6.1 Services exports represent an important opportunity for Australia. The review of export policies and programs provided to the Minister for Trade by Mortimer and Edwards in 2008, *Winning in World Markets*, stated that the world-wide services market had been 'growing more rapidly than world production and merchandise trade'. Services exports represented a growth area, where Australia had more chance of increasing export trade than in other sectors, 'given that services represent 60 per cent of total global economic activity while accounting for just 20 per cent of global trade'.¹
- 6.2 However, to take advantage of this, Australia's performance required attention. Australia's export trade in services over the last two decades had seen increases in value, but reductions in volume. This was not a sign of underlying health, and showed that Australia could be performing better in this sector.²
- 6.3 The report argued that an important factor was the *complexion* of Australia's export trade in services. This differed from those of other developed countries in that Australia relied heavily on education and tourism – a 'relatively small proportion' was based on 'knowledge-intensive business services'.³

1 Mortimer and Edwards, *Winning in World Markets*, p. 34

2 Mortimer and Edwards, *Winning in World Markets*, pp. 42-3.

3 Mortimer and Edwards, *Winning in World Markets*, p. 60.

- 6.4 If Australia were to address this imbalance, substantial benefits would flow, in particular by building on Australia's present strengths in 'financial services ... and professional and business services, including agribusiness'.⁴
- 6.5 A further factor was that production processes for services were 'increasingly complex and spread across national borders'.⁵ Country-based trade barriers could obstruct these processes, and reduce Australia's capacity to take up opportunities in this sector. As such, they should become a focus for negotiation as Australia moves to liberalise trade relationships with its regional trading partners.⁶

Services exports to ASEAN countries

- 6.6 As a developed economy, Australia should be well-placed to increase its service sector exports to ASEAN member countries. There are concerns however that Australia has experienced increased services sector trade deficits after entering into FTAs with Thailand, Singapore and the US.⁷
- 6.7 A broader consideration of Australian services exports shows an array of challenges and opportunities. DFAT told the Committee that there was a high level of interest in trade in services among ASEAN member countries.⁸ DIISR also advised the Committee that:
- There are considerable opportunities for Australian service suppliers in the ASEAN region. The fast pace of economic growth in these economies is, in turn, leading to a more wealthy and growing middle class which are demanding rapidly expanding services markets. The relatively underdeveloped nature of many Asian services markets, combined with Australia's significant competitive advantage offers opportunities in, amongst others, telecommunications, financial services, tourism and travel-related services, transport, logistics and distribution services and professional services (eg. engineering and construction).⁹
- 6.8 On the other hand, there were also a number of inhibiting factors to be considered. DIISR advised the Committee of barriers to service exports in the region, including:

4 Mortimer and Edwards, *Winning in World Markets*, p. 60.

5 Mortimer and Edwards, *Winning in World Markets*, p. 34.

6 Mortimer and Edwards, *Winning in World Markets*, p. 85.

7 ACTU, *Submission No. 27*, pp. 390, 405-6.

8 Mr Michael Mugliston, *Transcript 22 September 2008*, p. 9.

9 DIISR, *Submission No. 14*, p. 173.

... foreign equity limitations, lack of recognition of qualifications, restrictions on the issue of licences, various restrictions on commercial presence such as the number and location of branches and restrictions on the forms of commercial presence (such as joint venture requirements).¹⁰

6.9 As for other areas of trade, Australia's interests will be well served if it is able to make the most of its opportunities, and to reduce the barriers it faces when it seeks to export services to the ASEAN region. This chapter considers Australia's current trade in services to ASEAN member countries in the areas of:

- education;
- telecommunications;
- aviation;
- the recognition of professional qualifications which impacts mobility; and
- foreign direct investment.

Education

6.10 Education is the flagship of Australia's export services sector, accounting for a significant part of Australia's export trade with ASEAN countries. DEEWR advised the Committee that Australia is 'a leader in the field of international education', 'the world's fifth-largest provider of education to international students'. Educational services had grown in recent years, 'fuelled by rapid levels of economic growth and prosperity in the Asia-Pacific'.¹¹

6.11 DEEWR advised the Committee that education made a strong contribution to Australia's export income:

Export income from the international provision of Australian education and training contributed \$12.5 billion to the Australian economy in 2007, making it Australia's third largest export industry behind coal and iron ore (\$20.8 billion and \$16.1 billion respectively). It is Australia's largest services export industry, ahead of personal travel services (\$11.8 billion).¹²

10 DIISR, *Submission No. 14*, p. 173; see also Mortimer, *Winning in World Markets*, p. 36, Box 1.1.

11 DEEWR, *Submission No. 23*, p. 263.

12 DEEWR, *Submission No. 23*, p. 263.

- 6.12 Over the years 2000–2007, Australian education exports grew at an average of 15 per cent per year.¹³ DEEWR advised that this had occurred against a backdrop of sustained growth in the world education market:
- In 1975 the world foreign student market was 600,000 people but by 2000 it was 1.8 million and in 2005 it had reached 2.7 million - a 50 per cent increase in just half a decade.¹⁴
- 6.13 However, Australia’s provision of education to ASEAN member countries is more than just a function of overall growth in the sector. DEEWR told the Committee that growth in Australian education educational exports was based on relationships between ASEAN countries and Australia which are ‘in very good condition’, which are continuing to develop.¹⁵
- 6.14 DFAT advised the Committee that the number of students from ASEAN countries receiving educational services in Australia in 2007 was 65,000.¹⁶ When students in Australian off-shore educational services were included, DEEWR told the Committee, the total increased to 77,000.¹⁷
- 6.15 DEEWR advised the Committee that Australia had the ‘highest proportion of foreign students in our higher education system than any other country’ – 19.3 per cent compared to the OECD average of 7.2 percent.¹⁸
- 6.16 Interest in vocational education and training (VET) places was also increasing – international VET student numbers in 2007 places grew by 45 percent to a total of more than 120,000.¹⁹ English-language programs were also continuing to attract interest from prospective students.²⁰
- 6.17 The nature of demand varies between countries of origin. DEEWR told the Committee that while Malaysian students typically come to Australia for post-graduate qualifications, students from other ASEAN countries seek to enter VET, and English-language programs. A proportion of these students then pursue other studies in Australia.²¹
- 6.18 DEEWR advised the Committee that for some ASEAN countries, such as the Philippines, there was potential for further development of this market. Australia was perceived to be a safer destination compared with other countries, including the US, a competitor in the international student
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13 Mortimer and Edwards, *Winning in World Markets*, pp. 43.

14 DEEWR, *Submission No. 23*, p. 264.

15 Mr Scott Evans, *Transcript 12 September 2008*, p. 76.

16 DFAT, *Submission No. 24*, p. 300.

17 Mr Scott Evans, *Transcript 12 September 2008*, p. 76.

18 DEEWR, *Submission No. 23*, p. 263.

19 DEEWR, *Submission No. 23*, p. 264.

20 DEEWR, *Submission No. 23*, p. 264.

21 Mr Scott Evans, *Transcript 12 September 2008*, p. 80.

market. This factor could support further expansion of the Australian market.²²

Risks

- 6.19 The current education market holds, then, many positive features for Australian educational services exporters. There are risk factors, however, associated with Australia's current position.
- 6.20 DEEWR advised the Committee that significant competition was entering the market from non-ASEAN countries, but also from emergent capacity within ASEAN. These arose to cater for domestic demand, but had the potential to enable ASEAN member countries to export educational services in the future.²³
- 6.21 DEEWR advised that China was investing heavily in developing its educational capacity.²⁴ Singapore and Malaysia had developed a capacity to compete in the educational services market, responding to demand from Indonesia, particularly in response to changes in the Australian dollar exchange rates.²⁵
- 6.22 These developments will affect the wider market, and foreshadow similar developments in other countries. They will demand prompt and flexible responses from the Australian educational sector if it is to maintain a component of its current competitive advantage.

Other obstacles

- 6.23 There are also other challenges on the horizon. DEEWR told the Committee that a further barrier to the ASEAN education market centred on the recognition of qualifications. Where students can anticipate that their Australian professional qualifications will be recognised, they will be more likely to consume Australian educational services.²⁶
- 6.24 DEEWR told the Committee that another risk lay in the possibility that Australia could be left out of an emergent, more integrated ASEAN educational market.²⁷ This mirrors the broader risks and opportunities faced by Australia from ASEAN integration.
- 6.25 Effective appraisal of these developments, and an ability to find a place within them, will set conditions for Australia's continued ability to market

22 Mr Scott Evans, *Transcript 12 September 2008*, pp. 80-81.

23 DEEWR, *Submission No. 23*, p. 264.

24 DEEWR, *Submission No. 23*, p. 264.

25 DEEWR, *Submission No. 28*, p. 413.

26 Mr Scott Evans, *Transcript 12 September 2008*, pp. 81-2.

27 Mr Scott Evans, *Transcript 12 September 2008*, p. 82.

educational services to ASEAN countries. This, DEEWR told the Committee, 'is probably the critical issue' in determining the future of one of Australia's significant export industries.²⁸

Responses

- 6.26 The ACTU advised the Committee that Australia had responded to the trend in ASEAN for development of internal education capacity by establishing campuses in ASEAN. These were viewed in a positive light by governments wishing to establish domestic capacity. Existing partnership arrangements, facilities, and established processes, such as travel by Australia-based academics to overseas campuses of Australian providers, form a basis for this approach.²⁹
- 6.27 DEEWR predicted that Australia will move to being 'a high-end diverse niche provider', employing 'a greater degree of offshore delivery through branch campuses in foreign markets', in combination with information and communications technologies.³⁰
- 6.28 DEEWR also noted that Australia's response been based on 'its ability to anticipate and respond to successive waves of international engagement with the region'. Australia needed to maintain this capacity for flexible response, within a 'dynamic international environment' for educational services if it was to continue to be successful. It must, DEEWR suggested 'continually improve its education choices', 'maintain high standards', and 'develop innovative, flexible ways to deliver services'.³¹

Education and FTAs

- 6.29 The ACTU argued that Australia's current success in the export of educational services was not 'due to commitments in FTAs'.³²
- 6.30 In contrast, DEEWR told the Committee that FTA avenues will become more important as Australia providers change modes of delivery. The move to deliver a higher proportion of educational services within ASEAN member countries will rely on improved market access for Australian providers in ways which were not currently being used.³³

28 Mr Scott Evans, *Transcript 12 September 2008*, p. 82.

29 ACTU, *Submission No. 27*, p. 408.

30 DEEWR, *Submission No. 23*, p. 264.

31 DEEWR, *Submission No. 23*, p. 263-4.

32 ACTU, *Submission No. 27*, p. 408.

33 Mr Peter Davies, *Transcript 12 September 2008*, p. 82.

- 6.31 DEEWR told the Committee that there were a number of elements which could be covered in FTAs, which would help in ensuring the viability of this approach. These included:
- recognition of Australian professional and academic qualifications;
 - establishment of Australian educational institutions overseas;
 - reduction of licence and market access restrictions;
 - regulatory transparency; and
 - movement of educational professionals.³⁴

Committee comment

- 6.32 The Committee believes that paying specific attention to education in trade negotiations will be necessary to ensure continuing success for Australian education exports. To the extent that barriers to trade are removed, Australia will be in a better position to respond to further changes in the ASEAN education market as they unfold.
- 6.33 For this reason, the Committee believes it imperative that Australia continue its present focus on trade processes and agreements, including current bilateral processes or agreements with ASEAN member countries,³⁵ and multilateral fora such as SEAMEO (Southeast Asian Ministers for Education Organisation).³⁶
- 6.34 The Committee acknowledges the benefit Australia educational service providers derive from the activities of the Australian Government representative body, Australia Education International.³⁷ Successful export industries such as this warrant government partnership and support.
- 6.35 It is clear to the Committee that Australian educational services will be obliged to make difficult decisions as they adapt to new developments. In a market clearly driven by vocational concerns on the part of students, the Committee endorses DEEWR's observation that the best strategic position will be achieved if Australia is able to focus on efforts to:
- adopt world's best practice;
 - understand what students want; and
 - know what employers want.³⁸
- 6.36 The Committee encourages those involved in this important export activity, including Government, to ensure that these questions are
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34 DEEWR, *Submission No. 23*, p. 275.

35 DEEWR, *Submission No. 23*, pp. 267–72.

36 DEEWR, *Submission No. 23*, pp. 272–5.

37 DEEWR, *Submission No. 23*, pp. 264–5.

38 DEEWR, *Submission No. 23*, p. 265.

answered effectively, and that Australian educational service providers bring this information to bear in their future activities.

- 6.37 Turning to FTAs, the Committee believes it is important to advance the issues identified DEEWR in new treaties and when existing treaties are reviewed. Of particular importance are:
- the recognition of qualifications;
 - the facilitation of market access and movement of education professionals; and
 - regulatory transparency, including the maintenance of high standards of accreditation and monitoring.
- 6.38 If Australia is able to achieve successful dialogue and negotiation on trade with ASEAN member countries, this will prove an important support to Australia's ongoing success in this area. This will, in turn, make a significant contribution to Australia's efforts to achieve a favourable position as ASEAN member countries move toward greater integration.³⁹

Telecommunications

- 6.39 Australia is in a good position to deliver telecommunications services to ASEAN member countries. It has technical know-how, a well-developed domestic telecommunications sector and a telecommunications business – Telstra – sufficiently large in scale to take on and fund large projects.
- 6.40 Telstra advised the Committee that it has a considerable business engagement with ASEAN countries. Australia has a relatively liberalised telecommunications market, but when it sought to do business in the ASEAN member states, it faced a number of restrictions, as 'almost all ASEAN countries maintain foreign ownership restrictions of foreign investment and control of domestic telecommunications carriers'.⁴⁰
- 6.41 Less-developed telecommunications markets tend to be less open to competition, and to off-shore providers. ACMA told the Committee that mobile phone penetration rates were a proxy measure for 'the relative sophistication of the regulatory regime and the competitiveness of the regime in each of those countries'.⁴¹ ACMA's submission showed high levels of variation in mobile phone take-up in some ASEAN member

39 DEEWR, *Submission No. 23*, p. 265.

40 Telstra, *Submission No. 8*, pp. 83, 84.

41 Mr Colin Oliver, *Transcript 2 October 2008*, p. 21.

countries, indicating variations in the degree to which these markets are open to new telecommunications providers.⁴²

- 6.42 Telstra told the Committee that its current business practice in the ASEAN region was to clearly identify areas where country-based restrictions were less likely to impact on trade. There were risks in moving beyond this niche toward a more mainstream role in telecommunications in the ASEAN region.
- 6.43 Telstra added that it faced two main problems in the ASEAN market:
- constraints on levels of foreign ownership for telecommunications companies; and
 - various regulations that were complex, less than transparent, and unpredictable.⁴³

Ownership restrictions

- 6.44 Telstra cited Thailand as an example of foreign ownership regulations, where there was a foreign ownership limit of 49 per cent on entities trading in domestic telecommunications. This increased risks to return on investment, since in such an arrangement Telstra was less able to control commercial decision-making.⁴⁴
- 6.45 DBCDE told the Committee that ownership restrictions varied across ASEAN member countries. Singapore had the lowest levels of restriction on foreign ownership, and the Australian relationship with Singapore on telecommunications was the most advanced for any country within ASEAN. In this, Singapore was followed by Malaysia and Thailand.⁴⁵
- 6.46 DBCDE also told the Committee that such restrictions took the shape of requirements that a certain 'percentage of the infrastructure be in the particular country's national hands', or 'rollout obligations, which can only be put on a licence that is available to a domestically registered carrier'.⁴⁶
- 6.47 Telstra told the Committee that these requirements frequently entailed an obligation to use 'designated carriers' that were 'government controlled telecom operators', and this had significant commercial implications for other players wishing to enter a domestic telecommunications market.⁴⁷
- 6.48 Telstra advised the Committee that these factors, because they stopped at national borders, created a strong difference between the commercial

42 DBCDE, *Submission No. 20*, p.2, referenced by Mr Colin Oliver, *Transcript 2 October 2008*, p. 21.

43 Mr Kavan Peries, *Transcript 6 November 2008*, pp. 25–6.

44 Mr Kavan Peries, *Transcript 6 November 2008*, p. 27.

45 Mr Colin Oliver, *Transcript 2 October 2008*, p. 20.

46 Ms Maureen Cahill, *Transcript 2 October 2008*, p. 20.

47 Mr Kavan Peries, *Transcript 6 November 2008*, p. 26.

attractiveness of telecommunications services out- and inside of national borders:

International gateway and last-mile services are typically reserved for local incumbent carriers. In the absence of competition, the services provided are of markedly inferior quality and tend to inflate end-to-end charges far in excess of typical competitive end-to-end rates for international telecommunications services between developed countries.⁴⁸

6.49 Even where foreign ownership requirements were less stringent there could be barriers relating to:

... interconnection, the price of interconnection, access to information about the network and ability to run lines across a street to actually establish physical facilities. So you can actually run into a very large number of barriers.⁴⁹

6.50 Telstra told the Committee that these influences increased the price of services to international and domestic telecommunications customers and as a result 'the ASEAN region, from a liberalisation perspective of the telecom sector, still has a long way to go'.⁵⁰

Regulatory restrictions

6.51 DCDBE told the Committee that a further significant difficulty for Australian telecommunications providers arose from there being no regulator 'independent of the major carrier'.⁵¹ This contributed to the complexity of problems faced by telecommunications providers, such as :

... issues of access to the incumbent's network in order to provide connectivity, the price of that access, the terms of that access, the information that you need from a technical point of view in order to be able to do that and access to the facilities ... like access to the switching facility where you need to go to connect and the price of that access, the space that is available and access to the keys. It can come down to some really fine-grained levels of detail.⁵²

6.52 One of the results of this lack of development in regulatory regimes, Telstra told the Committee, was that telecommunications licensing processes were slow, taking 'at least one to two years'.⁵³ Telstra told the

48 Telstra, *Submission No. 8*, p. 84.

49 Mr Colin Oliver, *Transcript 2 October 2008*, p. 20.

50 Mr Kavan Peries, *Transcript 6 November 2008*, p. 26.

51 Mr Colin Oliver, *Transcript 2 October 2008*, p. 21.

52 Mr Colin Oliver, *Transcript 2 October 2008*, p. 21.

53 Mr Kavan Peries, *Transcript 6 November 2008*, p. 27.

Committee that by contrast in Australia similar such licenses were available on an 'over the counter' basis, requiring little in the way of lead-time.⁵⁴

