

AUSTRALIA UNITED STATES OF AMERICA TRADE AGREEMENT,
AGREED AT WASHINGTON DC ON 8 FEBRUARY, DUE TO BE AFTER 13
MAY 2004

DRAFT TEXT TABLED ON 8 MARCH, NIA TO BE DELIVERED TO JSCOT ON 24
MARCH AND TABLED ON 30 MARCH 2004

National Interest Analysis

Regulation Impact Statement

Annexes:

1. Consultations
2. Australian Objectives
3. Obligations: Explanatory Guide to the Agreement
4. US Political Brief
5. US Fact Sheet
6. List of other Treaties with the United States of America
7. List of treaties of the same type with other countries
8. Summary of legislative and regulatory changes
9. Economic Analyses and Modelling Reports prior to the completion of negotiations
10. Terms of Reference for Economic Analysis

NATIONAL INTEREST ANALYSIS: CATEGORY B TREATY

SUMMARY PAGE

Australia - United States of America Free Trade Agreement, agreed at Washington on 8 February 2004, due to be signed after 13 May 2004

Date of Tabling of Proposed Treaty Action

1. 8 March 2004

Nature and Timing of Proposed Treaty Action

2. The Australia-United States Free Trade Agreement (the Agreement) is being tabled prior to signature with the agreement of both Parties. The text is a draft, subject to legal review for accuracy, clarity and consistency.

3. Due to its own domestic requirements, the United States Government cannot sign the Agreement until 13 May 2004. We expect the United States to be in a position to sign the Agreement soon after this date.

4. Article 23.4 of Chapter Twenty Three (Final Provisions) states that the Agreement will enter into force 60 days after an exchange of notes confirming completion of the Parties' respective domestic procedures, or at such other date as the Parties may agree. Both Governments are working towards entry into force on 1 January 2005, requiring an exchange of notes on or before 2 November 2004.

Overview and National Interest Summary

5. The Agreement also reflects Australia's broad trade and economic interests. It removes almost all barriers to Australia's exports of goods to the United States and provides for a very high degree of economic integration of our markets through comprehensive commitments on a range of areas including trade in services, investment, government procurement, intellectual property, electronic commerce and competition policy. Thus, the Agreement improves access to and facilitates trade with Australia's largest trade and investment partner and the world's largest economy (See Annex 5: "United States Fact Sheet"). It will create substantial opportunities for Australia as set out in the following section. It helps to preserve Australia's competitiveness in the US market as the United States pursues bilateral FTAs with a range of other countries, including key competitors. It also signals strong support for trade liberalisation and has important flow-on benefits by stimulating economic activity and further trade and investment.

6. The Agreement also represents a valuable instrument with which to pursue greater engagement and closer economic integration with the world's largest and most dynamic economy and contributes to strengthening and deepening Australia's relationship with its most important ally and most important trade and investment partner.

Reasons for Australia to Take the Proposed Treaty Action

7. Economic gains from the Agreement are expected to be significant. Extensive consultation and industry submissions highlighted a number of specific areas where Australian exporters would expect to benefit from greater access and opportunity in the US market. These formed the basis of the framework of Australian objectives for the negotiations. The Agreement will remove a significant number of direct and indirect trade barriers and creates new market access opportunities. It facilitates further trade and investment through more transparent, simplified and less costly processes for traders and investors in a number of areas. Furthermore, the Agreement establishes a number of mechanisms for ongoing facilitation and cooperation to promote trade and investment in the future. The Department of Foreign Affairs and Trade commissioned two studies prior to the negotiations which concluded that there were substantial direct and dynamic economic benefits to be gained from an Agreement with the United States. The Department has commissioned a further study, to be conducted by the Centre for International Economics based on the agreed elements of the final package. The Department will be forwarding the results of this study once it is concluded (expected to be the second week of April).

8. The Agreement will create immediate market access opportunities for many sectors of the Australian economy (See Annex 3). These include:

Agriculture: Duties on two-thirds of all agricultural tariffs - including in important commodities such as lamb, sheep meat and a range of horticultural products, will be eliminated immediately and duties on a further 9 per cent of tariff lines will be eliminated within four years. There will be greater access for two of Australia's key agricultural export industries, beef and dairy, including immediate elimination of in-quota tariffs. The single desk arrangements for export marketing Australian commodities, and our quarantine and food safety regimes have been preserved.

Manufacturing: Duties on more than 97 percent of US non-agricultural tariff lines (excluding textiles and clothing), worth \$6.48 billion in 2003, will be duty free from day one of the Agreement. By 2015, tariffs on textiles, some footwear and a handful of other items will be phased out, with all trade in non-agricultural goods free of duty. A mechanism to address non-tariff barriers will be established. Australian exporters have greater opportunities to understand and meet US requirements dealing with technical regulations and standards and a framework for exporters to work with government in tackling barriers will be established. Both Parties will eliminate customs duties on almost all automotive products from the day the agreement enters into force, including the 25 per cent US customs duty on utes ("light commercial vehicles"). Australian duties on passenger motor vehicles will be phased out by 2010.

Services: The Agreement binds liberal access for Australian service suppliers, including for professional, business, education, environmental, financial and transport services. A framework to promote mutual recognition of professional services has been developed.

Financial services: The Agreement binds liberal conditions of access for Australian financial services providers to the world's largest financial market. Through a Financial Services Committee, the Parties will consider ways to integrate further their financial sectors such as through access for foreign securities markets and for foreign collective investment schemes. The

Financial Services Committee will report on these issues within two years of the Agreement entering into force.

Government procurement: The Agreement grants access to the large (A\$200 billion) US federal government procurement market that is currently closed to Australian firms. The scope of the Government Procurement Chapter may be extended to cover State-level procurement depending on the States and Territories interest in being covered by the Chapter. This matter must be settled before the Agreement is signed. All US federal government contracts over US\$58,550 (and in construction over US\$6,725,000) will be open to Australian firms. Australian preferences for small businesses and indigenous people will remain.

Investment: The Agreement creates a stronger framework for investment protection that should continue to promote our largest investment relationship. The Agreement also prohibits a range of trade and investment distorting performance requirements. In recognition of the robust domestic legal systems in both countries, there is no provision for investors to use international arbitration to pursue concerns about government actions (Investor-State Dispute Settlement). Australia retains screening of foreign investments of major significance.

Competition: Under the Agreement, there will be even closer cooperation with the United States on competition-related issues. Businesses and individuals will be treated fairly in enforcing competition law. Consumer protection agencies will work together in combating illegal activity. Consumers and investors defrauded or deceived will have greater redress.

Telecommunications: The Agreement contains WTO-plus rules on major suppliers and pro-competitive regulatory frameworks for Australian and US firms. There will be a new high level avenue for Government and industry consultations on market access issues.

E-commerce: The Agreement provides that there will be no barriers to trade conducted electronically and Australia will still be able to regulate for public policy purposes.

Preservation of important public policy programs:

The Agreement also preserves Australia's ability to maintain important public policy programs, including:

- « the affordability of medicines under a sustainable Pharmaceutical Benefits Scheme (PBS): The Agreement does not impair Australia's ability to deliver fundamental policy objectives in health care and does not change the fundamental architecture of the PBS. Australia will make improvements to the transparency and timeliness of PBS processes and Australians will benefit from faster access to subsidies for new prescription medicines; and
- « local content on Australian media: Australia retains the power to regulate for Australian content, not only in existing forms of media but also, where necessary, in new media (interactive and/or video services).

9. Implementation of the Agreement will also enhance Australia's broader trade, economic and security interests. It will help make Australia a more attractive trade and investment partner for third countries by improving our competitive position. A substantive FTA between the two countries signals our strong support for trade liberalisation and helps promote an open global

trading environment. It strengthens our relationship with our most important ally and our largest trading and investment partner.

Obligations

10. The Agreement contains wide ranging provisions that will liberalise and facilitate trade and investment between the two Parties. Upon entry into force, each Party will eliminate tariffs on specified tariff lines on imports of goods from the other Party that meet the agreed rules of origin criteria. Each Party will also grant national treatment and market access to the services, and national treatment to the investments, of the other Party, except where specific measures or individual sectors are specifically reserved in the Annexes to the Agreement.

11. The Agreement also contains commitments and disciplines on government procurement, intellectual property protection, telecommunications, customs procedures, electronic commerce, competition policy, professional services recognition, standards and technical regulations, sanitary and phytosanitary (SPS) measures, labour and the environment.