6.53 Telstra identified other problems:

Domestic telecommunications regulation in many ASEAN countries is notoriously opaque, and efforts by international carriers to enter those markets have been routinely stymied by highly bureaucratic (or non-existent) regulatory requirements.⁵⁵

6.54 Such arrangements lead to high levels of uncertainty as to operational parameters. Telstra described an instance where significant variations in figures were quoted by the Indonesian government pertaining to foreign ownership:

Foreign investment limits were reported to be 95 per cent on one day and the next day it was 49 per cent. After six months it went to 61 per cent and then to 65 per cent. It was not exactly clear where the regulation sat.⁵⁶

6.55 Known and reliable regulatory regimes, however, are especially critical in the realm of telecommunications. DBCDE told the Committee that service providers needed to know about the technical standards and parameters employed in a particular market if they were to operate successfully. This formed an 'additional layer' of regulatory concerns compared with other industries.⁵⁷

6.56 If not addressed, Telstra told the Committee, foreign ownership restrictions and a lack of development in the technical regulation would create prohibitive costs for Australian firms exporting services within the region.⁵⁸ These factors would lead to restrictions on the bandwidth companies were able to offer. With increasing bandwidth requirements this would in time 'become a serious impediment'.⁵⁹

Responses

6.57 Telstra told the Committee that, in view of the conditions described for telecommunications providers in ASEAN member states, it had defined a distinct niche for its operations in the region. There are two areas of focus. The first centred on providing international telecommunications services

54 Mr Kavan Peries, *Transcript 6 November 2008*, p. 27.

55 Telstra, *Submission No. 8*, p. 84.

56 Mr Kavan Peries, *Transcript 6 November 2008*, pp. 28-9.

57 Mr Colin Oliver, *Transcript 2 October 2008*, p. 18.

58 Telstra, *Submission No. 8*, pp. 84-5.

59 Telstra, *Submission No. 8*, p. 84.

to business customers — ‘suppliers of consumer goods, banks, hotel chains, technology vendors, and resources companies’.⁶⁰

- 6.58 The second centred on acquiring international telecommunications cable capacity. For Telstra, these two approaches were part of the one business strategy:

Typically what Telstra International does is provide international telecommunication services to multinational corporations, whether they are Australian based multinational corporations or whether they are foreign owned multinational corporations. We provide a broad range of data and voice services ... based on a significant amount of cable infrastructure that Telstra has made over the last few years.⁶¹

- 6.59 Telstra told the Committee that this strategy had been the subject of considerable levels of investment, circumventing the restrictions on investment Telstra had encountered elsewhere:

Over the last five years we have made investments amounting to approximately \$1 billion. During the last couple of years we made two significant investments. One is a new cable that was launched a couple of months ago called the Endeavour cable that links Sydney to Hawaii, and also a new investment in a cable called the American-Asia Gateway, which connects South-East Asia through Hawaii, linking to the Endeavour cable and takes your broadband or other data traffic to the west coast of the US.⁶²

- 6.60 In this way, Telstra told the Committee, it ensured that it acquired the capacity it needed to service customers, who were themselves oriented toward international, rather than national, operations.⁶³

- 6.61 Addressing this niche market allowed Telstra’s business involvement to stop short of having to engage with the ‘behind the border’ matters detailed above, and the myriad complexities that arose. Telstra told the Committee that although this niche represented only part of the telecommunications market in ASEAN member countries, it continued to foster demand, and experience growth. Telstra continued to ‘build and acquire new cable capacity’,⁶⁴ and expand other parts of its capability in response to emerging demand from its business customers.⁶⁵

60 Telstra, *Submission No. 8*, p. 83.

61 Mr Kavan Peries, *Transcript 6 November 2008*, p. 25.

62 Mr Kavan Peries, *Transcript 6 November 2008*, p. 25.

63 Mr Kavan Peries, *Transcript 6 November 2008*, p. 25.

64 Telstra, *Submission No. 8*, p. 83.

65 Mr Kavan Peries, *Transcript 6 November 2008*, p. 30.

- 6.62 Telstra told the Committee that it might diverge from its business strategy, depending on its relationship with particular ASEAN countries. For example, in Vietnam and Indonesia, it followed its basic focus in building telecommunications backbones, such as 'satellite earth stations and international gateway exchanges' but also, at the request of the governments concerned, installed 'basic access lines', upgraded exchanges and provided considerable volumes of training.⁶⁶
- 6.63 Telstra told the Committee that anticipated growth in levels of demand was an important factor in telecommunications in the ASEAN member states. Patterns of use in Indonesia give a foretaste of the changing landscape in this respect:
- During the Asian crisis times the penetration in the mobile sector was less than one per cent with a population of 250 million, with one per cent penetration. Now the penetration is over 30 per cent and it is all driven by people texting each other, whether they are in Java or whether they are in LA. All that traffic has to go somewhere out of the country ...⁶⁷
- 6.64 Telstra also told the Committee that these developments fitted well with Telstra's interest in international telecommunications infrastructure whereby Telstra had developed a successful strategy to carry this traffic 'with some partners'.⁶⁸

Responses by Australia

- 6.65 Australia can assist by creating more favourable conditions for Australian telecommunications exporters within the ASEAN region.
- 6.66 DBCDE told the Committee that it collaborated with ACMA on Mutual Recognition Agreements on 'technical regulatory issues',⁶⁹ which were defined as:
- ... treaty-level agreement[s] between two or more countries under which countries agree to reduce regulatory barriers that apply to supply of a particular product and equipment. In a nutshell, it means that we are agreeing with another country that their testing of the equipment would be something that we would accept into Australia and that the reports of our testing houses would be accepted for the export.⁷⁰

66 Telstra, *Submission No. 8*, pp. 82–3.

67 Mr Kavan Peries, *Transcript 6 November 2008*, p. 29.

68 Mr Kavan Peries, *Transcript 6 November 2008*, p. 29.

69 DBCDE, *Submission No. 20*, p. 248.

70 Ms Maureen Cahill, *Transcript 2 October 2008*, p. 19.

- 6.67 DBCDE also advised that while Australia did not have an agreement with ASEAN member countries, as such, on equipment specifications and systems interoperability, it did hold agreements with a number of ASEAN member countries through the APEC TEL MRA Taskforce. The countries were Brunei, Malaysia, Philippines, Singapore, Thailand and Vietnam.⁷¹
- 6.68 DBCDE also told the Committee that this work was part of a broader range of measures in which Australia sought to achieve cooperation with ASEAN member states in the realm of telecommunications – other cooperative processes being pursued were initiatives to manage spam and Internet security. These were challenges that needed solutions which went beyond national borders and so inherently lent themselves to multilateral relationship-building.⁷²
- 6.69 DBCDE also supported capacity-building within ASEAN member states. Activities included:
- assisting Laos to develop telecommunications licensing arrangements;
 - assisting Vietnam to draft telecommunications law;
 - conducting a feasibility study on wireless and broadband communications for emergencies in the Philippines;
 - training in Cambodia on spectrum management;
 - hosting a cybersecurity forum to help ASEAN member countries develop cybersecurity strategies; and
 - conducting a workshop on telecommunications trade rules and regulations in Singapore.⁷³
- 6.70 Further, DBCDE told the Committee that it had also been involved in trade negotiations on telecommunications in association with DFAT, engaging with ‘relevant telecommunications Ministries and regulatory bodies of the ASEAN region throughout the Australia-New Zealand-ASEAN Free Trade Agreement negotiation process’.⁷⁴

Telecommunications and free trade agreements

- 6.71 Telstra told the Committee, telecommunications tended to fall ‘in the too-hard basket’ within the process of Free Trade negotiations,⁷⁵ and

71 DBCDE, *Submission No. 20*, p. 248.

72 DBCDE, *Submission No. 20*, p. 248.

73 DBCDE, *Submission No. 20*, p. 247.

74 DBCDE, *Submission No. 20*, p. 246.

75 Mr Kavan Peries, *Transcript 6 November 2008*, pp. 26–7.

commented that TAFTA was an example of the potential for poor outcomes from FTAs.⁷⁶

- 6.72 Telstra noted, however, SAFTA's 'comprehensive' telecommunications chapter, and argued that other FTAs should come up to a similar standard – specifically that currently being negotiated with Indonesia. Telstra also advocated that signatories to such agreements should be bound to them in domestic law.⁷⁷
- 6.73 Telstra also told the Committee that, from an industry perspective, there was measured support for FTAs where telecommunications chapters were included. Telstra added that it was 'disappointed' with the outcome of TAFTA, but more satisfied with outcomes from other FTAs, including that with the U.S. in which other problems were resolved, such as those associated with labour mobility.⁷⁸
- 6.74 DBCDE's submission to the Committee indicated progress was being made. It drew attention to the 'strong disciplines on telecommunications and e-commerce' in the negotiations for FTAs with Malaysia, and with Indonesia.⁷⁹

Committee comment

- 6.75 In the Committee's view, telecommunications services represent a significant avenue through which Australia can expand its exports to ASEAN member states. This sector was identified by the Mortimer and Edwards report as high priority for expansion in export trade.
- 6.76 Further development in telecommunications, and knowledge-economy activities in general, would allow Australia to build on and go beyond the reliance on education and tourism, and enhance its efforts to achieve a more favourable balance of trade.⁸⁰
- 6.77 In view of the challenges faced by Australian telecommunications providers within ASEAN, most particularly in terms of government restrictions on trade and investment, the Committee can see the virtues of Telstra's current business model which seeks to maximise opportunities and reduce risk within a complex environment.
- 6.78 However, the Committee also sees the limits of such a model. With this in view, the Committee emphasises the importance of Australian government

76 Telstra, *Submission No. 8*, p. 86.

77 Telstra, *Submission No. 8*, pp. 87, 85.

78 Mr Kavan Peries, *Transcript 6 November 2008*, p. 26.

79 DBCDE, *Submission No. 20*, p. 246.

80 Mortimer and Edwards, *Winning in World Markets*, p. 60.

efforts to create more liberal conditions for the trade in telecommunications services in the region.

- 6.79 The Committee therefore endorses Australia's support for the further development of telecommunications in the region, through expert assistance and training. Developmental differences between ASEAN member states form barriers to further telecommunications growth in the region as a whole – helping to overcome them is a logical response.
- 6.80 In this regard, the Committee notes DBCDE's advice that while 'only seven ASEAN countries are APEC members, all are members of the International Telecommunication Union and Asia Pacific Telecommunity'.⁸¹ These fora provide a means to address the differences between ASEAN member states and, ultimately, to provide a means to improve the ability of telecommunications providers to meet demand in the region.
- 6.81 The Committee is convinced that telecommunications should be an important component of FTAs being negotiated with other countries. FTAs need to contain effective telecommunications chapters if Australian companies are to achieve an acceptable level of access to other markets.

Recommendation 4

- 6.82 **The Committee recommends that the Department of Foreign Affairs and Trade should ensure that future free trade agreements contain effective telecommunications chapters.**

Aviation

- 6.83 In its consideration of aviation in the ASEAN region, the Committee received evidence from two significant carriers, QANTAS and Singapore Airlines. The main point at issue for Singapore Airlines was the trans-Pacific route linking Sydney to the western seaboard of the United States, to which Singapore Airlines sought access. The Committee considers this to be beyond the scope of this inquiry.
- 6.84 Australia has significant interest in aviation services to ASEAN member countries. QANTAS noted that two-way travel between Australia and ASEAN in the year finishing May 2008 amounted to 'nearly 4.4 million passengers', accounting for 'nearly 19 percent' of all international

81 DBCDE, *Submission No. 20*, p. 247.

passenger traffic.⁸² It added that it was anticipated that long-term growth would result in ASEAN aviation markets 'being responsible for 27 percent of world aviation'.⁸³

- 6.85 QANTAS told the Committee that it faced similar constraints on ownership to those faced by telecommunications carriers. Access to certain routes in the ASEAN region depended on the foreign provider entering into a minority partnership with a national provider which retained effective control. The maximum holding by a non-national interest was generally up to 49%, which was also the case for the Australian market.⁸⁴
- 6.86 In contrast to Telstra's approach, QANTAS told the Committee that it has responded to such conditions by entering into minority partnerships to create or acquire airlines. This had resulted in two companies – Jetstar Asia and Jetstar Pacific – which, because they were based in Singapore and Vietnam respectively, had rights to air routes which QANTAS would otherwise have found difficult to access.⁸⁵
- 6.87 Similarly, QANTAS told the Committee, Jetstar was able to gain access to another route – Singapore to Jakarta – by acquiring another airline, Valueair. Since this company was Indonesian, it was subject to the same foreign investment rules, but these were more favourable because the purchasing company, Jetstar Asia, was considered to be based in Singapore.⁸⁶

Committee comment

- 6.88 The Committee is interested to see that there are a range of responses to the constraints that Australian companies face when they seek to do business in the ASEAN region. QANTAS appears to have confidence that a substantial minority holding is sufficient to allow it to influence commercial decisions and ensure acceptable levels of risk and returns on investment.
- 6.89 While appreciating that there are differences between sectors, the approach employed by QANTAS may represent an approach that could be adopted by other Australian service exporters.
- 6.90 The different business strategies of Telstra and Qantas demonstrate there are different solutions to the variety of circumstances in the ASEAN region based on different consideration of risk and profitability.

82 QANTAS, *Submission No. 13*, p. 158.

83 QANTAS, *Submission No. 13*, p. 159.

84 Ms Jane McKeon, *Transcript November 6 2008*, p. 54.

85 Mr David Hawes, *Transcript November 6 2008*, p. 51.

86 Ms Jane McKeon, *Transcript November 6 2008*, p. 54.

Recognition of professional qualifications

- 6.91 The export of professional services is an important addition to Australia's traditional exports of commodities, primary produce, tourism and education. Australia is well placed in this market because the high standard of its educational institutions provides high calibre graduates.
- 6.92 To be successful in the market for professional services, however, it is important that Australian professional qualifications are recognised by ASEAN member countries.
- 6.93 The Australian-ASEAN Business Council told the Committee there was an opportunity to provide professional services to the ASEAN region to meet the demand arising from ASEAN's response to competition from China.⁸⁷ This created a niche for Australian professional skills, catering to manufacturing and services sectors within the ASEAN region.
- 6.94 Indeed, Engineers Australia advised that South East Asia already accounted for the greatest number of Australian engineers providing services outside of Australia, and that this suggested possibilities for further growth.⁸⁸
- 6.95 As well, Engineers Australia told the Committee that in 2006 there were 9,500 international students being trained in undergraduate engineering in Australia, with a further 3,600 at post-graduate level.⁸⁹
- 6.96 Wider recognition of Australian professional qualifications gained either by Australians or by international students is, therefore, highly desirable.

Obstacles

- 6.97 Engineers Australia told the Committee that problems with the registration and licensing of Australian engineers in other countries was regarded as 'the number one frustration' by Australian engineering companies seeking to provide services off-shore.⁹⁰ Such 'licensing requirements could often operate as significant barriers to trade in professional services'.⁹¹
- 6.98 As an example, Engineers Australia told the Committee that it was experiencing difficulty in the licensing of Australian engineers in Singapore:

87 Australian - ASEAN Business Council, *Submission No. 5*, p. 68.

88 Engineers Australia, *Submission No. 3*, p. 47.

89 Mr Andre Kaspura, *Transcript 12 September 2008*, p. 74.

90 Ms Kathryn Hurford, *Transcript 12 September 2008*, pp. 70-1.

91 Engineers Australia, *Submission No. 3*, p. 33.

... the key issue is that Engineers Australia is not a government body and we need to deal with a government body in Singapore in order to get a mutual recognition agreement. Without something like a professional services working group or some sort of mechanism within the FTA to provide an overarching support mechanism that says, in effect, Engineers Australia has the support of the Australian government to negotiate with you, I think that is the key disconnect.⁹²

- 6.99 Another issue raised by Engineers Australia was the lack of 'clarity of local regulations and licensing requirements operated by foreign governments':

Instability and inconsistent application of regulation increases difficulties for companies operating in markets with which they are relatively unfamiliar ... many engineering professionals have been discouraged from pursuing projects in countries (including within ASEAN) where regulations are unclear or ambiguous.⁹³

- 6.100 In summary, these barriers, Engineers Australia advised, together with 'restrictions on the temporary migration of labour', had the effect of 'dramatically' impeding 'trade in engineering internationally'.⁹⁴

Responses

- 6.101 Engineers Australia told the Committee that it had ways around the barriers it faced:

We have Australian companies with offices all over the world who employ local engineers in areas where they need to have registration and licensing in order to allow the Australian engineer to work under that person. There are mechanisms to get around it; partnerships and joint ventures are other ways to get the required skill set to cover off that registration and licensing issue.⁹⁵

- 6.102 Engineers Australia commented that more deliberate, long-term approaches would remove impediments to the use of Australian engineering and other skills, and allow Australia to gain full benefit from its knowledge assets.
- 6.103 The main focus of effort was the negotiation of mutual recognition agreements between the professional bodies of the countries involved, rather than government-to-government. In key instances, however, DFAT

92 Ms Kathryn Hurford, *Transcript 12 September 2008*, p. 70.

93 Engineers Australia, *Submission No. 3*, p. 33.

94 Engineers Australia, *Submission No. 3*, p. 33.

95 Ms Kathryn Hurford, *Transcript 12 September 2008*, pp. 70-1.

had provided support to Engineers Australia in dealing with the local professional body.⁹⁶

- 6.104 Engineers Australia told the Committee that these agreements relied upon, a number of international agreements, of which the most prominent was the Washington Accord.⁹⁷ This formed a template and reference point when countries came to negotiate the recognition of professional qualifications. Further assistance, relevant to the ASEAN region, was the APEC Engineers Register and the Engineers Mobility Forum.⁹⁸
- 6.105 Engineers Australia concluded that FTAs could support mutual recognition agreements by containing such agreements as a template for further negotiations.⁹⁹ This would add to the general framework for mutual recognition, in much the same way as the APEC Engineers Registry served as a basic foundation, reference and resource.¹⁰⁰
- 6.106 DFAT supported such arrangements, advocating FTA provisions for recognition of professional qualifications as a 'platform' which, in its view, would 'seek to get as close as [possible] to ASEAN's internal liberalisation processes'.¹⁰¹

Committee comment

- 6.107 The recognition of professional qualifications is an important aspect of Australia's ability to trade with ASEAN member countries. The more widely Australian professional qualifications, such as those in engineering, are recognised, the better Australia's position to cater to emergent demand in the region.
- 6.108 Given the nexus between demand for vocational education and the ability to use such qualifications, it is imperative that students from Australian universities, particularly overseas students, graduate with qualifications that are widely recognised in the ASEAN region. This will contribute to the further development of human capital in ASEAN.
- 6.109 Greater portability of skills allows greater freedom of movement of professionals which will further assist ASEAN's move towards an ASEAN Economic Community.
- 6.110 In the Committee's view, establishing recognition for Australian professional qualifications is an important avenue through which

96 Ms Kathryn Hurford, *Transcript 12 September 2008*, p. 69.

97 Engineers Australia, *Submission No. 3*, pp. 32-3.

98 Engineers Australia, *Submission No. 3*, pp. 34-6.

99 Engineers Australia, *Submission No. 3*, p. 37.

100 Ms Kathryn Hurford, *Transcript 12 September 2008*, pp. 71-2.

101 Mr Michael Mugliston, *Transcript 22 September 2008*, p. 8.

Australia can extend its engagement with ASEAN member countries, and enhance its exports of services. The Committee endorses the efforts of such professional bodies as Engineers Australia in negotiating mutual recognition agreements with professional associations in other countries and notes Australian Government contributions to this process.