12. The Agreement provides for settlement of specified disputes that may arise under the Agreement as well as provision for review of the Agreement through annual meetings of the Joint Committee established under the Agreement. A number of understandings between the Parties about the operation of the Agreement, as well as a number of commitments, are recorded in a series of side letters, most of which will be an integral part of the Agreement.

13. The Explanatory Guide to the Agreement provides a detailed summary of the obligations of the Agreement (Annex 3).

Implementation

14. A number of legislative and regulatory changes will be needed for Australia to fulfil its obligations under the Agreement. These are summarised in Annex 8.

Costs

15. The Treasury has estimated that the financial cost of the Agreement to the Australian Government will be around \$190 million in 2004/05, \$400 million in 2005/06, \$420 million in 2006/07 and \$450 million in 2007/08. This estimate is based on the expected loss of tariff revenue from imports from the US and assumes that the Agreement will enter into force on 1 January 2005. The estimates do not take account of the scope for additional lost tariff revenue that could arise if imports from the US displace imports from other countries. On the other hand, the estimates also do not take into account the potential economic growth that the Agreement may generate and any additional taxation revenue resulting from this growth.

Consultations

16. The proposed action will have an impact on the States and Territories. The Chapters on Cross-Border Trade in Services and on Government Procurement and Competition Policy will be the most significant to State and Territory governments. The States and Territories were consulted before, during and after the negotiations through meetings in capitals, joint meetings in Canberra, and through other fora such as the National Trade Consultations and Commonwealth-State/Territory Standing Committee on Treaties processes. The States and Territories were able to send a representative to the final negotiating rounds and participated closely in framing our negotiating objectives for the Government Procurement Chapter, and in ensuring the appropriate framing of reservations to the Cross-Border Trade in Services and Investment Chapters.

17. Extensive consultations were held throughout the negotiations with agencies, industry groups, non-government organisations and other interested stakeholders through a range of fora and extensive individual meetings. The negotiating team also received over 200 submissions in the formal process prior to the negotiations, and the Minister for Trade and the Minister for Foreign Affairs have answered over 1270 pieces of correspondence on the topic. The Department has already answered over 1000 'hotline' calls and a large number of emails since the conclusion of negotiations was announced on 8 February 2004.

18. Annex 1 contains a comprehensive account of consultations conducted.

Regulation Impact Statement

19. A Regulation Impact Statement is attached.

Future Treaty Action

20. Article 23.3 of Chapter Twenty Three (Final Provisions) provides for amendment by agreement in writing by the Parties following completion of respective necessary internal requirements.

21. Any proposals for amendment of the Agreement (including, for example, proposals to amend or remove reservations or exceptions) would be considered by the Joint Committee established under Article 21.1 of Chapter Twenty One (Institutional Arrangements and Dispute Settlement). The Joint Committee will meet every year to review the operation of the Agreement, facilitate the avoidance of disputes and consider ways to further enhance trade relations.

22. A number of chapters provide for consultative arrangements to facilitate the operation of those chapters. At this stage, it is not envisaged that these consultations will result in further treaty-level agreements. A sideletter to the Competition Chapter discusses reviewing, with a view to updating, existing bilateral treaties in this field.

Withdrawal or Denunciation

23. Under Article 23.4 of Chapter Twenty Three (Final Provisions), either Party may terminate the Agreement by giving the other Party six months notice in writing. Termination of the Agreement would be subject to the Australian treaty process.

Contact Details

Office of Trade Negotiations
Department of Foreign Affairs and Trade

REGULATION IMPACT STATEMENT (RIS)

Australia - United States Free Trade Agreement

ISSUE IDENTIFICATION

Australia and the United States have a long established, close, and well developed trading relationship. The United States is Australia's largest individual trade and investment partner. Total merchandise trade (exports and imports) were worth around \$30 billion in 2003. It is our second largest merchandise export market (after Japan) with exports valued at over \$9.4 billion in 2003, and our largest export market for services worth over \$5 billion in 2003. It is our largest source of imports, with merchandise imports worth \$20.5 billion and services imports worth \$6 billion in 2003. The United States is our largest destination for foreign direct investment and our largest source of foreign direct investment. The total stock of Australian direct investment in the United States was \$65 billion and the total stock of US direct investment in Australia was \$66 billion as of 30 June 2003.