- 6.111 The Committee believes that, in view of the wide-ranging benefits that may be anticipated from these efforts, and the advisability of such agreements occurring more widely, that assistance from government be increased.

Recommendation 5

- 6.112 **The Committee recommends that the Australian Government make representations to the Singapore Government with a view to assisting Engineers Australia, and other professions not covered by the free trade agreement, to obtain a mutual recognition agreement with Singapore.**

Recommendation 6

- 6.113 **The Committee recommends that future bilateral free trade agreements include a professional services working group to assist in creating professional linkages, including mutual recognition agreements and, when existing free trade agreements which do not contain a professional services working group are reviewed, this issue should be pursued.**

Foreign Direct Investment

- 6.114 The recent Mortimer and Edwards report noted the importance of outward foreign direct investment (FDI) for Australia's efforts to off-set mounting foreign liabilities. The report argued that while Australia had often 'fumbled the challenge' to improve its balance of trade in other ways, it had 'certainly increased its engagement in the global economy through direct investment abroad in the last decade'.¹⁰² This was due to the 'the expansion of Australian business operations into other markets to increase revenue and expand market share', particularly in 'banking ... insurance and mining sectors'.¹⁰³

¹⁰² Mortimer and Edwards, *Winning in World Markets*, p. 54.

¹⁰³ Mortimer and Edwards, *Winning in World Markets*, p. 46.

- 6.115 Evidence from the Australian–ASEAN Business Council, however, showed that although demand for FDI was strong within the ASEAN region, ‘Australian investment [had] not favoured ASEAN over any of the other global regions’.¹⁰⁴ In fact, figures provided by DFAT indicated that the proportion of Australian outward-bound FDI to ASEAN member states was disproportionately low compared with its volume of trade with those countries – ‘a modest 3.2 per cent of Australia’s direct foreign investment’ as of December 2007.¹⁰⁵
- 6.116 DFAT told the Committee that Australian FDI to ASEAN member states was hampered by ‘foreign equity restrictions, performance requirements, local content or export requirements and a lack of legislative and regulatory transparency’.¹⁰⁶
- 6.117 IP Australia also noted the importance of a robust intellectual property regime if Australian investments in the ASEAN region were to achieve favourable returns on investment, particularly in such areas as pharmaceuticals.¹⁰⁷

Committee conclusion

- 6.118 Australia has a range of services exports – from the established strengths of education and tourism-related industries, such as aviation, to knowledge-based industries. In the Committee’s view, Australia can expand on its current involvements in these industries to diversify its services exports to the ASEAN region, building on its strengths, amongst other things, in mining and finance.
- 6.119 The Committee endorses observations, such as those by Mortimer and Edwards, which suggest that Australia must look to knowledge-based service industries if it is to achieve a better balance of trade. This is especially so, in view of likely reductions in demand for Australian commodities – particularly in the current economic climate – and challenges faced by manufacturing exporters to the region.¹⁰⁸
- 6.120 There are considerable opportunities in this area, signalled by the disparities between the size of domestic services sectors among ASEAN member countries and the level of international trade in services. As noted, there are further disparities between the value of trade between Australia and ASEAN countries and the level of FDI from Australia to those countries.

104 Australian–ASEAN Business Council, *Submission No. 5*, p. 68.

105 Mr Peter Woolcott, *Transcript 12 September 2008*, p. 287.

106 Mr Michael Mugliston, *Transcript 12 September 2008*, pp. 9–10.

107 Mr Ian Goss, *Transcript 12 September 2008*, p. 58.

108 Mortimer and Edwards, *Winning in World Markets*, pp. 60, 85, 19, 44.

- 6.121 In the Committee's view, Australia will need to employ a number of approaches to resolve these differences. However, many of the factors that will enable Australia to do so are already in train, including processes currently being pursued toward future FTAs and follow-up negotiations on those already concluded.
- 6.122 Evidence before the Committee shows the critical importance, particularly to services exports, of capacity and agreed standards across the ASEAN region. Negotiations on levels of foreign ownership and the mutual recognition of professional qualifications will also create opportunities for Australian services exporters to operate with and within the economies of ASEAN member countries, at considerably lower cost and with greater agility.
- 6.123 Australia's current approach of trade negotiations, allied with 'enlightened self-interest' in assisting the development of capacity among ASEAN member states, best serves Australia's interests. In the long-term it will provide a basis for a more favourable balance of trade.
- 6.124 It is evident that the outcomes of some trade agreements, notably TAFTA, have continued to attract a mixture of positive and adverse comment long after they were concluded. Nevertheless, Australian industries and negotiators appear to have learned from TAFTA, and are ready to apply this experience when framing future arrangements.

Regional security

Introduction

- 7.1 Regional security is linked to a number of different areas. The Committee received evidence on cooperation regarding:
- defence relationships;
 - insurgency and terrorism;
 - transnational crime;
 - biosecurity and health; and
 - security of radioactive materials.
- 7.2 Human rights and civil society issues are discussed in Chapter 8.

Defence relationships

- 7.3 The Department of Defence (Defence) provided the Committee with an overview of the strategic situation in the ASEAN region. It told the Committee that a 'significant military modernisation' of capability was

occurring as each country became economically more prosperous. Maritime security was a significant issue in ASEAN and countries were investing in their naval forces. This modernisation, however, was not taking the form of an arms race.¹

7.4 The Committee notes a similar conclusion of the 2008 Shangri-La Dialogue conference:

In many cases, Asia-Pacific armed forces were acquiring equipment – such as long range strike aircraft and submarines – that could be classed as ‘offensive’. There appeared to be a reactive quality to the military programmes of some combinations of states. However, there was broad consensus within the group that regional states were not involved in an arms race, which would imply an ‘aggressive build-up with malicious intent’, as one participant put it. Because their economies were expanding rapidly, states were able to spend more on their armed forces even though the proportion of GDP spent on defence remained constant or declined. Often, economic expansion also meant that states had more to protect, particularly in terms of maritime interests. It was also evident that spending more on defence and buying major military platforms did not necessarily translate into more effective military capabilities.²

7.5 Defence also commented that within ASEAN there was a more cooperative approach and between the region and Australia. Defence added that, for example, the response of Cambodia and Thailand to their border dispute indicated ‘a situation where countries are coming to a structure where they can deal with each other more effectively.’^{3,4}

7.6 More specifically, Defence provided information on its multilateral relations with the region – through the ARF, the Five Power Defence Arrangements (FPDA), and the Shangri-La Dialogue – and its bilateral relations with individual ASEAN member countries (excluding Burma with which it does not have a bilateral defence relationship nor does it participate in bilateral defence force training exercises.⁵)

1 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 35.

2 International Institute for Strategic Studies *The 7th IISS Asia Security Summit 2008*, p. 62.

3 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 38.

4 In October 2008, Cambodian and Thai forces clashed over a disputed border area near the World Heritage Preah Vihear Temple site. The two countries subsequently agreed in November 2008 to make demarcation of the border area a priority once landmines in the area had been cleared. Agence France-Presse, *Cambodia, Thailand make ‘big step’ in border talks*, 10 November 2008.

5 Defence, *Submission No. 7*, p. 75.

ASEAN Regional Forum

- 7.7 As noted earlier in Chapter 2, the ARF is the ASEAN region's primary multilateral security forum. Defence told the Committee that initially the ARF 'began largely as a confidence building measures forum' with 'a lot of talk about mutual issues of concern', but with 'not a lot of action'. The focus has changed, however, towards 'genuine practical ARF-wide activities.'⁶
- 7.8 Defence provided examples of these practical activities. Following the Indian Ocean tsunami in December 2004, the ARF focused on improving regional coordination and response to natural disasters in the Asia-Pacific. The ARF Shepherds' Group on Disaster Relief was created in 2006 with Australia as a founding member. The Group was an informal grouping of countries established to 'better coordinate the various disaster relief initiatives in the ARF.'⁷
- 7.9 Australia and Indonesia subsequently co hosted an ARF-endorsed disaster relief desk-top exercise in Jakarta in May 2008:

The desk-top exercise, designed by both Australian and Indonesian military planners with input from civilian agencies such as AusAID, DFAT and Emergency Management Australia, focused on building regional military-military and civil-military cooperation in responding to a fictional disaster relief scenario. The exercise also evaluated the draft ARF Strategic Guidance for Humanitarian Assistance and Disaster Relief initially drafted by Indonesia and Australia.⁸

- 7.10 A follow-up to the exercise, Defence advised, was a proposed 'live disaster relief "voluntary demonstration of response" activity involving military and civilian assets' hosted by the Philippines and US during 2009.⁹

- 7.11 A second aspect of ARF work is the promotion of 'closer regional cooperation on peacekeeping.' To this end Defence co hosted with Malaysia the inaugural ARF Peacekeeping Experts' Meeting in 2007.

The meeting produced an almanac listing contact details for regional peacekeeping experts, existing training centres and training courses to promote regional training cooperation.

6 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 41.

7 Defence, *Submission No. 7*, p. 79.

8 Defence, *Submission No. 7*, p. 79.

9 Defence, *Submission No. 7*, p. 79.

Discussion also focused on identifying measures to improve regional peacekeeping coordination and interoperability, and on promoting greater awareness of UN peacekeeping standards and UN doctrine for peace operations.¹⁰

- 7.12 A second ARF Peacekeeping Experts' Meeting was held in Singapore in 2008.

Five Power Defence Arrangements

- 7.13 The FPDA involves Australia, New Zealand, the UK and ASEAN members: Singapore and Malaysia. Defence advised that recent initiatives focused on 'promoting greater levels of interoperability and increasing capacity to respond to non-conventional threats, including maritime security, humanitarian assistance and disaster relief.'¹¹
- 7.14 The Committee discussed at some length the FPDA when it reviewed Australia's relationship with Malaysia.¹²

Shangri-La Dialogue

- 7.15 The Shangri-La Dialogue annual conferences were established in 2002 to enable Asia-Pacific defence ministers to engage in confidence building dialogue and to foster practical security cooperation.¹³ Defence commented that 'the meeting provides valuable opportunities for bilateral counterpart meetings and to progress bilateral and multilateral security initiatives.'¹⁴
- 7.16 Topics at the recent conference in 2008 included:
- whether an arms race existed in the Asia Pacific (discussed above);
 - the success of counter-terrorism (discussed below);
 - regional security architecture (discussed below); and
 - climate change and regional security (discussed in Chapter 9).

10 Defence, *Submission No. 7*, pp. 79–80.

11 Defence, *Submission No. 7*, p. 77.

12 JSCFADT, *Australia's relationship with Malaysia*, Canberra, March 2007, pp. 20–3.

13 <<http://www.iiss.org/conferences/the-shangri-la-dialogue/about>> Accessed January 2009.

14 Defence, *Submission No. 7*, p. 77.

Defence bilateral relations

7.17 The Department of Defence submission provided details of Australia's bilateral defence relationship with nine ASEAN member countries. These included:

- Brunei – special forces training and exercises and assistance in developing air capability.
- Cambodia – support for the development of a counter-terrorist capability and national maritime security.
- Indonesia – support for Indonesia's military peacekeeping centre and continued support for humanitarian aid and disaster management cooperation. Training for Indonesia's military and Department of Defence personnel both in Australia and Indonesia on 'defence management, civil-military cooperation, maritime law and security, operations law, peacekeeping, and emergency and disaster management.' The Lombok Treaty signed in February 2008 confirmed and strengthened defence cooperation with Indonesia.
- Laos – provision of English language assistance and training in Australia.
- Malaysia – provision of training, personnel exchanges, and bilateral exercises. A permanent Australian Defence Force presence at Royal Malaysian Air Force Base Butterworth assists Malaysia's capability to conduct maritime patrols.
- Philippines – provision of training in Australia, and in the Philippines on 'aviation security, financial management and accountability, and combat medic training.' Development of an army watercraft capability and a Coast Watch capability (see below).
- Singapore – provision of training facilities for land and air exercises and training in Australia. Provision of training courses in Australia covering 'submarine escape training, marine engineering, aeromedical evacuation, aviation safety, peacekeeping operations, maritime air surveillance, joint warfare and generic management, and officer training.'
- Thailand – capacity building in counter-terrorism, peacekeeping and governance. Provision of training in Australia and bilateral exercises to enhance skills and build interoperability.

- Vietnam – provision of training in Australia and support for a bilateral military medical research project into malaria and dengue fever.¹⁵

Insurgency and terrorism

7.18 In January 2007, ASEAN member states signed the ASEAN Convention on Counter Terrorism. Areas of cooperation recognised by the Convention included a commitment to:

- Take the necessary steps to prevent the commission of terrorist acts, including by the provision of early warning to the other Parties through the exchange of information;
- Prevent those who finance, plan, facilitate, or commit terrorist acts from using their respective territories for those purposes against the other Parties and/or the citizens of the other Parties;
- Prevent and suppress the financing of terrorist acts;
- Prevent the movement of terrorists or terrorist groups by effective border control and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents; ...
- Enhance cross-border cooperation;
- Enhance intelligence exchange and sharing of information; ...
- Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice.¹⁶

7.19 To take effect, the Convention requires the ratification of six member states, but up to June 2008 only Singapore and Thailand had ratified the agreement.¹⁷ Media reports on the ASEAN Summit of February 2009, however, indicated that ASEAN would ‘work for the full implementation of a regional counter-terrorism pact’ in 2009.¹⁸

7.20 While much of the Defence’s relationship with ASEAN member countries is aimed at developing capability in conventional forces and activities, a significant proportion is devoted to combating terrorism and insurgency.

15 Defence, *Submission No. 7*, pp. 74–7.

16 ASEAN Convention on Counter Terrorism, 13 January 2007.
<<http://www.aseansec.org/19251.htm>> Accessed March 2009.

17 Xinhua, *Indonesia tentative on ASEAN’s counter terrorism convention*, 6 June 2008.
<<http://english.peopledaily.com.cn/90001/90777/90851/6425972.html>> Accessed March 2009.

18 Agence France Press, *ASEAN to intensify counter-terrorism efforts: draft*, 1 March 2009.

Australian contribution to security in the region is also being made by the AFP and the Australian Customs Service.

- 7.21 There are three general concerns:
- lawlessness in the tri-border area of southern Philippines, Malaysia and Indonesia;
 - the terrorist threat posed by Jemaah Islamiah centred on Indonesia; and
 - terrorism/insurgency in southern Thailand.

Philippines, Malaysia, Indonesia tri-border area

- 7.22 Defence explained the challenges posed in the tri-border area of the Philippines, Malaysia and Indonesia:

... we have a number of overlapping insurgencies plus relationships of convenience between some of those insurgencies and terrorist groups such as Jemaah Islamiah and Abu Sayyaf. ... It is quite a lawless region with hundreds and hundreds of tiny little islands and we do see criminals, terrorists and insurgent groups using those islands to island hop between countries.

... It tends to be the same channels, the same types of people who are smuggling people, weapons, drugs or anything else.¹⁹

- 7.23 In response, Defence was involved in a major project to provide fan-driven boats to the Philippine armed forces. These were being built in Newcastle NSW and would enable Philippine forces to manoeuvre in the marshlands of the southern Philippines which were being used by terrorists as a fallback area.²⁰
- 7.24 While Defence was unable to undertake full exercises with the Philippines due to that country's constitutional restrictions, Australian special forces personnel and counter-terrorism experts did provide the Philippines with advice on counter-terrorism capability.²¹
- 7.25 Defence advised that as well, the Australian Customs Service was assisting in the creation of a Philippines Coast Watch South initiative based on Australia's Border Protection Command. Defence added that the US was also assisting through the provision of radar sites to the

19 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, pp. 38, 40.

20 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 36.

21 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 37.

Philippines, Malaysia, and Indonesia. The aim was 'to try and improve the radar picture and try and encourage those countries to share that information so that they can see when people are transiting.'²²

7.26 As regards internal policing within the Philippines, the AFP told the Committee that it was important to increase the capacity of law enforcement agencies to meet terrorist threats. To that end, the AFP had helped to establish 'a regional cooperation team' in Manila and was undertaking:

... a large amount of capacity and capability development work with the police in the Philippines not only in the investigations and intelligence area but also in training their people and setting up their forensics capability in bomb data and more pure forensics.²³

7.27 The AFP had helped to establish bomb data centres in Manila, Jakarta, and Bangkok. The Singapore Police also had such a centre. Bomb data centres were designed to:

... help to identify what substances may have been used in the bomb and what the triggering mechanisms may be. If a mobile phone or something of that nature has been used as a triggering device then it may assist in being able to get hold of the data within that and trying to understand who is behind it. The forensic capability which is required here is quite sophisticated. What we have found with developing that capability and capacity within those countries is that then they are linked together [and they create] ... a forensic capability which extends across the region and which is underpinned by a great deal of expertise both here and offshore.²⁴

7.28 The AFP concluded that, while historically counter-terrorism had been considered a military responsibility, the increased police involvement was improving the situation.²⁵

22 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 38.

23 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 31.

24 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 32.

25 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 38.

Counter-terrorism in Indonesia

7.29 The AFP told the Committee that while the terrorist threat in the Philippines was 'focused within the Philippines',²⁶ the threat in Indonesia involved Australian and Western targets:

There are Islamic terrorists in the region attempting to develop a purist, violent and intolerant form of Islam that actually threatens the tolerant mainstream form of Islam that does exist throughout the region. More recently, between 2002 and 2005, Jemaah Islamiah conducted a number of bombing campaigns against Australian and Western targets.²⁷

7.30 The regional threat remained high and evolving, but the AFP noted that:

... the law enforcement efforts, particularly from the Indonesian National Police, have been quite effective and there have been quite a number of people arrested and prosecuted. Despite the ongoing disruption to that network, some key figures, particularly the pro-bombing group which is led by Noordin Top, remain resilient. As I say, the threat continues to exist and the arrest of the 10 JI suspects in Palembang in June [2008] and the seizure of explosives is a salient reminder that the issue ... continues to exist.²⁸

7.31 In response, the authorities with Australian assistance and involvement had created a Jakarta-based regional cooperation team,²⁹ a bomb data centre (its role is described above), and a Multi National Operations Support Team (MNST) based in Jakarta. This team comprised law enforcement officers from Indonesia, Philippines, Singapore, Thailand, and Australia who worked 'collaboratively in response to terrorist threats in the region.'³⁰

7.32 The AFP told the Committee that MNST provided:

... a central point where intelligence can be aggregated, to have some analysis of that intelligence done and therefore to look at the problem from a more regional perspective. ... There have been some considerable successes which have come from it. More than anywhere else, where it probably works is that it is bringing

26 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 31.

27 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 30.

28 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 30.

29 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 31.

30 DFAT, *Submission No. 24*, p. 294.

together a range of countries across the region to sit and look at their law enforcement intelligence.³¹

- 7.33 A problem, however, was the ability of member countries to fund their presence at MNOST. This was because the required level of understanding and training and competency in English necessitated the presence of a senior or very experienced person.³²

Southern Thailand insurgency

- 7.34 The unrest in southern Thailand takes the form of an Islamic separatist campaign based on three provinces bordering Malaysia.³³
- 7.35 Defence told the Committee that it was looking to provide counter improvised explosive device training to Thai forces.³⁴
- 7.36 The AFP told the Committee it was working with the Thai police 'to set up a regional cooperation team in Bangkok which will assist in their capability development.' There was also a bomb data centre in Bangkok.³⁵
- 7.37 The ASEAN Summit in February 2009 provided the opportunity for the Foreign Ministers of Malaysia and Thailand to come to a common view on the issue. Both countries reaffirmed their cooperation and endorsed Thailand's approach which emphasised socio-economic aspects and the need to cooperate 'under 3Es concept, which included education, employment and entrepreneurship.'
- 7.38 Malaysia also stated its position that 'it regarded the security and well-being in Thailand's South as identically important to those of Malaysia's north.'
- 7.39 The immediate outcome of the meeting was the announcement that the administration in Thailand's southern provinces would be restructured 'to involve the people and the police more in the process.'³⁶

31 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 40.

32 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 40.

33 <http://en.wikipedia.org/wiki/South_Thailand_insurgency> Accessed January 2009.

34 Mr Lachlan Colquhoun, *Transcript 12 September 2008*, p. 37.

35 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 31.

36 Press release, *Malaysia ready to cooperate with Thailand to resolve the situation in the Southern Border Provinces*, 27 February 2009. <<http://www.14thaseansummit.org/pdf/27PR-bilatFMEng.pdf>> Accessed January 2009.

Transnational crime

7.40 The AFP told the Committee that it was empowered through the AFP Act, Ministerial directions, and international conventions to provide information to overseas agencies to combat transnational crime. The AFP added:

Police-to-police assistance is an informal process which allows law enforcement agencies to share information quickly with their foreign counterparts. The timely exchange of information is a key element of law enforcement efforts to combat transnational crime and generally this does not entail the exercise of coercive powers and does not require a mutual assistance request.³⁷

7.41 Regarding countries which imposed the death penalty, the AFP advised that this 'was not a sufficient reason for Australia to disengage in collaborative efforts at a law enforcement level.' After charges were laid for an offence which attracted the death penalty, however, the AFP had to seek advice from the Attorney-General or the Minister for Home Affairs to ensure that any ongoing actions were consistent with Australian government policy and other international obligations.³⁸

7.42 To facilitate contacts with its overseas counterparts the AFP had Liaison Officers in all the ASEAN member countries except Laos and Brunei.³⁹ These officers were all attached to the embassy in an official capacity.⁴⁰

7.43 The AFP and DFAT advised that Australia was focusing on a number of areas of transnational crime including:

- human trafficking – the focus was on Indonesia and Malaysia where people were transiting to Australia from southwest Asia,⁴¹ and it was providing a course on the topic in Brunei 'using AFP trainers and AFP doctrine';⁴²
- online child sex exploitation – the AFP was involved with the Vietnamese Police in a 'high tech crime centre';⁴³

37 Commander Paul Osborne, *Transcript 2 October 2008*, p. 25.

38 Commander Paul Osborne, *Transcript 2 October 2008*, p. 25.

39 AFP, *Submission No. 35*, p. 442.

40 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 29.

41 Commander Paul Osborne, *Transcript 2 October 2008*, p. 33.

42 Commander Paul Osborne, *Transcript 2 October 2008*, p. 28.

43 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, pp. 29–30.

- child sex tourism – as a consequence there was an increase in the level of attention and focus by overseas agencies and an increase in the level of information and intelligence sharing;⁴⁴
- trade in narcotics – the current focus was on methamphetamine precursor movement through the Asia region;⁴⁵ and
- intellectual property crimes – the AFP had appointed an Asia-Pacific Intellectual Property Police Officer in early 2008 and in June 2008 hosted an IP Crime Workshop in Bangkok.⁴⁶

7.44 The AFP also detailed the broad training programmes in which it was involved:

- some 4000 officers had been trained in the Jakarta Centre for Law Enforcement Cooperation – as well as courses on investigations and intelligence, training was provided in Islamic law, forensics, management and leadership, and there were also specific courses for policewomen;⁴⁷
- annual courses in Singapore on the management of serious crime; and
- triannual Asia Region Law-Enforcement Management Program courses in Hanoi in partnership with the Royal Melbourne Institute of Technology – courses focused on tertiary accredited management subjects for middle management level ASEAN police officers.⁴⁸

7.45 The outcome of its work, the AFP advised, was that a number of successful prosecutions in Australia had resulted, as well as the disruption of illegal activities and the arrest of suspects and prosecutions in ASEANAPOL countries.⁴⁹ The AFP's conclusion is applicable to combating terrorism and insurgency as well as combating transnational crime:

The success of such programs increases your ability to prevent and detect terrorist activity and conduct proactive investigations. But also, when you have a high degree of expertise or knowledge, then you make such activity more difficult, so people ... need to take more risk in what they are doing and expose themselves

44 Commander Paul Osborne, *Transcript 2 October 2008*, p. 33.

45 Commander Paul Osborne, *Transcript 2 October 2008*, p. 33.

46 DFAT, *Submission No. 24*, p. 294.

47 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, pp. 32–3.

48 Commander Paul Osborne, *Transcript 2 October 2008*, p. 37.

49 Commander Paul Osborne, *Transcript 2 October 2008*, pp. 28–9.

more and therefore provide greater opportunity for law enforcement to get visibility on what they are actually doing.⁵⁰

Criminals do actually take a business approach to this: they will generate and maximise their profits and minimise their risks. From our perspective, if we can maximise those risks by developing the capability and capacity of particularly those countries that are exploited and are more vulnerable, that will certainly add to the global effort to combat transnational crime.⁵¹

- 7.46 Other Australian agencies play a significant support role in combating transnational crime. For example DIAC told the Committee that it had provided training and capacity building in areas such as ‘document fraud examination and intelligence analysis’ in relation to people movements. Its Airport Liaison Officer program also played an important role in detecting people who were undocumented or did not have an authority or right to enter Australia.⁵²
- 7.47 As well, DAFF advised the Committee that Australia and Indonesia had initiated the Regional Plan of Action (RPOA) to promote responsible fishing practices including combating illegal unreported and unregulated fishing in the region. The RPOA was endorsed by eight of the ASEAN member countries⁵³ and covered the conservation of fisheries in the South China Sea, the Sulu-Sulawesi Seas, and the Arafura-Timor Seas. There were five priority areas:
- assessing the current resource and management situation in the region,
 - developing stronger coastal state responsibilities,
 - strengthening monitoring control and surveillance,
 - undertaking port state monitoring, and
 - developing regional capacity building mechanisms.⁵⁴

Committee comment

- 7.48 The Committee notes the wide ranging and comprehensive contribution of Australian agencies to the security of the ASEAN region. The security

50 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 32.

51 Assistant Commissioner Peter Drennan, *Transcript 2 October 2008*, p. 34.

52 Ms Arja Keski-Nummi, *Transcript 12 September 2008*, pp. 14, 15.

53 Brunei, Cambodia, Indonesia, Malaysia, Philippines, Singapore, Thailand, and Vietnam.

54 DAFF, *Submission No. 25*, p. 334.

status is bound to fluctuate, but the Committee is confident that the level of co-operation will ensure long-term success.

- 7.49 Australian agencies should use the various forums provided by ASEAN and the focal point of Australia's diplomatic missions to establish and maintain agency-to-agency links and communications.

Biosecurity and health

- 7.50 The incidence of plant and animal diseases such as foot and mouth, and human pandemics such as that potentially arising from avian influenza, could pose a significant threat to the security of the Asia-Pacific region.

Biosecurity issues

- 7.51 DAFF told the Committee that it engaged ASEAN member countries mainly on a bilateral basis and focused on 'developing ASEAN capacity to manage animal and plant pests and diseases and to develop effective emergency response mechanisms.' Nevertheless, it remained mindful of Australia's interests:

Cooperative activities with ASEAN members need to be mutually beneficial and in line with Australia's national interests, including Australia's exports and maintaining Australia's animal and plant health status.⁵⁵

- 7.52 The submission from the DAFF provided three examples:
- Sanitary and Phytosanitary (SPS) Capacity Building Program – aimed to enhance the capacity of ASEAN member countries 'to meet international SPS standards consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures';⁵⁶
 - Indonesian Quarantine Strengthening Project – aimed to 'mitigate local quarantine risks associated with major diseases of quarantine concern, including highly pathogenic avian influenza', thereby extending outwards Australia's quarantine border and providing early warning and improved response to emerging quarantine threats; and

55 Mr Paul Morris, *Transcript 2 October 2008*, p. 2.

56 Countries involved are: Burma, Cambodia, Indonesia, Laos, Philippines, Thailand, and Vietnam.

- Australian Fumigation Accreditation Scheme – aimed to ‘address the high quarantine risk posed by ineffective fumigation treatments performed offshore’ through providing training and an accreditation system for fumigators, regulatory officers and overseas fumigation companies.^{57,58}

7.53 A consequence, however, of increasing awareness of quarantine issues and capability was the wish of countries to protect their own human, plant and animal health. As a result, several countries had put in place new regulations and protocols for the importation of plant and animal products into their markets. This had changed the focus of some of DAFF’s work to ensure:

... that these new protocols are done in a way which, on the one hand, is consistent with their international obligations under the sanitary and phytosanitary agreement of the WTO and, on the other hand – in recognition of our relatively favourable plant and animal health status – allows us to continue to supply products to their markets.

... So, while in principle they do recognise their international obligations, on occasion they will put in place these generic restrictions for all countries which we then have to go and do a sort of rearguard action on to convince them that in fact they do not need to require vaccinations and testing of us because we are free of these diseases.⁵⁹

7.54 The Committee questioned DAFF as to whether these new restrictions were in fact a response to Australia’s vigorous biosecurity regime. DAFF responded:

There are very few examples where you could say explicitly that another country has done something in response to us not allowing their products in. But we do find that their progress on our issues can be quite slow at times and, on occasions, seemingly slower than perhaps their progress on other countries’ requests. So, indirectly, there is a suggestion that, because we are quite strict in terms of letting their products in, that can affect progress at least in terms of their responding to some of these issues.⁶⁰

57 Countries involved are Indonesia, Malaysia, and Thailand with the expectation that other ASEAN member countries will become involved.

58 DAFF, *Submission No. 25*, pp. 333, 335.

59 Mr Paul Morris, *Transcript 2 October 2008*, pp. 6, 7.

60 Mr Paul Morris, *Transcript 2 October 2008*, p. 7.

- 7.55 DAFF had responded to such potential delays by maintaining 'strong and vibrant relations with these countries' through providing operation assistance as well as posting two councillors to the region. These were based in Thailand and Indonesia and played an important role in strengthening relations.⁶¹
- 7.56 DAFF added that in the case of Thailand there had been a significant increase in its imports due to FTA negotiations. It had responded by tightening up its biosecurity regime as there was 'a higher level of plant and health risk because of the quantity of product.'⁶²
- 7.57 SPS issues were not included in FTA negotiations, DAFF affirmed, to prevent compromising Australia's plant and animal health status. Often, however, an FTA would include a chapter on SPS, but this was usually a statement on the need to abide by international requirements. On the other hand, sometimes the FTA would result in the creation of an SPS committee 'to try to facilitate technical-level discussions on issues and, in that way, try to smooth the way to removing some of these barriers in the future.'⁶³

Health issues

- 7.58 The submission from the Australian Academy of Science provided information from the Menzies School of Health Research (the Menzies) which highlighted the effect of health on regional security and well-being:
- regional security can be directly affected by factors such as pandemics, or indirectly compromised by social instability caused by high rates of mortality and morbidity;
 - the regional economic growth can be similarly compromised by health-related factors;
 - the impact of global warming on the region [discussed in Chapter 9] is known to take health dimensions;
 - enhancing health research partnerships between Australia and ASEAN countries will yield health information of benefit to Australia and partner countries, and help to build research and broad academic capacity both for Australia and partner countries.
- 7.59 The submission added that medical research had an important role in assisting Australia to expand its relationship with ASEAN member
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61 Mr Paul Morris, *Transcript 2 October 2008*, p. 7.

62 Mr Paul Morris, *Transcript 2 October 2008*, p. 8.

63 Mr Paul Morris, *Transcript 2 October 2008*, p. 16.

countries and 'in helping to meet Australia's commitment to achieving the Millennium Development Goals'.⁶⁴

- 7.60 The Menzies provided details of its collaboration with the region which focused on tropical diseases such as malaria. In Indonesia, collaboration and outcomes included:
- a research and training MoU with the Indonesian Ministry of Health;
 - collaborations with the Eijkman Institute, and District Health Authority in Timika, Papua;
 - construction of a joint Menzies-Indonesian Ministry of Health research facility in Timika, Papua and ongoing technical and operational support; and
 - participation in the South East Asian Severe Malaria Treatment study which demonstrated that a change in treatment drugs reduced mortality to severe malaria by 35 per cent (the World Health Organisation subsequently changed its treatment recommendations).⁶⁵
- 7.61 In Thailand and Singapore, the Menzies collaborated in work on malaria with the Mahidol-Wellcome, Tropical Research Unit, Bangkok; and the A*Star⁶⁶ and National University of Singapore.⁶⁷
- 7.62 The Walter and Eliza Hall Institute of Medical Research (WEHI) also focused on malaria, as well as on tuberculosis, dengue fever and HIV. Its collaborations included:
- a formal collaborative agreement with the Eijkman Institute in Jakarta whereby Indonesian scientists spend time at the WEHI for collaboration and training;
 - a collaborative project with the University of Melbourne and the National Institute of Malariology, Parasitology and Entomology in Hanoi aimed at building capacity to respond to problems associated with highly drug-resistant malaria, hook worm infections, and iron deficiency in women; and
 - three workshops on malaria held in India and Bangkok.⁶⁸

64 AAS, *Submission No. 9*, p. 102.

65 AAS, *Submission No. 9*, pp. 104-5.

66 Agency for Science, Technology and Research, Singapore.

67 AAS, *Submission No. 9*, p. 105.

68 AAS, *Submission No. 9*, pp. 96, 97.

- 7.63 The Committee acknowledges that this is but a snap shot of the collaborative work on human health issues being undertaken by Australia and ASEAN institutions. This is exemplified by the information provided to the Committee by the National Health and Medical Research Council (NHMRC) which listed grants provided in 2006 for urgent research into a potential avian influenza-induced pandemic.⁶⁹ The NHMRC submission also provided information on recent successful applications for collaborative research between Australian institutions and institutions in Indonesia, Malaysia, Philippines, and Thailand.⁷⁰

Committee comment

- 7.64 The Committee notes the work being undertaken in the areas of biosecurity and health by Australia in collaboration with ASEAN member countries. The Committee agrees with DAFF when it argued that enhancement of biosecurity in ASEAN can expand outwards Australia's quarantine border and provide early warning and improved response to emerging threats.
- 7.65 The same is true of work in the health area as this not only improves the well-being of ASEAN member countries and thereby its security, but also protects Australians travelling abroad.
- 7.66 There is always room to increase spending, but this may be difficult in the current global financial crisis. What must be maintained, however, is a vigilance towards new threats and the flexibility to respond rapidly. The good relations Australia has with ASEAN member countries enables the communication necessary to convey the nature of any threat and coordinate the appropriate response in a timely manner.

Security of radioactive materials

- 7.67 As noted in Chapter 2, ANSTO has provided assistance to ASEAN member countries for some considerable time through:
- the Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology (RCA);
 - the Forum for Nuclear Cooperation in Asia (FNCA); and

69 NHMRC, *Submission No. 16*, pp. 185–6.

70 NHMRC, *Submission No. 16*, p. 187.

- bilaterally on various projects, in particular through its Regional Security of Radioactive Sources (RSRS) Project.

Regional Cooperative Agreement

7.68 ANSTO advised that, following Australia's joining the RCA in 1979,⁷¹ some \$7 million had been committed to various projects. The most recent project involved \$1.42 million to implement a project:

... to improve regional radiological safety capabilities over the three years between 2004 and 2006. The objective of the project was to improve regional capacity to respond to radiological risks, including aquatic environmental risks, and radiological emergencies, including terrorism.⁷²

7.69 ANSTO told the Committee that AusAID had recently reviewed the 'criteria for allocating aid and [had] decided that projects under the RCA [were] no longer eligible for AusAID funding.' ANSTO was trying to find an alternative source of funding for a further RCA project.⁷³

7.70 Further discussion on ANSTO funding is provided below.

Forum for Nuclear Cooperation in Asia

7.71 The FNCA was founded by Australia, Indonesia, Malaysia, Philippines, Thailand, and Vietnam in 1990.⁷⁴ ANSTO's involvement in projects had included:

- from 1997 to early 2008, sponsorship of a peer review of four research reactors in the region, three of which were in Indonesia, Malaysia, and Vietnam;
- a project concerning 'small angle neutron scattering for research reactors' which involved Indonesia, Malaysia, Philippines, Thailand, and Vietnam; and
- participation in a Radioactive Waste Management project also involving Indonesia, Malaysia, Philippines, Thailand, and Vietnam.⁷⁵

71 Membership comprises Australia and the ASEAN countries: Burma, Indonesia, Malaysia, Philippines, Singapore, Thailand, and Vietnam, together with Bangladesh, China, India, Japan, Republic of Korea, Mongolia, New Zealand, Pakistan, and Sri Lanka.