Principal exports to the United States include beef (where Australia filled its US tariff rate quota for the first time in late 2001), crude petroleum, alcoholic beverages, aircraft and parts, and motor vehicles. Exports of elaborately transformed manufactures (ETMs) are one of the strongest performers. The United States is now Australia's largest market for exports of ETMs.

Pursuing a Free Trade Agreement (FTA) with the United States has been an Australian Government objective for some years. Given the size and value of the US market to Australia, and the adverse impact of barriers on our ability to export, the United States was a strong candidate for Australia's first bilateral Free Trade Agreement outside the region.

OBJECTIVES

Australia's broad objectives for the Agreement were to gain improvements in market access for Australian goods and services exports to the United States, and to promote closer economic integration and greater investment between the Parties. The Government also sought an Agreement that would complement and reinforce Australia's objectives in the Doha Round of World Trade Organization (WTO) negotiations and in Asia Pacific Economic Cooperation forums, and set a high standard for other FTAs in the region and within the WTO. Australia's shared approach with the United States on many issues in both the WTO and APEC provided a strong foundation for achieving that goal.

Detailed Australian objectives identified by the Government are outlined by sector at Annex 2. These include improving market access in specific areas and increasing transparency and certainty about rules and regulations governing trade and investment between the Parties. The Government also sought to improve cooperative arrangements between government agencies and businesses at all levels to make it

easier for exporters and investors to identify opportunities and requirements for doing business in order to facilitate further trade and investment.

The Government also sought to ensure Australia's ability to continue to regulate for health or safety, and essential security, and to preserve the right of Government to regulate for important public policy outcomes. For example, the Government sought to ensure continued access to affordable medicine through the Pharmaceutical Benefits Scheme and local content rules for Australian media to protect Australian culture.

The Government considers that FTAs must comply with relevant WTO agreements, in particular Article XXIV of the General Agreement on Tariffs and Trade (GATT) and Article V of the General Agreement on Trade in Services (GATS), which state that FTAs must cover substantially all trade. This has been an important objective for our negotiations with the United States.

As set out below, the Agreement achieves a large number of the Government's objectives. It is a comprehensive agreement that meets the WTO requirements relating to regional trade agreements such as the requirement that such agreements cover "substantially all the trade" between the parties. Consistent with the fact that it is an FTA between two developed countries, the Agreement sets a very high standard in terms of economic integration and ambition. As such it will complement Australia's efforts to liberalise trade and investment through multilateral, regional and other bilateral trade negotiations.

OPTIONS

There are significant strategic reasons supporting negotiation of an FTA with the United States. The Agreement helps to preserve Australia's competitiveness in the US market as the United States embraces bilateral FTAs with other countries, including key competitors, and as key trading partners form separate FTA linkages of their own. It also signals strong support for trade liberalisation to help promote an open global trading environment and has important flow on benefits (including to regional trading partners) by stimulating economic activity and further trade and investment. It will also contribute to strengthening and deepening our relationship with our most important ally and our most important trade and investment partner.

The Agreement will deliver real benefits and opportunities for Australian exporters from the day it comes into force. It will also generate dynamic benefits through even closer economic partnership with the United States. Key negotiated outcomes of the agreement are summarised as follows (and are detailed at length in the Explanatory Guide at Annex 3):

Agriculture: Duties on two-thirds of all agricultural tariffs - including on important commodities such as lamb, sheep meat and a range of horticultural products, will be eliminated immediately and duties on a further 9 per cent of tariff lines will be eliminated within four years. There will be greater access for two of Australia's key agricultural export industries, beef and dairy, including immediate elimination of in-quota tariffs. The single desk arrangements for export marketing Australian commodities, and our quarantine and food safety regimes, have been preserved.

Non-agriculture including manufacturing: Duties on more than 97 percent of US non-agricultural tariff lines (excluding textiles and clothing) will be duty free from day one of the Agreement. By 2015, tariffs on textiles, some footwear and a handful of other items will be phased out, with all trade in non-agricultural goods free of duty. A mechanism to address non-tariff barriers will be established. Australian exporters have greater opportunities to understand and meet US requirements dealing with technical regulations and standards and a framework for exporters to work with government in tackling barriers will be established. Both Parties agreed to eliminate customs duties on almost all automotive products from the day the agreement enters into force, including the 25 per cent US customs duty on utes ("light commercial vehicles"). Australian duties on passenger motor vehicles will be phased out by 2010.