72 ANSTO, *Submission No. 30*, p. 423.

73 Mr Steven McIntosh, *Transcript 6 November 2008*, p. 10.

74 Membership has since expanded to include Bangladesh, China, Japan, and Republic of Korea.

75 ANSTO, *Submission No. 30*, p. 423.

7.72 ANSTO told the Committee that, as part of the radioactive waste management project, it provided advice on radioactive waste conditioning. It commented that the ASEAN member countries involved had the advantage of centralised waste storage facilities for disused material as well as low-level radioactive waste. It added that those facilities were well-managed and well-run.⁷⁶

Regional Security of Radioactive Sources Project

7.73 In providing evidence to the Committee, ANSTO drew a distinction between nuclear materials used in nuclear reactors, 'which have already been afforded high levels of physical protection and security management', and radioactive materials 'that are primarily used in medicine and industry.'⁷⁷

7.74 Australia had worked with the region for many years:

... on radiation safety and application of nuclear techniques in medicine, agriculture, industry and so on. It has been largely through the IAEA programs and some bilateral programs, but as a result of that we are recognised as having the expertise and the wherewithal to contribute to these applications of nuclear technology in these sectors.⁷⁸

7.75 For example, radioactive materials such as cobalt-60 have been used since the 1960s for cancer radiotherapy and indeed such sources had been provided as part of Australia's aid to the region. Australia no longer produces cobalt-60 as it has replaced the technology with accelerator therapy.⁷⁹

7.76 Prior to the terrorist attack in New York in September 2001, the concern had been for the accidental loss and subsequent exposure to radioactive sources such as cobalt-60:

... in fact an accident in Thailand involved a cobalt-60 source from a former medical centre that had been abandoned. It had basically become lost to regulatory control or proper ownership. ... That particular source ended up being acquired by scrap metal dealers, who were irradiated externally from this source. Two or

76 Mr Allan Murray, *Transcript 6 November 2008*, p. 15.

77 Mr Allan Murray, *Transcript 6 November 2008*, p. 3.

78 Mr Allan Murray, *Transcript 6 November 2008*, p. 8.

79 Mr Allan Murray, *Transcript 6 November 2008*, p. 11.

four of them ended up dying as a result of their radiation exposure.⁸⁰

7.77 There were other major incidents in Brazil and Turkey and in response the IAEA had developed a code of conduct on the safety and security of radioactive sources – security against accidental access. The September 2001 attack, however, created the need to strengthen the code and led to the RSRS project:

After September 11 we went back and revised the code to make the security provisions much stronger to deal with intentional access, and it was those security provisions, which were new and did not exist in IAEA standards at all in relation to radioactive materials, as distinct from nuclear materials, which the RSRS project is applying in the region.⁸¹

7.78 ANSTO advised that the RSRS project had been funded by an appropriation amounting to \$6.5 million allocated in the 2004 and 2006 budgets.⁸² This form of funding allowed ANSTO to be more responsive to the needs of regional countries.⁸³ The project had ‘engaged all ASEAN member states’ with the aim of:

... decreasing the vulnerability of radioactive sources ... to loss, theft, damage, misuse or sabotage, thus reducing the likelihood of terrorists acquiring such material. The means by which the RSRS Project advances this objective include:

- enhancing national regulations and regulatory infrastructure for radioactive source security;
- assessment of, and assistance with, the physical protection and security management of radioactive sources and the facilities in which they are used and stored;
- capacity building for radiological emergency preparedness and response; and
- identification of, and assistance with securing, vulnerable radioactive sources.⁸⁴

7.79 ANSTO told the Committee that it had been involved at the operational level ‘with a number of hospitals and counterpart agencies in Indonesia, the Philippines and Vietnam.’ It added that it was working with other

80 Mr Allan Murray, *Transcript 6 November 2008*, p. 4.

81 Mr Steven McIntosh, *Transcript 6 November 2008*, p. 4.

82 ANSTO, *Submission No. 30*, p. 425.

83 Mr Allan Murray, *Transcript 6 November 2008*, p. 10.

84 ANSTO, *Submission No. 30*, pp. 424–5.

nations such as the US and Canada.⁸⁵ For example, the US had installed hardware such as alarms and locks around which the security plans had been developed.⁸⁶

7.80 ANSTO described the outcomes of the project to date:

Indonesia, for example, has modified its regulations to reflect the requirements for security and physical protection of radioactive sources. ... the fact that this is now regulated by the nuclear regulatory authority in Indonesia is significant, because they first had to obtain the authority within their government to do that. A similar process has occurred in the Philippines and Vietnam. We are about to work with our Malaysian colleagues in a similar vein.

... there is now that top-level recognition of the need to progress these matters. This is reflected in the fact that many of these countries are now signing on to the IAEA code of conduct for the safety and security of radioactive sources. It is a voluntary code, but it shows a commitment that they are prepared to implement the requirements of that code.⁸⁷

7.81 Nevertheless, ANSTO believed that work still needed to be done. As its submission stated:

In ANSTO's experience in working with the ASEAN countries, it appears that nuclear regulators, operators and related security or emergency response personnel need continued bilateral or multilateral support to improve the safety and security of their radioactive sources. The concepts and practice of security measures and appropriate safety and security culture need to become more deeply embedded in the organisational work culture across all sectors responsible for radioactive sources' regulation, use and protection. The development of effective security programs requires on-going training and the gradual development of a security culture by all concerned. The development of an organisational culture which embeds both security and safety culture requires ongoing systematic regional engagement.⁸⁸

85 Mr Allan Murray, *Transcript 6 November 2008*, pp. 6, 8.

86 Mr Steven McIntosh, *Transcript 6 November 2008*, p. 7.

87 Mr Allan Murray, *Transcript 6 November 2008*, pp. 6, 7-8.

88 ANSTO, *Submission No. 30*, p. 426.

Potential commercial benefits

- 7.82 As noted above, Australia has funded ANSTO's support to ASEAN member countries through a one line appropriation or through AusAID. This funding needed to be renewed because the appropriation for the RSRS project had ended and AusAID had ceased funding RCA projects.
- 7.83 The Committee explored the possibility of ANSTO seeking a commercial return for the assistance it provided to ASEAN member countries, either directly or from third countries who are supplying a radioactive source or nuclear materials through building Australian involvement into the supply contract.⁸⁹
- 7.84 ANSTO responded that Australia was not in the nuclear industry other than as a uranium supplier. Moreover, ASEAN member countries only had research reactors which needed small amounts of uranium. There was consequently little commercial benefit to be had from the sector. Benefits through the provision of educational services were also limited because there were no Australian university nuclear engineering courses.⁹⁰
- 7.85 Turning to radioactive sources, ANSTO noted that many of the cobalt-60 sources in the region had been supplied by Australia so there was a 'legacy issue' to ensure their security. Indeed, Australia was benefiting from the goodwill which had been generated from providing cancer therapy technology, particularly in Vietnam.⁹¹
- 7.86 Many of the radioactive sources were being used by 'public health authorities, which are chronically underfunded in places such as Indonesia and Philippines', so ANSTO was not motivated by possible commercial returns even in the mid-term.⁹²
- 7.87 China, which supplied radioactive sources to the region, had signed up to the IAEA's code of conduct so it had to satisfy itself that any country receiving a source such as cobalt-60 had 'sufficient regulatory mechanisms in place to ensure the safety and security of that source.' As well, there was an obligation written into the contracts of supply for the return of the source after its useful life to the country of origin. Nevertheless, whether the recipient country requested the supplier to be more 'proactive in supporting their safety and security infrastructure'

89 *Transcript 6 November 2008*, pp. 12, 14.

90 Mr Steven McIntosh, *Transcript 6 November 2008*, p. 12.

91 Mr Allan Murray, *Transcript 6 November 2008*, p. 11.

92 Mr Allan Murray, *Transcript 6 November 2008*, p. 13.

was a matter for the recipient. ANSTO had found that because of its relationship with its counterparts in the region, countries had preferred to work with Australia on 'improving their regulatory and safety and security infrastructure.'⁹³

7.88 ANSTO concluded:

... we do adopt quite a strategic approach, particularly when working with the Americans. It is a much more integrated approach that we have adopted over the last couple of years where we have identified where all of these high-risk facilities and sources might be, and from a motivation of safety and security, rather than commercial or trade prospects, we are looking at that strategically.⁹⁴

Committee comment

7.89 The Committee considers that it is in Australia's interests to assist ASEAN member countries in securing their nascent nuclear infrastructure and their radioactive sources. ANSTO through its ongoing engagement with the region is well placed to provide that assistance and in the long term may be able to assist should ASEAN the member countries introduce nuclear-power.

7.90 The Committee believes there is merit in ANSTO attempting to seek a commercial return from its expertise and goodwill in the region by engaging suppliers of nuclear and radioactive materials to the ASEAN region with a view to ANSTO providing safety and security advice to ASEAN the member countries.

93 Mr Allan Murray, *Transcript 6 November 2008*, pp. 14-15.

94 Mr Allan Murray, *Transcript 6 November 2008*, p. 15.

Human rights

Introduction

- 8.1 This chapter traces the development of human rights principles in ASEAN from 1997 to the present and also discusses evidence received concerning aspects of human rights in Indonesia, and Burma.

ASEAN's focus on human rights

- 8.2 In 1997, ASEAN turned its attention towards human rights when it met in Kuala Lumpur. The resulting ASEAN Vision 2020 stated, under the heading *A Community of Caring Societies*:

We see vibrant and open ASEAN societies consistent with their respective national identities, where all people enjoy equitable access to opportunities for total human development regardless of gender, race, religion, language, or social and cultural background.

We envision a socially cohesive and caring ASEAN where hunger, malnutrition, deprivation and poverty are no longer

basic problems, where strong families as the basic units of society tend to their members particularly the children, youth, women and elderly; and where the civil society is empowered and gives special attention to the disadvantaged, disabled and marginalized and where social justice and the rule of law reign.¹

- 8.3 ASEAN's human rights principles were developed further in October 2003 with the declaration of the Bali Concord II. This introduced the three pillars of the ASEAN Community, one of which was the ASEAN Socio-Cultural Community (ASCC). The ASCC Plan of Action stated:

The ASCC reflects ASEAN's social agenda that is focused on poverty eradication and human development. It is linked inextricably with the economic and security pillars of the ASEAN Community. Social inequities can threaten economic development and in turn undermine political regimes. Economic instability can exacerbate poverty, unemployment, hunger, illness and disease. Social instability can emerge from environmental scarcity or the inequitable distribution among stakeholders of the use of environmental assets. Failure to address these critical and persistent social issues can further cause both economic and political dislocations.

- 8.4 The ASCC Plan of Action proceeded to identify four core elements:

- **Building a community of caring societies** to address issues of poverty, equity and human development;
- **Managing the social impact of economic integration** by building a competitive human resource base and adequate systems of social protection;
- **Enhancing environmental sustainability** and sound environmental governance; and
- **Strengthening the foundations of regional social cohesion** towards an ASEAN Community in 2020.²

- 8.5 The submission from the ASU, CPSU, and CEPU highlighted, like the ASCC Plan of Action, the interdependence of 'human development, human security, economic growth in trade, regional and national security.' It commented that unions were able to play a role in protecting human rights.³

1 <<http://www.aseansec.org/2357.htm>> Accessed January 2009.

2 <<http://www.aseansec.org/16833.htm>> Accessed January 2009.

3 ASU, CPSU, CEPU, *Submission No. 17*, pp. 194, 196.

ASEAN human rights body

- 8.6 The ASEAN Charter which came into force in December 2008⁴ progressed human rights principles further through Article 2, Principal 2(i):
- [R]espect fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice.⁵
- 8.7 Furthermore, Article 14 created an ASEAN human rights body. The details of the composition and operation of this body will be ‘in accordance with the terms of reference to be determined by the ASEAN Foreign Ministers Meeting.’⁶ How this body relates to existing human rights bodies in Indonesia, Malaysia, Philippines, and Thailand, has yet to be defined.
- 8.8 Indonesian Solidarity suggested there were two possible alternative roles for the ASEAN human rights body to adopt – the promotion of human rights issues within ASEAN member countries, or the protection of human rights through the investigation of abuses. Indonesian Solidarity told the Committee that it believed the human rights body would address the political issues:
- My understanding is that the human rights body would be more focused on political issues. ... For example, I mean women’s issues, which are still political issues, and trafficking.⁷
- 8.9 Prior to the ASEAN Summit in February 2009, a High Level Panel on an ASEAN Human Rights Body submitted draft terms of reference for an ASEAN human rights body to the ASEAN Foreign Ministers’ Meeting. A statement following the conclusion of the summit stated:
- We noted that the establishment of the [ASEAN Human Rights Body] to promote and protect human rights of ASEAN’s peoples would be one of the most important undertakings to make ASEAN a genuinely people-oriented community. We therefore agreed that this body should be

4 Press Release – *ASEAN Foreign Ministers to Celebrate the Entry into Force of the ASEAN Charter at the ASEAN Secretariat*, ASEAN Secretariat, 9 December 2008, <<http://www.aseansec.org/22106.htm>> Accessed January 2009.

5 *The ASEAN Charter*, Chapter I, p. 7.

6 *The ASEAN Charter*, Chapter IV, p. 19.

7 Mr Eko Wiluyo, *Transcript 6 November 2008*, p. 65.

inaugurated and operationalised by the 15th ASEAN Summit at the end of 2009.⁸

- 8.10 A subsequent Associated Press article, citing a confidential document it had obtained, reported that the human rights body would adhere to ASEAN's 'principles of non-interference in the internal affairs of ASEAN member states and would respect the right of every member state to be free from external interference, subversion and coercion.' The article stated:

The document falls short of key demands voiced by international human rights groups, which say the body will have limited effectiveness unless it can impose sanctions or expel countries that violate their citizens' rights.⁹

Migrant workers

- 8.11 One area of concern identified by Indonesian Solidarity, was the plight of migrant workers. Witnesses commented that there were some 5 million migrant workers in ASEAN¹⁰:

Most of them are in Thailand, and they come from Burma and Singapore; and most of those in Malaysia come from Indonesia and the Philippines. The protection of migrant workers is a concern between ASEAN and European countries.¹¹

- 8.12 Indonesian Solidarity's submission noted that because these workers were not citizens in their country of work they were the most vulnerable to human rights abuses.¹²

- 8.13 In January 2007, at the 12th ASEAN Summit in the Philippines, ASEAN issued a Declaration on the Protection and Promotion of the Rights of Migrant Workers. The Declaration contained commitments by ASEAN member states which included:

Promot[ing] decent, humane, productive, dignified and remunerative employment for migrant workers.

8 *Chairman's Statement of the 14th ASEAN Summit "ASEAN Charter for ASEAN Peoples"*, Cha-am, 28 February-1 March 2009. <<http://www.aseansec.org/22329.htm>> Accessed March 2009.

9 Associated Press, *ASEAN human rights body lacks power to punish*, 27 February 2009.

10 Dr John Rawson, *Transcript 6 November 2008*, p. 58.

11 Mr Eko Wiluyo, *Transcript 6 November 2008*, p. 65.

12 Indonesian Solidarity, *Submission No. 31*, p. 428.

Tak[ing] concrete measures to prevent or curb the smuggling and trafficking in persons by, among others, introducing stiffer penalties for those who are involved in these activities.

Facilitat[ing] data-sharing on matters related to migrant workers, for the purpose of enhancing policies and programmes concerning migrant workers in both sending and receiving states.¹³

- 8.14 A workshop on implementing the Declaration was held in the Philippines in March 2009. It aimed to reach 'a common understanding on the key principles governing the rights of migrant workers and the type of instrument on the protection and promotion of the rights of migrant workers to be adopted by ASEAN.' In opening the workshop, it was acknowledged that:

While our commitments under the ASEAN Declaration have recognised universally-accepted rights including those pertaining to migrant workers, children and women, we nevertheless need to take the challenge of defining what protective guarantees are available to migrant workers who are in vulnerable conditions such as those who are undocumented, those who fall prey to trafficking and other forms of exploitation, and those who become irregular migrant workers through no fault of their own.¹⁴

- 8.15 The promotion of core labour standards advocated by the CPSU could be another way to further the rights of migrant workers and workers in general. A mechanism of promoting such standards was identified by the CPSU which told the Committee that the World Bank insisted on core labour standards as a condition for loans. The witness also noted that this was not the case for the Asian Development Bank (ADB) and added that Australia was the fourth largest contributor to the ADB and was on the board:

The World Bank has adopted core labour standards as conditional for the International Finance Corporation providing loans to developing countries and to private sector investment within developing countries. The ADB, of which we are a party, has not done that. One good, practical thing that Australia could do is secure the core labour standards.

13 *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers*, 13 January 2007. <<http://www.aseansec.org/19265.htm>> Accessed March 2009.

14 *Workshop on the Scope of Coverage and Rights of Migrant Workers*, Manila, 26 March 2009. <<http://www.aseansec.org/Bulletin-Mar-09.htm>> Accessed March 2009.

These are only four; they are not the broader standards. They are the removal of discrimination in employment, the abolition of forced labour, the abolition of child labour and the right for employees to organise and collectively bargain.¹⁵

ASEAN Social Charter

8.16 The ACTU submission advocated that the new ASEAN human rights body should give attention to the United Nations and International Labour Organisation (ILO) conventions. It also advised the Committee that in support of the drive to embed human rights principles in ASEAN, the ASEAN-based unions had been involved in the development of an ASEAN Social Charter.¹⁶

8.17 The ASEAN Social Charter arose from three meetings 'involving national, regional and global trade union leaders supported by academics, think-tanks and government representatives from the ASEAN region' which discussed the impact of globalisation and regional trade agreements on workers. A consensus emerged that:

... workers in the region were being confronted with a social and economic 'race to the bottom', a phenomenon that has serious implications for wages, job security, decent work and social protection.¹⁷

8.18 The subsequent charter was based on four international documents:

- UN Universal Declaration of Human Rights (1948);
- Copenhagen Declaration and Programme of Action (1995);
- ILO Declaration on Fundamental Principles and Rights at Work (1998); and
- Declaration of ASEAN Bali Concord II – ASCC.

8.19 The ASEAN Social Charter:

Calls on all development orientated governments, socially responsible employers, trade unions and civil society organisations to respect, realise and promote:

- Core ILO Labour Standards;

15 Mr David Carey, *Transcript 2 October 2008*, p. 66.

16 ACTU, *Submission No. 27*, pp. 375, 376.

17 <http://www.asean-socialcharter.net/background_to_the_asean_social_c.htm> Accessed January 2009.