Services: The Agreement binds liberal access for Australian service suppliers, including for professional, business, education, environmental, financial and transport services. A framework to promote mutual recognition of professional services has been developed

Financial services: The Agreement binds liberal conditions of access for Australian financial services providers to the world's largest financial market. Through a Financial Services Committee, the Parties will consider ways to integrate further their financial sectors such as through access for foreign securities markets and for foreign collective investment schemes. The Financial Services Committee will report on these issues within two years of the Agreement entering into force.

Government procurement: The Agreement will grant access to the large (A\$200 billion) US federal government procurement market that is currently closed to Australian firms. The scope of the Government Procurement Chapter may be extended to cover State-level procurement, however this will depend on the interests of the States and Territories on both sides in being covered by the Chapter. This matter must be settled before the agreement is signed. All US federal government contracts over US\$58,550 (and in construction over US\$6,725,000) will be open to Australian firms. Australian preferences for small businesses and indigenous people will be preserved.

Investment: The Agreement creates a stronger framework for investment protection that should continue to promote our largest investment relationship. The Agreement also prohibits a range of trade and investment distorting performance requirements. In recognition of the robust domestic legal systems in both countries, there is no provision for investors to use international arbitration to pursue concerns about government actions. Australia retains screening of foreign investments of major significance.

Preservation of important public policy programs: Including affordable medicines under the PBS and local content on Australian media. Australia has preserved the capacity to regulate new and emerging media, including digital and interactive TV. The Agreement does not impair Australia's ability to deliver fundamental policy objectives in health care and does not change the fundamental architecture of the PBS. Australia will make improvements to the transparency and timeliness of PBS processes and Australians will benefit from faster access to subsidies for new prescription medicines.

Intellectual Property: The Agreement includes commitments to strengthen our protection of intellectual property beyond those provided by multilateral agreements such as the WTO's Trade Related Aspects of Intellectual Property Rights Agreement and World Intellectual Property Organisation Treaties.

Competition: There will be even closer cooperation with the US. Businesses and individuals will be treated fairly in enforcing competition law. Consumer protection agencies will work together in combating illegal activity. Consumers and investors defrauded or deceived will have greater redress.

Telecommunications: There are WTO-plus rules on major suppliers and pro-competitive regulatory frameworks for Australian and US firms. There will be a new high level avenue for Government and industry consultations on market access issues.

E-commerce: There will be no barriers to trade conducted electronically and Australia will still be able to regulate for public policy purposes.

IMPACT ANALYSIS

This section analyses the economy-wide impacts of the Agreement. Firstly, the general macroeconomic impacts are examined. The regulatory impact on business and consumers is then considered before identifying the likely costs and benefits for government of the Agreement. Finally, the broader trade policy considerations of the Agreement are examined.

Macroeconomic Impacts

The Government is commissioning economic analysis, including econometric modelling, of the impact of the FT A, taking into account the outcomes of the final negotiated package. The results of that analysis will be provided to the Parliament as an addendum to the National Interest Analysis and the Regulatory Impact Statement by the commencement of the Winter Session of Parliament in 2004. The terms of reference for that analysis, which is being conducted by the Centre for International Economics, are set out at Annex 10. In addition to estimating the possible impact of the FTA on key economic indicators, using both static and dynamic multi-country computable general equilibrium models, the analysis will examine impacts on specific sectors (including the automotive sector, financial services, beef and dairy, and metals), as well as the potential environmental impacts and impacts on the States and Territories. It will seek to assess the impact on certain outcomes in the negotiations, including changes to intellectual property legislation, such as the impact of extending copyright term protection, and the method of assessing the Rules of Origin for determining which goods will qualify from the more liberal access set out in the Agreement.

Previous research already provides strong evidence that the FTA negotiated by Australia will deliver substantial benefits over the medium and longer term. A discussion of the previous economic modelling exercises and the strengths and weaknesses of particular modelling methodologies is outlined in more detail in Annex 9. Modelling is not a substitute for the qualitative assessments, which require extensive consultation with market participants in various sectors and consideration of

opportunities and downside impacts. Furthermore, modelling does not provide an accurate assessment of the dynamic effects of the Agreement. The key outcomes of the negotiations provide a guide as to the new opportunities that will be created by the Agreement and the following sections on business, consumer, government impacts seek to provide a more qualitative assessment.