- Employment Stability;
- Health and Safety;
- Wages and Salaries for a Just Living;
- Social Security;
- Human Resource Development.¹⁸

Committee comment

- 8.20 The Committee welcomes the development of the ASEAN Charter and the creation of an ASEAN human rights body. The human rights body will raise the profile of human rights and will create an opportunity to bring human rights issues before ASEAN Ministers. The Charter, however, 'does not authorise the Secretary General or the Secretariat to enforce adherence, but calls for cases of non-compliance to be referred to the ASEAN Summit'.¹⁹ It is thus unclear how, other than through moral suasion, this will advance compliance of ASEAN members countries to the adherence to human rights principles.
- 8.21 Banks such as the Asian Development Bank and the World Bank, on the other hand, are in a position to progress human rights issues by setting conditions for loans. The Committee believes there is merit in Australia using its influence with the Asian Development Bank to have it meet the benchmark set by the World Bank as regards requiring core labour standards as a precondition for loans.
- 8.22 The Committee considers the ASEAN Social Charter, while limited in its coverage is nevertheless a positive development for human rights in the ASEAN region. Other matters of human rights concern in the ASEAN region include the exploitation of children, the sexual exploitation of women, and child trafficking.

18 *Principles and Rights governing the ASEAN Social Charter*, http://www.asean-socialcharter.net/principles_and_rights_governing_.htm Accessed January 2009.

19 *Exhibit No. 1*, p. 24.

Recommendation 7

- 8.23 **The Committee recommends that the Commonwealth Government should use its influence with the Asian Development Bank to ensure that the adherence to core labour standards becomes a precondition for loans.**
- 8.24 The Committee includes a further comment on human rights and core labour standards at the end of Chapter 9.

Human rights issues within Indonesia

- 8.25 Evidence from Indonesian Solidarity focused on:
- human rights in the Indonesian province of Papua; and
 - the plight of village fishermen in the eastern Indonesian island of Roti.

Papua

- 8.26 Indonesian Solidarity suggested that human rights in Papua were important to Australia because abuses could lead to an increase in refugees seeking to enter Australia. This had in the past created tensions between Australia and Indonesia. Australia's strategy, Indonesian Solidarity suggested, should be to prevent situations which could lead to influxes of refugees.
- 8.27 Factors which were reducing human rights in Papua were:
- A build-up of military in Papua – the military had a structure mirroring the government's administration structure. As development occurred and administration structure expanded, more military were drawn into the province. The deployment of troops in Papua was an 'obstacle to the implementation of special autonomy itself or the democratic process in Papua.'²⁰
 - Entrance of intolerant forms of Christianity and Islam into the province; and

20 Mr Eko Wiluyo, *Transcript 6 November 2008*, p. 62.

- Indigenous Papuans losing land to foreign corporations as large scale agricultural projects were created.²¹

8.28 A supplementary submission from Indonesian Solidarity reported on the visit to Papua of the UN Special Representative on Human Rights in 2007:

She heard credible reports of incidents that involve arbitrary detention, torture, harassment through surveillance, interference with the freedom of movement and in defenders' efforts to monitor and investigate human rights violations. She was also informed of cases where human rights defenders were threatened with prosecution by members of the police and the military. It was alleged that when defenders have attempted to register their complaints, this has been denied and the defenders threatened. She is also concerned about complaints that defenders working for the preservation of the environment and the right over land and natural resources frequently receive threats from private actors with powerful economic interests, but are granted no protection by the police. She is particularly disturbed by allegations that when defenders expose abuse of authority or other forms of human rights violations committed by the security apparatus, they are labelled as separatists in order to undermine their credibility.²²

8.29 Indonesian Solidarity did not advocate 'megaphone' diplomacy,²³ but rather that Australia should:

- 'actively back security sector reform pursued by the current Indonesian President that tries to make the military more accountable for human rights abuses';²⁴
- work with local civil society groups such as the Catholic Church which would multiply the effectiveness of aid to the province;²⁵
- provide support for the under resourced Papuan House of Parliament;²⁶ and

21 Dr John Rawson, *Transcript 6 November 2008*, p. 57.

22 Indonesian Solidarity, *Submission No. 40*, pp. 453–4.

23 Dr John Rawson, *Transcript 6 November 2008*, p. 63.

24 Dr John Rawson, *Transcript 6 November 2008*, p. 57.

25 Dr John Rawson, *Transcript 6 November 2008*, p. 60.

26 Dr John Rawson, *Transcript 6 November 2008*, p. 59.

- provide support to the victims of development – ‘the Papuans are the victims of development at the moment. What they need is education, health care and business opportunity so they can benefit from the resources as well as other Indonesian people, otherwise there is going to be more conflict.’²⁷

Roti Island fishermen

- 8.30 Indonesian Solidarity described to the Committee the plight of Roti Island fishermen:

They used to have access to fishing areas that have now been claimed by Australia. Australia has given them very limited access if they use traditional boats – no engine, no radio – for fishing in a limited area, and this exposes them to drowning in storms because they cannot use GPS or an engine to outrun storms. In the 10 years up to 1996 some 140 people from Roti Island have drowned. Others have gone to prison because their boat has, ... been driven by the current into Australian waters, they have been picked up by Customs and the boat sunk. Sometimes these people go to prison while their families starve back on Roti. ... The Australian government is running a small project in Roti to grow seaweed. Surely we could do a lot more in the form of providing these fishermen with an alternative income so they do not have to fish in the waters that we claim.²⁸

Committee comment

- 8.31 The Committee agrees with Indonesian Solidarity in its belief that ‘megaphone diplomacy’ is inappropriate. Australia has a more mature relationship with Indonesia, one which is far more consultative. That is not to say that human rights issues in Papua should be ignored, but that Australia should consult with Indonesia with a view to providing advice and assistance which will be of value to, and be valued by Indonesia.
- 8.32 The Committee believes there is merit in assisting security sector reform in Indonesia, but the nature of such assistance should be determined by Indonesia after consultation with Australia.

27 Dr John Rawson, *Transcript 6 November 2008*, p. 60.

28 Dr John Rawson, *Transcript 6 November 2008*, p. 58.

- 8.33 Turning to the plight of Roti Island fishermen, the Committee notes that the issue of illegal fishing is far more complex. DAFF told the Committee that Indonesia itself suffered from illegal fishing 'mainly from distant water fishing fleets.'²⁹ Roti Island fisherman may be accessing Australian waters primarily because their own waters have been depleted rather than because Australian waters are their traditional fishing area.
- 8.34 The solution is to provide the fishermen with alternative forms of income. The Australian aid provided to the fishermen to grow seaweed fulfils this aim, but also could serve as a springboard to the development of a new industry in the area.

Burma

- 8.35 Several issues were raised by witnesses, including:
- the provision of aid for Burmese refugees in Thailand on the Burma-Thailand border, and following cyclone Nargis;
 - the training provided by the AFP to the Burmese police; and
 - the effectiveness of sanctions against the Burmese regime.

Provision of aid to the Burmese

Burma-Thailand border area

- 8.36 The Centre for Peace and Conflict Studies (CPCS) told the Committee that its submission arose after consultation with the Thai Burma Border Consortium (TBBC) which administered refugee camps on the Thai side of the border with Burma.³⁰ The TBBC was a consortium of international humanitarian non-government organisations which took donations from governments to deliver humanitarian aid, educational materials and other essentials.³¹
- 8.37 In recent times over 3000 villages had been destroyed in eastern Burma:

29 Mr Paul Morris, *Transcript 2 October 2008*, p. 11.

30 Professor Jake Lynch, *Transcript 6 November 2008*, p. 94.

31 Professor Jake Lynch, *Transcript 6 November 2008*, p. 95.

... to make way for plantations or developments used to raise foreign currency by the regime to pay for its vast military. In the past 10 years, the Burmese army has doubled its presence in the border areas, intensifying the pressure on civilians, who are forced to endure slave labour, rape, torture and summary executions.³²

- 8.38 As a result, Burmese had crossed the border into Thailand where 140 000 were accommodated by Thailand in camps administered by the TBBC.
- 8.39 Several factors complicated the issue:
- the region along the border was a poor rural area and social infrastructure such as schools and hospitals was at the premium;
 - the Thai government did not allow Burmese to leave the camps to access local resources;
 - the resettlement of refugees from the camps to third countries had de-skilled the camp population, compromising the ability to operate the internal social infrastructure;
 - many more displaced Burmese were in the area informally and therefore had no legal status – this had created a source of tension and embitterment.³³
- 8.40 The CPCS considered that ‘lecturing the Thais’ was inappropriate, but instead aid should be directed at improving the economy of the region thereby benefiting Thais and Burmese refugees alike. Also, aid could be directed to assisting the provision of screening to enable refugees to live and work in Thailand. The CPCS acknowledged that providing aid to the region could act as a draw factor for Burmese refugees, but stated that this was already happening as countries accepted some of the people from the camps.³⁴
- 8.41 DFAT responded by advising the Committee that Australia had provided humanitarian support to refugees along the Thai-Burma border for over 10 years, and in 2007-08 had provided \$700 000. DFAT agreed with the need to enhance the local economy:

Development partners believe that strengthening the economic self-sufficiency of the refugees through improved

32 CPCS, *Submission No. 6*, p. 70.

33 Professor Jake Lynch, *Transcript 6 November 2008*, p. 99.

34 Professor Jake Lynch, *Transcript 6 November 2008*, pp. 98-9.

access to education and vocational training, the promotion of income-generation schemes and the provision of access to employment and markets beyond the refugee camps is the way forward to address both the humanitarian needs of refugees as well as the security needs of Thailand.³⁵

- 8.42 DFAT added that it did not sanction cross-border assistance because it was not authorised by Burma or Thailand and providing such assistance 'could potentially compromise Australia's humanitarian assistance activities within Burma.'³⁶

Provision of aid following Cyclone Nargis

Australia's response

- 8.43 Burma Campaign Australia (BCA) told the Committee that in the wake of Cyclone Nargis, Australia had provided \$55 million in aid. BCA was concerned, however, with the transparency and accountability of this assistance fearing that funds could be siphoned off by the Burmese regime. It highlighted the performance of the Three Diseases Fund, to which Australia contributed, as being an example of best practice in accountability:³⁷

... it actually publishes the contracts and not the accounts but the initial submission for a project. Then it also publishes narrative accounts and other documentation, which is unusual because most aid agencies never do that.³⁸

- 8.44 The Committee sought a comment from DFAT, which responded that Australia was providing the \$55 million in humanitarian assistance through 'credible aid organisations, ... and international non-government organisations with extensive experience working on the ground in Burma.' It added:

All aid agencies funded by Australia have monitoring systems in place to ensure funds are accounted for and aid is closely monitored. AusAID staff attached to the Australian Embassy in Rangoon also undertake regular field visits to ensure Australian aid is used appropriately.³⁹

35 DFAT, *Submission No. 47*, p. 484.

36 DFAT, *Submission No. 47*, p. 485.

37 Ms Alison Vickery, *Transcript 2 October 2008*, pp. 70-1.

38 Ms Alison Vickery, *Transcript 2 October 2008*, p. 75.

39 DFAT, *Submission No. 47*, p. 485.

ASEAN's response

- 8.45 A submission from World Vision Australia drew the Committee's attention to the contribution of the ASEAN secretariat to the international response to Cyclone Nargis. The Secretariat coordinated the Tripartite Core Group (TCG) which comprised the Burmese Government and UN agencies:

The TCG expanded the humanitarian access provided to humanitarian agencies to operate within the Irrawaddy Delta region, the region most affected by Cyclone Nargis. The TCG also helped to escalate issues which had plagued the immediate humanitarian response and advocate for their swift resolution. For example ASEAN and the UN were able to resolve a discrepancy between the mandated Foreign Exchange Certificate and the US Dollar that had led to a loss of up to 25 per cent of funds being brought into the country for the response through the TCG.⁴⁰

- 8.46 World Vision Australia added that the Post-Nargis Joint Assessment, placed under the TCG, coordinated the inter-agency and inter-governmental response – in World Vision Australia's view this was 'an example of best practice within the humanitarian industry.'⁴¹
- 8.47 A drawback, however, to the effectiveness of the TCG in coordinating the response to Cyclone Nargis was that non-government organisations (NGOs) 'have no direct representation on the TCG and limited direct access to the ASEAN secretariat during the response.' This had resulted in NGOs having limited means to promote issues being faced by aid beneficiaries. World Vision Australia therefore advocated that:

Australia should support enhanced ASEAN consultative mechanisms to facilitate and foster greater cooperation with key NGOs in disaster preparedness, mitigation, emergency response, rehabilitation and reconstruction at both the field and ASEAN secretariat levels. This should be pursued by Australian Government Ministers, Australia's Ambassador to ASEAN, senior government officials and the Australian government representative based in the ASEAN secretariat

40 World Vision Australia, *Submission No. 48*, p. 489.

41 World Vision Australia, *Submission No. 48*, p. 489.

through their ongoing multilateral and bilateral engagement with ASEAN and its member countries.⁴²

- 8.48 One specific way NGOs could be involved, World Vision Australia suggested, was through participation in the 'ASEAN led Regional Forum voluntary field level activities' such as occurred during the disaster relief exercises held in the Philippines in May 2009.⁴³

AFP training of Burmese police

- 8.49 The submission from BCA drew the Committee's attention to training being provided by the AFP to the Burmese police force:

Police from Burma participate in annual senior police officers courses at the [Jakarta Centre for Law Enforcement Cooperation], as well as in regional and Burma-based workshops. In November 2006, three Australian Federal Police trained twenty senior intelligence officers from the Burmese authorities at the Centre. The AFP further maintains a Liaison Office in Rangoon which trains local police.⁴⁴

- 8.50 This assistance BCA stated was tantamount to providing assistance to the Burmese military:

Since 1995 police officers have been under the direct control of the military, with police intelligence and their 'Special Branch' subordinate to regional military command structures. Police training therefore directly serves the military junta.⁴⁵

- 8.51 BCA questioned the effectiveness of this training:

[The Burmese police] are actively involved in population control, and this has been documented by respected organisations such as the International Crisis Group. ... The AFP, by training members of Burma's police force in counterterrorism methods, has created the potential for expertise to be used for political purposes to monitor and surveil ordinary Burmese.⁴⁶

In the different branches in Burma, people do not act independently. You wait for the person above you to tell you

42 World Vision Australia, *Submission No. 48*, pp. 489–90.

43 World Vision Australia, *Submission No. 48*, p. 490.

44 BCA, *Submission No. 18*, p. 212.

45 BCA, *Submission No. 18*, p. 213.

46 Ms Alison Vickery, *Transcript 2 October 2008*, p. 70.

what to do ... It is an incredibly hierarchical society. So, even if the training were not used for some deleterious purpose, what are they going to be able to do with it? How are they actually going to be able to track people-smuggling? And most of the people-smuggling ... is not a big crime. It is usually the local village person helping people move to Thailand or it is people who have come from Thailand ... [who] help people to move, mostly because they want to move because they want to get the hell out of there.

Secondly, with the money laundering—how is someone below a colonel even going to begin to act on money laundering in Burma? They have no power. They just do what they are told by those above. I would say that, in a sense, it is probably just a waste of money.⁴⁷

- 8.52 The AFP acknowledged that it was documented that ‘there are connections between the ruling junta, the military and the Myanmar Police Force.’ It took the view, however, that it was, given narcotic production in Burma as well as other types of criminal activity, important to ‘maintain an effective liaison with the Myanmar Police Force.’ The AFP considered the most effective way to achieve this was:

... through the sponsorship of training, to ensure that the Myanmar Police Force is sufficiently trained and exposed to modern, Western law enforcement practices, standards and procedures to ensure that any work that is done collaboratively with the Myanmar Police Force, not only with the AFP but with other ASEAN police partners in the region, is done to the standards that would give us the best level of confidence that that work is being undertaken in an acceptable manner.⁴⁸

- 8.53 The AFP indicated it was confident it was not providing training to people which would help them evade trafficking and money-laundering investigations or investigations of other criminal activities, and added that such training conformed to AFP-DFAT guidelines.⁴⁹
- 8.54 The Committee sought and received a copy of the AFP-DFAT guidelines which covered training provided to Burmese police

47 Ms Alison Vickery, *Transcript 2 October 2008*, p. 72.

48 Commander Paul Osborne, *Transcript 2 October 2008*, p. 26.

49 Commander Paul Osborne, *Transcript 2 October 2008*, pp. 26–7.

organised, sponsored, or funded by the AFP. The guidelines stipulated that:

- for Burmese police to be involved in such training courses or activities, there had to be a 'clear benefit to operational cooperation and Australian interests in combating transnational crime or counter-terrorism';
- the Minister for Foreign Affairs had to approve bilateral training courses conducted in Burma;
- the Minister for Foreign Affairs had to approve the involvement of Burmese police officers above the rank of Police Colonel (equivalent to superintendent) in training courses and activities; and
- no serving member of the Burmese military could participate in the training courses or activities.⁵⁰

8.55 The AFP provided more details of its involvement with the Burmese police:

Burma is the world's second-biggest producer of heroin and accounts for a large proportion of the heroin entering Australia.

In August 2006, AFP established an ongoing program that allows the AFP to assist the Myanmar Police Force Central Committee for Drug Abuse Control and its operational Anti-Narcotic Taskforces (ANTF) in identifying and dismantling heroin and amphetamine type stimulants refineries. That assistance involves training and some operational support.⁵¹

8.56 The AFP also provided details of successful operations in Burma:

- August 2008 – a joint AFP-ANTF operation in a northern Shan state on the Chinese border uncovered a heroin refinery;
- August 2008 – four joint operations in a southern Shan state resulted in the dismantling of a further heroin refinery and the seizure of a significant amount of heroin and amphetamine precursors;⁵² and

50 DFAT, *Submission No. 47*, p. 488.

51 AFP, *Submission No. 46*, p. 481.

52 800 l cooked opium; 363 kg opium; 1200 kg opium residue; 2200 l heroin precursors; 800 kg ammonium chloride (sufficient to convert 157 kg of raw opium to injectable quality heroin with a street value in Australia of \$58 million); 21 000 tablets of

- 23–26 January 2009 – seizure of two consignments of heroin totalling 150 kg (worth \$27 million on the Australian drugs market) and the arrest of a ‘number of Burmese and other foreign nationals ... including a notorious trafficker who is wanted in two international jurisdictions.’ The success resulted from AFP’s capacity building efforts including the provision of computerised analytical software and associated training.⁵³

Effectiveness of sanctions against Burma

- 8.57 BCA told the Committee that it supported the financial sanctions and visa ban imposed on Burmese companies and individuals associated with the regime. The negative effect of trade and investment sanctions were avoided because they did not hurt the poor of Burma.⁵⁴ BCA was concerned, however, that the sanctions were weakly enforced, inaccurate, and that the lists held by countries such as Australia, Canada, and the US did not match:

The only monitoring appears to have been undertaken by ordinary Australian residents informing the Department of Immigration and Citizenship of the presence of individuals on the sanctions lists actually living in Australia. Most of those on the list in Australia came here on student visas. A few individuals on the list, seemingly unknown to the authorities, had become Australian citizens or permanent residents prior to the imposition of the visa ban.

... unfortunately the lists vary, so you will have the American list, the Canadian list and the Australian list. It is typically the grandparents who are members of the regime because of their age. ... In some cases we have grandparents and parents on the list who have grandchildren and children in Australia studying whose names do not appear on the list.⁵⁵

- 8.58 DFAT responded by advising that the lists were ‘consistent, but not identical’:

The scope of the lists differs as each country’s sanctions regime operates under a different legislative framework.

amphetamine type stimulants; 77 500 pseudoephedrine tablets; seven firearms; two hand grenades; 3000 sticks gelignite, and 2900 detonators.

53 AFP, *Submission No. 46*, p. 482.

54 Ms Alison Vickery, *Transcript 2 October 2008*, p. 76.

55 Ms Alison Vickery, *Transcript 2 October 2008*, pp. 69, 73.

Differences also occur as each country's list is updated at a different time. In compiling Australia's revised list (released in October 2008), the Department consulted UK and US authorities through our Embassy in Rangoon.⁵⁶

- 8.59 The Committee also questioned DFAT as to whether Burma could take advantage of the AANZFTA thereby undermining the effectiveness of sanctions.⁵⁷
- 8.60 DFAT responded that Burma's involvement with the FTA had been minimal and that its internal problems meant it was unlikely 'to contemplate exporting' to Australia. DFAT added that Burma, however, was a member of the WTO and that as a 'least developed country', it 'already has and enjoys a duty-free quota free access to the Australian market in terms of the previous policy decisions taken.'⁵⁸

Committee comment

- 8.61 The Committee is satisfied with the response provided by DFAT and the AFP concerning the provision of aid to Burma, and involvement of the AFP with the Burmese police force. Nevertheless, there needs to be constant awareness of the possibility that the Burmese authorities will misuse the Australian assistance provided, and a willingness to withdraw this assistance should such evidence come to light.
- 8.62 Regarding sanctions against the Burmese regime, there again needs to be vigilance to prevent circumvention of sanctions. The Committee welcomes the involvement of organisations such as BCA in identifying sanctions evaders and encourages DFAT to be responsive to the information which may be uncovered.
- 8.63 The continuing detention of the Burmese opposition leader Aung San Suu Kyi continues to be of concern. The Committee notes the statement by the Minister for Foreign Affairs welcoming the 'strong show of support by ASEAN and its constituent members for Aung San Suu Kyi and her immediate and unconditional release.'⁵⁹ The Committee shares the Minister's grave concern over her continuing detention and calls for her immediate and unconditional release.

56 DFAT, *Submission No. 47*, p. 486.

57 *Transcript 16 March 2009*, pp. 6-7.

58 Mr Michael Mugliston, *Transcript 16 March 2009*, p. 7.

59 Hon. Stephen Smith MP, *Ministerial Statement: Aung San Suu Kyi*, 27 May 2009.

Climate change

- 9.1 Climate change and its impacts on the ASEAN region is attracting increased attention from ASEAN member states and Australia. While there are serious consequences arising from climate change, there are also opportunities for those ready to grasp them.
- 9.2 A detailed assessment of climate change and its impacts is not the major focus of this inquiry. Consequently, evidence received by the Committee was limited.
- 9.3 This chapter considers the evidence received concerning:
- the scale of the problem and ASEAN's response;
 - cooperation between Australia and the ASEAN member states; and
 - challenges and opportunities which Australia faces in its response to climate change.

Impact of climate change

- 9.4 Engineers Australia provided the Committee with assessments from the International Panel on Climate Change (IPCC) and the Lowy Institute on the impact of climate change on the ASEAN region. The IPCC fourth report predicted reduced crop yields, increased risks of

hunger and water scarcity, damage to ecosystems, population displacement, significant adverse effects on human health, and increased urbanisation, with associated environmental impacts.¹

9.5 The Lowy Institute suggested consequences such as:

- 'economic damage and risk to coastal cities';
- increasing likelihood of border disputes due to loss of land area;
- tensions over energy supply;
- 'increased instability in weak and failing states'; and
- an increase on migration pressures.²

9.6 DFAT's submission summarised the situation:

Australia considers climate change to be a serious long-term global challenge that will incrementally intensify climate-related stresses, including extreme weather events, sea-level rise and resource availability. Other impacts may include alterations to the geographical range of some infectious diseases. Over time, these climate change impacts are also expected to contribute additional stresses to local and regional stability, and resource and food security. The countries of ASEAN, particularly those with low-lying coastal and island communities, are vulnerable to the impacts of climate change. Climate change in these areas has the potential to affect key industries, notably tourism and agriculture.³

9.7 DIAC also drew attention to the high impacts of climate change on 'mega-deltas'. (One of these – the Mekong Delta – the Committee notes is situated across ASEAN member states.) The increased likelihood and severity of extreme weather events such as flooding would interrupt food production and, DIAC suggested, would increase internal displacement and pressures for migration to Australia.⁴

1 IPCC *Fourth Assessment Report*, 2007, quoted in Engineers Australia, *Submission No. 3*, p. 38.

2 Alan Dupont and Graeme Pearman, *Heating Up the Planet: Climate Change and Security*, 13 June 2006, www.lowyinstitute.org quoted in Engineers Australia, *Submission No. 3*, pp. 38–9.

3 DFAT, *Submission No. 24*, p. 302.

4 DIAC, *Submission No. 4*, p. 59.

ASEAN's response

- 9.8 DFAT advised the Committee that there was a 'growing awareness' of climate change amongst ASEAN member states.⁵
- 9.9 References to climate change and environmental issues are made in the following declarations:
- ASEAN Vision 2020 (1997);⁶
 - ASEAN Agreement on Transboundary Haze Pollution in 2002;⁷
 - ASEAN Concord II (2003);⁸
 - ASEAN Socio-Cultural Community Plan of Action (2003);⁹
 - Cebu Declaration on East Asian Energy Security (2007);¹⁰
 - ASEAN Declaration on Environmental Sustainability (2007);
 - Singapore Declaration on Climate Change, Energy and the Environment (2007); and
 - The ASEAN Charter (2008).¹¹
- 9.10 The ASEAN Declaration on Environmental Sustainability, released at the 3rd East Asia Summit in November 2007, included ASEAN's response to climate change which was:
- (14) To work closely** with the international community to better understand and adapt to the adverse impacts of climate change, including, in particular, the related issues of greenhouse gas emissions and carbon sinks;
- (15) To agree** that the pursuit of climate change and energy security policies should avoid introducing barriers to trade and investment;
- (16) To intensify** cooperation on the joint research, development and deployment of low emission technologies

5 DFAT, *Submission No. 24*, p. 302.

6 <<http://www.aseansec.org/2357.htm>> Accessed January 2009.

7 *Exhibit No. 1*, pp. 16-17; <<http://www.aseansec.org/6086.htm>> Accessed 28 January 2009.

8 <<http://www.aseansec.org/15159.htm>> Accessed January 2009.

9 <<http://www.aseansec.org/16833.htm>> Accessed January 2009.

10 <<http://www.aseansec.org/19319.htm>> Accessed January 2009.

11 <<http://www.aseansec.org/ASEAN-Charter.pdf>> Accessed January 2009.

for the cleaner use of fossil fuels, recognising that fossil fuels will continue to play a major role in our energy mix;

(17) To take concrete measures to promote the use of renewable and alternative energy sources such as solar, hydro, wind, tide, biomass, biofuels and geothermal energy, as well as, for interested parties, civilian nuclear power, while ensuring safety and safeguards that are of current international standards, and environmental sustainability throughout the full life cycle of production and use;

(18) To improve energy efficiency in key sectors of energy use through capacity building and information sharing of best practices in managing energy use and the adoption of appropriate technologies and practices;

(19) To undertake effective measures towards open and competitive regional and international markets geared towards providing affordable energy at all economic levels to facilitate the adoption of energy-efficient and low-emission technologies.¹²

9.11 The Singapore Declaration on Climate Change, Energy and the Environment, released on the following day, committed countries of the East Asia Summit 'to the common goal of stabilising atmospheric greenhouse gas concentrations in the long run, at a level that would prevent dangerous anthropogenic interference with the climate system' and to 'work to achieve a common understanding on a long-term aspirational global emissions reduction goal to pave the way for a more effective post-2012 international arrangement'.

9.12 Further, the Singapore Declaration committed to ongoing cooperation to improve energy efficiency and the use of cleaner energy including 'cooperating for the development and use of civilian nuclear power, in a manner ensuring nuclear safety, security and non-proliferation' consistent with the IAEA framework. It also committed to:

... cooperation on afforestation and reforestation, and to reduce deforestation, forest degradation and forest fires, including by promoting sustainable forest management, combating illegal logging, protecting biodiversity, and addressing the underlying economic and social drivers ...¹³

12 <<http://www.aseansec.org/21060.htm>> Accessed January 2009.

13 <<http://www.aseansec.org/21116.htm>> Accessed January 2009.

- 9.13 Most recently, climate change was a topic discussed in the Track II 7th Shangri-La Dialogue¹⁴ in May 2008. The report of the 'Breakout Group 1' which discussed climate change and Asia-Pacific security included the following:

According to one military delegate, time had run out for discussion: as the effects of climate change for the next 30 years were already fixed, policy action and coordination were essential. Delegates believed global warming would exacerbate development problems and cause tensions over, for example, water supplies and migration. There was also a strong feeling that governments needed to channel more resources into related science and technologies.

However, the debate revealed that the issue took on many forms depending on the perspective of the viewer, with some delegates choosing to focus more on issues of food and energy security. There were also differing views on how to tackle climate change, with some delegates suggesting that the present international emphasis on emissions cuts was too great and that, for example, renewable and nuclear energy should receive more attention.¹⁵

Australian government involvement

- 9.14 DFAT advised the Committee that Australia was involved in many of the discussions and agreements on climate change involving ASEAN member countries such as those leading to the Singapore Declaration on Climate Change, Energy and the Environment (see above).¹⁶
- 9.15 Further, Australia was a member of the Asia-Pacific Network on Climate Change, to which all ASEAN member states belonged except Burma and Brunei. The group, DFAT advised, provided 'a platform for policy dialogue and consultation through annual seminars and provision of information'.¹⁷

14 Membership is drawn from the wider Asia-Pacific region.

15 <<http://www.iiss.org/EasysiteWeb/getresource.axd?AssetID=19301&type=full&servicetype=Attachment>> p. 60. Accessed January 2009.

16 DFAT, *Submission No. 24*, p. 302.

17 DFAT, *Submission No. 24*, pp. 302-3.

- 9.16 Other multilateral agreements, such as the Joint Declaration on ASEAN-Australia Comprehensive Partnership, and its associated Plan of Action, commit Australia to processes toward further agreements on climate change and other environmental concerns.¹⁸
- 9.17 DFAT's submission provided information on Australian's \$200 million International Forest Carbon Initiative (IFCI) which supported deforestation reduction efforts initiated through the United Nations Framework Convention on Climate Change. The aim was to 'demonstrate that reducing emissions from deforestation and forest degradation can be part of an equitable and effective international agreement on climate change'. The focus was on developing practical demonstration activities, particularly in Indonesia and Papua New Guinea.¹⁹
- 9.18 IFCI initiatives with Indonesia are coordinated through the Indonesia-Australia Forest Carbon Partnership. Major activities were:
- \$30 million for the Kalimantan Forests and Climate Partnership which trials 'an innovative, market-oriented approach to financing and implementing measures to reduce emissions from deforestation and forest degradation in Central Kalimantan' – a design process commenced in 2008; and
 - \$10 million for the development of a Forest Resource Information System and a National Carbon Accounting System – the aim being to develop national policy, regulatory frameworks, and strategies to reduce emissions from deforestation and forest degradation, including the prevention and suppression of peat land fires.²⁰
- 9.19 DFAT advised that other IFCI assistance included:
- acquisition of historical satellite data on forest cover changes in South-East Asia and the Pacific, and provision of this data to countries in the region; and
 - the Asia-Pacific Forestry Skills and Capacity Building Program, which will assist countries in the region to develop their forest management expertise, combat illegal logging and improve the carbon sequestration performance of their forests (with initial projects including Indonesia, Vietnam, Cambodia and Laos).²¹

18 DFAT, *Submission No. 24*, pp. 305, 311.

19 <<http://www.climatechange.gov.au/international/publications/fs-ifci.html>> Accessed February 2009.

20 DFAT, *Submission No. 24*, p. 303.

21 DFAT, *Submission No. 24*, pp. 303–4.

- 9.20 In addition, Australia had provided funds to the Mekong River Commission²² to ‘examine the impact of climate change on the water resources of the Mekong Basin, particularly in relation to food production and fish resources’, and, through AusAID, to other projects in Laos, Cambodia, and Vietnam which focused on renewable energy and power distribution.²³
- 9.21 Beyond its links with ASEAN, but relevant to the region, Australia also belongs to the Asia-Pacific Partnership on Clean Development and Climate, a ‘public-private sector effort’ in which Australia, Canada, China, India, Japan, Korea, and the United States cooperate ‘in an effort to address increased energy needs and the associated issues of air pollution, energy security, and climate change’. The countries involved collectively ‘account for more than half of the world’s economy, population, and energy use’. Progress, therefore, would have wider results, including for ASEAN countries.²⁴

Opportunities for Australia

- 9.22 The AAS told the Committee that climate change presented opportunities for Australia. Many of the challenges faced by the world were global in nature and required a collaborative multinational response:

By strengthening its science and technology links with ASEAN countries, Australia can contribute to the development of solutions to global challenges such as climate change, sustainability and the security of food and energy resources.²⁵

- 9.23 The AAS submission added:

Australia, as a key developed economy in the southern hemisphere, is conveniently located to observe the Southern Ocean, and can be a provider of climate knowledge and climate-change solutions to all nations in our hemisphere. This area of science ranks as a major emerging one, and will

22 The Commission comprises Cambodia, Laos, Thailand, and Vietnam.

23 DFAT, *Submission No. 24*, p. 303.

24 *Asia-Pacific Partnership on Clean Development and Climate (Fact sheet)*, <http://www.asiapacificpartnership.org/pdf/translated_versions/FactSheet_English_Aug08.pdf> Accessed January 2009.

25 Professor Michael Dopita, *Transcript 12 September 2008*, p. 60.

become increasingly more a important to the nation's economy.²⁶

9.24 The ACTU, while registering concern over the parameters of employment as ASEAN member states responded to climate change, anticipated benefits from the increase in the number of 'green jobs' in environmental services that were expected to emerge.²⁷ The ASU, CPSU and CEPU agreed, envisaging a key role for Australia in providing technical support, and exporting technical services, relevant to climate change, to ASEAN member states.²⁸

9.25 CSIRO noted that science and technology could make an appreciable difference to the complex challenges of climate change in the ASEAN region, where countries face rapid rate of change:

... as a complex mix of drivers such as rapid urbanisation, climate change, energy affordability and food security combine with political factors and population growth ... Given that many natural resources such as water, soil, forests and fish are already declining, more needs to be done to understand how to respond to the increasing level of consumption.²⁹

9.26 The Committee received specific evidence in the areas of:

- climate change modelling and prediction;
- primary production sustainability;
- energy efficiency and carbon emissions trading.