Impact on Business:

1. Trade in Goods

The Agreement will see Australia and the United States eliminate tariffs on all non-agricultural goods imported from each other that meet the Rules of Origin (ROOs) established under the Agreement. The United States will remove tariffs on over 97 percent of non-agricultural tariff lines (excluding textiles and apparel) on the day the Agreement enters into force. Duties on 127 US tariff lines will however be phased out, on goods such as footwear, china, porcelain, glassware, hand tools, ball and roller bearings, cathode-ray TV and video monitor tubes and cameras, where trade levels are negligible. Around 30 per cent of tariff lines for textiles and apparel will be duty free on entry into force with the remaining tariff lines in this sector to be phased out by 2015. The outcome on textiles and apparel reflected US insistence on maintaining a more restrictive "yarn forward" rule of origin.

Australia will remove duties for all non-agricultural goods imported from the United States on the day the Agreement enters into force except for 17 tariff lines on footwear (where phasing will match US phasing); 16 tariff lines for finished passenger motor vehicles, and one tariff line for an agrochemical product which will be phased out in the same manner as the US phase-out for that product.

Following the implementation of the Agreement, the adjustment effects on Australian business will vary from sector to sector. For example, the automotive industry will need some time to gear production towards taking advantage of the removal of the high 25 per cent tariff applied by the United States on light commercial vehicles. Where scales of production vary significantly between the United States and Australia, such as in plastics, chemicals, and carpets, Australian industry will be afforded some protection and time to adjust to duty free trade through the application of safeguards, which is a key feature of the Agreement.

While the United States is an open market from a tariff perspective, it operates a complex standards and technical regulations regime. Meeting US requirements in this area can significantly increase costs for Australian exporters. The costs of trading goods between the United States and Australia will be reduced over time by virtue of the provisions in the Agreement on standards, technical regulations and conformity assessment procedures. These provisions establish a framework for facilitating the determination of equivalence of each other's regulations and procedures. Through such a framework, the costs associated with duplicative testing requirements, for example, will be lowered or removed.

As tariffs are eliminated, addressing non-tariff barriers (NTBs) becomes more important. With respect to trade in goods, there are two key mechanisms which have been established under the Agreement to address NTBs. Firstly, a committee on trade

in goods in which both parties can raise particular issues of concern, and secondly, a chapter coordinator for standards and technical regulations. Under both mechanisms, businesses and other relevant stakeholders can draw to the attention of relevant authorities their concerns and have these addressed.

With regard to trade in agriculture, the United States will eliminate tariffs for Australian exports on two thirds of all agricultural tariff lines - including on important commodities such as lamb, sheep meat and horticultural products. A further 9 per cent of tariffs will be cut to zero within four years.

Under the Agreement, Australia will enjoy an immediate and significant increase in the annual quotas that apply to many important dairy products, with ongoing growth in the quotas at an average yearly rate of 5 per cent thereafter. The Agreement also includes access for dairy products previously excluded from the US market, such as certain cheeses, butter, milk, cream and ice-cream products. Examples include 7.5 million litres of milk, ice-cream and cream, 2000 tonnes of European type cheeses and 4000 tonnes of whole milk powder.

The Agreement also provides greater access for Australian exports of beef to the United States. In addition to the quota that Australia already holds under the WTO (378,214 tonnes), Australia will gain access for an additional 20,000 tonnes of beef in year 3 (at the latest), increasing to 70,000 tonnes in year 18, with trade effectively free thereafter. In-quota tariffs will be eliminated immediately, and over-quota duties will be phased out from years 9 to 18 of the Agreement.

Australia's single-desk arrangements for marketing Australian commodities to the world, (for sugar, rice, wheat and barley), have been preserved under the Agreement.

Tariffs into Australia will be eliminated immediately, but, as they are already very low, the impact in terms of increased competition is not likely to be large and there may be benefits in terms of cheaper inputs.

2. Government Procurement

Under the Agreement, Australia will become a "designated" country in the United States, allowing Australian companies to bid on US federal government contracts. The six per cent penalty imposed under the Buy America Act for Australian products, above the thresholds agreed in the Agreement, will be waived. Much procurement in the US is conducted off Federal Supply Schedules, and Australian companies will now have the opportunity to be listed on these Schedules.

Both Parties have agreed to work with their respective States/Territories to improve their offers with a final decision to be made before the Agreement is signed.