Climate change modelling and prediction

9.27 The AAS advised that Australia's involvement in international bodies provided opportunities for Australian scientists to engage with ASEAN on climate change. Examples of these international bodies were:

- the Intergovernmental Panel on Climate Change;
- the Intergovernmental Ocean Commission;
- the World Climate Research Programme; and

26 AAS, *Submission No. 9*, p. 92.

27 ACTU, *Submission No. 27*, pp. 373, 397.

28 ASU, CPSU & CEPU, *Submission No. 17*, pp. 192, 201.

29 Ms Spink, CSIRO, *Transcript 2 October 2008*, p. 78.

- the International Geosphere-Biosphere Programme.³⁰
- 9.28 CSIRO told the Committee that it was assisting Indonesia to develop its climate modelling capability and meteorological capacity:
- ... we are assisting them with the IPCC climate projections. They are on a very coarse scale and do not provide the necessary precision for making projections that can be used to make decisions for the country, so we have been working with the bureau of meteorology to take six of the global climate change models and bring them down to a 60-kilometre resolution.³¹
- 9.29 The aim, CSIRO added, was to enable the Indonesians to use the climate models, increase their coverage of Indonesia, and predict the impacts of extreme climate events.³²

Primary production sustainability

- 9.30 CSIRO told the Committee that meeting the challenges posed by rapid change in a sustainable manner had become the aim of its recent work with ASEAN countries, which focused on 'sustainable agriculture, including animal diseases and natural resource management issues'.³³ CSIRO provided several examples:
- an assessment of the impact by 2030 of climate change on the water resources and productivity of the Mekong basin;
 - collaboration on foot and mouth disease, and white spot disease in prawns – this incidentally would provide improved diagnostic and emergency response capabilities in Australia;
 - research partnerships with the Centre for International Forestry Research in Indonesia and the International Rice Research Institute in the Philippines aimed at enhancing regional sustainability and economic productivity;³⁴ and
 - collaboration with the state department in Sarawak to characterise timber properties and assist in planting acacias and eucalypts.³⁵

30 AAS, *Submission No. 9*, p. 91.

31 Ms Melinda Spink, *Transcript 2 October 2008*, p. 79.

32 Ms Melinda Spink, *Transcript 2 October 2008*, p. 80.

33 Ms Spink, CSIRO, *Transcript 2 October 2008*, p. 78.

34 Ms Spink, CSIRO, *Transcript 2 October 2008*, pp. 78–9.

35 Dr Ta-Yan Leong, CSIRO, *Transcript 2 October 2008*, p. 81.

- 9.31 A further example provided by the AAS was the Coral Triangle Initiative, which was proposed by Indonesia's President Yudhoyono in 2007.³⁶ The project spanned a number of countries in the region, the largest of which were Indonesia, the Philippines, Malaysia.³⁷ Australian universities were involved in a 'multilateral partnership on coral reefs, fisheries and food security', the aim being to respond to the two main threats to coral reefs: resource exploitation and climate change.³⁸
- 9.32 The AAS cautioned, however, that many research activities would 'take many years to show really powerful concrete results' and, while providing an opportunity for Australia, would require a long-term commitment.³⁹

Energy efficiency and carbon emissions trading

- 9.33 Engineers Australia's submission drew the Committee's attention to the Draft Garnaut Report which noted that in 2005, ASEAN countries collectively emitted 4.8 per cent of global greenhouse gas emissions compared to 1.5 per cent by Australia. The submission added:

... Australia has a vital interest in convincing ASEAN countries that greenhouse gas reduction is essential to their futures in that active ASEAN participation in securing an international agreement on climate change mitigation is essential.⁴⁰

- 9.34 Engineers Australia also advised the Committee that Australia could help to improve energy efficiency by supplying technical support:

... energy efficiency measures and technologies offer particular potential for international collaboration. Low energy efficiency is widely recognised as a major contributor to excess energy use and to energy related emissions in developed countries. Assisting ASEAN countries in becoming more energy efficient will enable them to by-pass the mistakes made in other countries while assisting them to meet development aspirations.⁴¹

36 Professor Dopita, AAS, *Transcript 12 September 2008*, p. 61.

37 AAS, *Submission No. 9*, p. 94.

38 AAS, *Submission No. 9*, p. 94.

39 Professor Michael Dopita, *Transcript 12 September 2008*, p. 61.

40 Engineers Australia, *Submission No. 3*, p. 38.

41 Engineers Australia, *Submission No. 3*, p. 39.

- 9.35 Engineers Australia also noted that Australia was involved in a number of 'small cooperative activities' in carbon emissions reduction, including the International Forest Carbon Initiative; the Methane to Market Partnership; the Renewable Energy and Energy Efficiency Partnership; and the Carbon Sequestration Leadership Forum. There was, however:
- ... considerable scope for Australia to expand these activities both in scale and in the coverage of countries. Rapid accumulation of knowledge relating to carbon accounting, how it is applied to different countries carbon challenges and how it relates to active participation in a comprehensive international emissions reduction agreement are vital to Australia's interests.⁴²
- 9.36 Telstra considered there was the potential to alleviate carbon emissions through the greater use of communications technology, including 'demand-side energy management'; video conferencing in lieu of air travel; real-time freight management; better management of idle devices; and telecommuting.⁴³
- 9.37 Telstra provided two examples where it had saved greenhouse gas emissions through the use of new technology:
- in 2007, the use of the video conferencing for some 20 000 hours of meetings had 'saved around 4200 tonnes CO₂ equivalent from avoided travel'; and
 - installing GPS devices in technicians' vehicles, combined with improved routing scheduling and better sequencing of work had led to an 'estimated 19 per cent reduction in greenhouse gas emissions per install/repair task.'⁴⁴
- 9.38 Concerns were expressed to the Committee about the adoption of an emissions trading scheme, especially if such a scheme was not adopted by Australia's ASEAN trading partners.
- 9.39 Australian Pork Ltd represented the impact of on primary producers:
- The expected increase of production costs for Australian pork producers due to the [Carbon Pollution Reduction Scheme] would also further reduce the industry's competitiveness against comparatively lower cost of pig production countries
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42 Engineers Australia, *Submission No. 3*, p. 39.

43 Telstra, *Submission No. 8*, p. 88.

44 Telstra, *Submission No. 44*, p. 471.

throughout the ASEAN region. There are currently no emission targets for developing countries, especially some members in the ASEAN. Most developing nations in the ASEAN have not complied with their obligations under the Kyoto protocol and most understandably would not have the resources to achieve this. Meat producers in the ASEAN would become more cost competitive if they would not have to comply with greenhouse gas emission mitigation from pig production activities.⁴⁵

9.40 Australian Pork added, however, that the introduction of the scheme should be seen 'as an opportunity to engage other ASEAN members into greenhouse gas emissions reduction and carbon trading.'⁴⁶

9.41 The FCAI was more supportive of a trading scheme, but acknowledged it would be a challenge to balance competing factors:

I think, to be clear, of all the options that Australia has to contribute to efforts to address climate change, a broadly based emissions trading system has to be at the front of the queue. But clearly that has competing impacts. We need to ensure that ... we design it in such a way that it takes into account those competitive impacts and we do not simply end up driving investment offshore into other markets where they do not have the same effective policies in place.⁴⁷

Committee comment

9.42 The Committee considers that ASEAN will respond to climate change in the 'ASEAN Way' (see Chapter 2) through dialogue, consensus, and incremental progress.

9.43 The Committee believes there are significant opportunities for Australia to offer leadership and technical assistance to ASEAN member countries as they face the challenge wrought by climate change.

9.44 In the Committee's view, Australia's present climate change engagements in the region, both government and non-government, are a good basis for meeting these challenges. They contribute to

45 Australian Pork Ltd, *Submission No. 25*, p. 366.

46 Australian Pork Ltd, *Submission No. 25*, p. 366.

47 Mr Andrew McKellar, *Transcript 2 October 2008*, p. 61.

positive relationships in the region and, by enhancing capacity within ASEAN member states, build a foundation upon which future collaborations can occur.

- 9.45 Regarding the introduction by Australia of an emissions trading scheme, the Committee acknowledges concerns about compromising Australia's competitiveness in relation to its trading partners.
- 9.46 The Committee believes that one response to these concerns is for Australia to negotiate with ASEAN member states, and ASEAN as a single entity, with the object of instituting, in time, an emissions trading scheme which is internationally consistent and covers all countries in the region.
- 9.47 Arising from its review of human rights issues in Chapter 8 and environment issues in this chapter, the Committee considers that human rights including core labour standards and the environment should be pursued in future FTAs. Australia should also take the opportunity to introduce such issues (if they are not already included) when current FTAs are reviewed. Further, the Committee believes that Parliament be advised of progress when DFAT reports to Parliament under Recommendation 2.
- 9.48 The Committee notes that the major FTA Australia has entered into with the US contains chapters on labour and the environment. The chapter on labour includes a shared commitment to ensure that internationally recognised labour principals are recognised and protected by law.⁴⁸

Recommendation 8

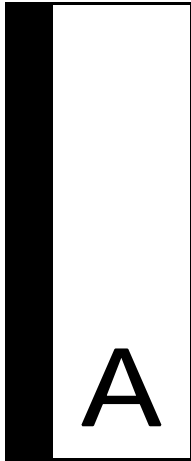
- 9.49 **The Committee recommends that human rights, core labour standards, and the environment be pursued in future free trade agreements and, when existing free trade agreements which do not contain such issues are reviewed, these issues should be pursued.**

48 Chapter 18 of the Australia-US FTA concerns labour, and Chapter 19 concerns the environment.

Recommendation 9

- 9.50 **The Committee recommends that when the Department of Foreign Affairs and Trade reports annually to the Parliament under Recommendation 2, progress with regard to human rights, core labour standards, and the environment be included.**

Senator Michael Forshaw
Chair
June 2009

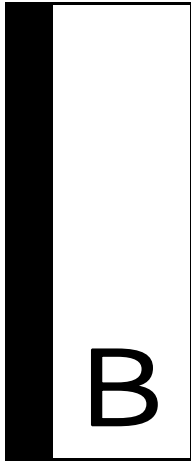


Appendix A—Submissions

1. Australian Wine and Brandy Corporation
2. SBS Television
3. Engineers Australia
4. Department of Immigration and Citizenship
5. Australia–ASEAN Business Council
6. Centre for Peace and Conflict Studies, University of Sydney
7. Department of Defence
8. Telstra Corporation Limited
9. Australian Academy of Science
10. AusHeritage Limited
11. Australian Nursing Federation
12. North West Shelf Australia LNG
13. Qantas Airways Limited
14. Department of Innovation, Industry, Science and Research
15. IP Australia
16. National Health and Medical Research Council
17. Australian Services Union, Community & Public Sector Union and Communications, Electrical and Plumbing Union

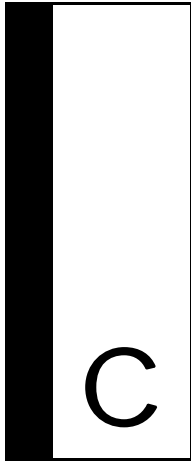
18. Burma Campaign Australia
19. Asia-Pacific Centre for the Responsibility to Protect/ Act for Peace
20. Department of Broadband, Communications and the Digital Economy
21. Singapore Airlines Limited
22. Professor Howard Dick
23. Department of Education, Employment and Workplace Relations
24. Department of Foreign Affairs and Trade
25. Department of Agriculture, Fisheries and Forestry
26. Australian Pork Limited
27. Australian Council of Trade Unions
28. Department of Education, Employment and Workplace
29. Department of Foreign Affairs and Trade
30. Australian Nuclear Science and Technology Organisation
31. Indonesian Solidarity
32. Australian Communications and Media Authority
33. Department of Foreign Affairs and Trade
34. Department of Innovation, Industry, Science and Research
35. Australian Federal Police
36. Australian Nuclear Science and Technology Organisation
37. Council of Australasian Museum Directors
38. Australian Nuclear Science and Technology Organisation
39. Singapore Airlines Limited
40. Indonesian Solidarity
41. Department of Agriculture, Fisheries and Forestry
42. Professor Tony Milner
43. Department of Defence
44. Telstra Corporation Limited
45. Australian Pork Limited

46. Australian Federal Police
47. Department of Foreign Affairs and Trade
48. World Vision Australia



Appendix B—Exhibits

1. Parliamentary Library – *ASEAN’s regional cooperation and multi lateral relations: recent developments and Australia’s interests*
2. Parliamentary Library – *Climate change impacts on South East Asia*
3. Parliamentary Library – *Free trade agreement with Thailand and Singapore*
4. Engineers Australia – *The Engineering Profession – A Statistical Overview, 5th Edition, 2008*
5. Dr Jake Lynch – *Internal Displacement in Eastern Burma – 2007 Survey*’
6. CONFIDENTIAL
7. Qantas Airways Limited – *Towards a National Aviation Policy Statement – Submission in response to the Government’s Aviation White Paper, July 2008*
8. CONFIDENTIAL
9. Singapore Airlines Limited – *Analysis of the trans-pacific flight route*



Appendix C—Witnesses at public hearings

Canberra

Friday, 12 September 2008

Department of Foreign Affairs and Trade

Mr Peter Woolcott – First Assistant Secretary, South-East Asia Division

Mr Michael Mugliston – Head, Asia Trade Task Force

Mr John Feakes – Assistant Secretary, Strategic Affairs Branch

Ms Lynda Worthaisong – Director, ASEAN Regional Issues and East Timor
Section

Mr John Tilemann – Director, Strategic Policy Section, Strategic Affairs
Branch, International Security Division

Ms Susan Grace – Director, Counter Terrorism Policy Section

AusAID

Mr Richard Moore – Deputy Director-General, Asia Division

Ms Deborah Fulton – Director, Policy and Global Environment Section

Mr Craig Keating – Acting Director, East Asia Regional Section

Austrade

Mr Jim Enright – Manager, Government Relations

Ms Sheila Lunter – Project Manager, International Liaison Unit, Southeast
Asia, South Asia and the Pacific

Department of Immigration and Citizenship

Ms Arja Keski-Nummi – First Assistant Secretary, Refugee Humanitarian and International Division

Ms Malissa Dryden – Acting Assistant Secretary, International Coordination Branch, RH&I Division

Mr Jacob Townsend – Assistant Director, South East Asia and Bali Process Section, ICB, RH&I Division

Ms Darlene Trnka – Graduate, South East Asia and Bali Process Section, ICB, RH&I Division

Department of Innovation, Industry, Science and Research

Mr Barry Jones – Head of Division, Enterprise Connect (representing National Measurement Institute, Innovation, Services)

Ms Ruth Gallagher – Manager, Tariff and Trade Section, Trade and International Branch

Ms Jennifer McEwan – Assistant Manager, Tariff and Trade Section, Trade and International Branch

Mr Pierre King – Assistant Manager, Standards and International Liaison Section, Trade and International Branch

Mr Louis Couttoupes – Policy Officer, Standards and International Liaison Section, Trade and International Branch

Ms Michele Ouzman – Tariff and Trade Section, Trade and International Branch

Ms Mary Finlay – General Manager, International Science Branch

Mr Jon Lewis – Manager, Asia Pacific and Africa, International Science Branch

Mr Mark Durant – General Manager, Automotive TCF and Engineering Branch

Mr Mark Mussared – Manager, Automotive Research and Trade Section, Automotive, TCF and Engineering Branch

Mr Alan Coleman – TCF Policy Section, Automotive, TCF and Engineering Branch

Department of Defence

Mr Lachlan Colquhoun – Assistant Secretary, South East Asia, International Policy Division

Professor Tony Milner – Basham Professor of Asian History, ANU

IP Australia

Mr David Johnson – Acting Deputy Director-General

Mr Ian Goss – General Manager, Business Development and Strategy Group

Mr Matthew Forno – Director, International Cooperation, Business
Development and Strategy Group

Ms Karen Tan – Acting Director, International Policy, Business Development
and Strategy Group

Australian Academy of Science

Professor Michael Dopita – Fellow of the Academy and Academy Treasurer

Dr Sue Meek – Chief Executive

Engineers Australia

Ms Kathryn Hurford – Associate Director, Public Policy, International and
National Policy Directorate

Mr Andre Kaspura – Policy Analyst, International and National Directorate

Department of Education, Employment and Workplace Relations

Mr Scott Evans – Branch Manager, Multilateral, Middle East, South and South
East Asia Branch, International Group

Mr Peter Davies – Director, Trade Agreements and Multilateral Unit,
Multilateral, Middle East, South and South East Asia Branch,
International Group

Canberra

Monday, 22 September 2008

Department of Foreign Affairs and Trade

Mr Peter Woolcott – First Assistant Secretary, South-East Asia Division

Ms Jennifer Rawson – First Assistant Secretary, International Security
Division

Mr Michael Mugliston – Head, Asia Trade Task Force

Ms Lynda Worthaisong – Director, ASEAN Regional Issues and East Timor
Section

Mr Anthony Taylor – Director, Cultural Diplomacy Section

AusAID

Mr Richard Moore – Deputy Director-General, Asia Division
Ms Deborah Fulton – Director, Policy and Global Environment Section
Mr Craig Keating – Acting Director, East Asia Regional Section

Melbourne

Thursday, 2 October 2008

Department of Agriculture, Fisheries and Forestry

Mr Paul Morris – Executive Manager, Technical Market Access
Mr Paul Ross – General Manager, Bilateral Trade

Department of Broadband, Communications and the Digital Economy

Mr Colin Oliver – Assistant Secretary, International Branch,
Telecommunications Network Regulation and Australian Post
Ms Maureen Cahill – Executive manager, Strategy and Coordination Branch,
Australian Communications and Media Authority

Australian Federal Police

Assistant Commissioner Peter Drennan – National Manager, Counter
Terrorism
Commander Paul Osbourne – International Network, Border and
International

Australian Council of Trade Unions

Ms Alison Tate – International Officer

Federal Chamber of Automotive Industries

Mr Andrew McKellar – Chief Executive

Federation of Automotive Products Manufacturers

Ms Anna Greco – Chief Executive

Australian Services Union, Community & Public Sector Union and Communications, Electrical and Plumbing Union

Ms Sarah Fitzpatrick – Consultant, ASU

Mr Paul Slape – National Secretary, ASU

Mr David Carey – Federal Secretary, CPSU-State Public Services Federation

Burma Campaign Australia

Ms Alison Vicary

Commonwealth Scientific and Industrial Research Organisation

Dr Ta-Yan Leong – Senior Advisor, Government and International

Ms Melinda Spink – Director, CSIRO AusAID Environmental Research for
Development Alliance

Sydney

Thursday, 6 November 2008

ANSTO

Mr Ryan Gilchrist – Government and Regulatory Affairs

Mr Allan Murray – Manager, External Radiation Services and Leader,
Regional Security of Radioactive Sources Project

Mr Stephen McIntosh – Senior Advisor, Government Liaison

Australia-ASEAN Business Council

Mr John Connor – President

Mr Paul Gallagher – Executive Director

Telstra Corporation Limited

Mr Kavan Peries – Head of Global Solutions

Ms Jacqueline Brosnan – Counsel

Singapore Airlines Limited

Mr Subhas Menon – Regional Vice President, South West Pacific

Ms Diana Stainlay – Public Relations Manager, South West Pacific

Qantas Airways Limited

Mr David Hawes – Group General Manager, Government and International Relations

Ms Jane McKeon – General Manager, Government and International Relations

Indonesian Solidarity

Dr John Rawson – Director

Mr Eko Waluyo – Program Coordinator

Professor Howard Dick

SBS Television

Mr Bruce Meagher – Director, Strategy and Communications

AusHeritage Limited

Mr Vinod Daniel – Chairman, AusHeritage and Head Cultural Heritage and Science Initiatives Branch, Australian Museum

Mr Bruce Pettman – Vice Chairman

Mr Ian Cook – Board Member

Mr Graham Brooks – Member

M Michael Crayford – Director

Centre for Peace and Conflict Studies, University of Sydney

Professor Jake Lynch – Director

Canberra

Thursday, 1 December 2008

Australian Pork Limited

Ms Kathleen Plowman – General Manager, Policy

Mr Peter Haydon – General Manager, Marketing

Mr Timothy Flor – Policy Officer

Canberra

Monday, 16 March 2009

Department of Foreign Affairs

Mr Peter Woolcott – Head, South-East Asia Division

Mr Michael Mugliston – Head, Asia Trade Task Force

Mr John Larkin – Deputy Head, Asia Trade Task Force

Mr Danny Burrows – Executive Officer, FTA Unit

Mr Tim Ward – Executive Officer, FTA Unit

Dr Milton Church – Coordinator, Goods and Government Procurement,
FTA Unit

AusAID

Ms Octavia Borthwick – Assistant Director-General, Asia Regional Branch

Mr Michael Wilson – Assistant Director-General, Asia Bilateral Branch

Mr Craig Keating – Deputy Director, East Asia Regional Section, Asia
Regional Branch

Austrade

Ms Sheila Lunter – Project Manager, South East Asia, South Asia and the
Pacific Liaison Unit

Australian Trade Commission

Mr Michael Moignard – General Manager, Government and Communications