Strategic defence procurement is not covered by the Chapter and Australia has retained the Australian Industry Involvement program in respect of defence procurement. Access to Defence procurement will continue to be facilitated under the 1995 Australia-United States Memorandum of Understanding on Reciprocal Defence Procurement

3. Trade in Services and Investment

The Agreement binds the United States' current regulatory regime across most service sectors, including at the state level where services are predominantly regulated. The United States will not be able to introduce more restrictive measures in these areas, at least with respect to Australian service suppliers. For a range of trade-restrictive measures listed by the United States, a "ratchet" mechanism in the chapters on Cross-Border Trade in Services, Financial Services and Investment means that, where the United States unilaterally liberalises these measures, such liberalisation will become automatically bound under the Agreement. These commitments will benefit important Australian services exports, such as financial and legal services, as well as other professional services such as engineering, architecture and accounting, by guaranteeing liberal access to the US market.

These gains were achieved much faster than would have been possible through multilateral negotiations under the WTO. Furthermore, the framework of the Agreement ensures that commitments are more far-reaching than those negotiated under the WTO's General Agreement on Trade in Services (GATS). For example, where GATS follows a "positive list" approach, this Agreement uses a "negative list" under which key obligations like national treatment apply to all services trade, except for measures or sectors specified in annexed lists of reservations. This approach has a liberalising and transparent thrust in that all exceptions must be specifically reserved, or they are deemed to be liberalised. It also ensures that any new services are automatically covered by these obligations.

The establishment of a work program to examine mutually beneficial recognition of qualifications and other requirements for accreditation and licensing of professionals provides an opportunity to improve the ability of Australian professionals to supply services to the US market. Similarly, a Financial Services Committee will consider ways to integrate further the financial services sectors of the Parties including by considering cross-border access for foreign securities markets and for collective investment schemes. It is very unlikely that these outcomes could have been achieved through the WTO in the short or even medium term.

The Agreement is "GATS-plus" in relation to domestic regulation: it respects the right of governments to adopt domestic regulation affecting trade in services, but contains enhanced provisions on transparency and the processes for adopting such regulations. These provisions reflect proposals Australia and other countries have put forward in the WTO services negotiations.

Given these outcomes and the related commitments negotiated to ensure strong protections for investments, the Agreement creates a liberal, transparent and predictable environment for Australian services exporters and investors in the US market. This effectively reduces the risk of doing business in, and with, the United States, and should lead to increased services exports and investment by Australian providers.

Inasmuch as the Agreement will provide similar regulatory transparency and predictability for US service exporters to Australia, it is possible that more US service providers will be encouraged to enter the Australian market, and Australian service suppliers will face increased competition. However, given that regulation of the

Australian services sector was already highly transparent and predictable by international standards, it is unlikely that the implementation of the Agreement will result in a major increase of US services providers in any particular sector of the Australian services market.

Similarly, Australia's commitments under the Agreement with regard to screening of foreign investment are unlikely to have a major impact on US investment in Australia given the very few rejections of investment applications outside residential real estate. However, these commitments will significantly reduce the number of US investment proposals that will be screened and this reduced screening burden is expected to reduce compliance costs for a significant number of US investors and therefore increase the attractiveness of Australia as a destination for US investment. Applying the changes under the Agreement retrospectively to all US proposals decided over the three year period 2000-2002 would have had the effect of reducing the number of US proposals screened by between 65 and 70 per cent,

4. Telecommunications, Competition Policy and Intellectual Property

The Agreement's provisions on telecommunications provide greater certainty for Australian telecommunications firms in the US market. It establishes a framework for regular consultation in relation in the communications and IT sector, which will give both government and industry an avenue to consult with US policy makers on issues of concern and consider developments affecting evolution of this rapidly evolving sector. The telecommunications chapter establishes WTO-plus rules on transparency and on major supplier.

The Agreement reinforces and builds upon existing bilateral agreements with the United States on cooperation and mutual assistance in competition policy and antitrust law enforcement, which will contribute to the strengthening of a pro-competitive regulatory environment in both countries that will benefit Australian business and consumers. The Agreement provides a vehicle for addressing competition-related issues of particular concern to Australian companies in the US market. It also establishes pro-competitive disciplines on monopolies and state enterprises in both countries.

The Chapter on Intellectual Property will reinforce Australia's reputation as one of the world's leading countries in protecting and enforcing intellectual property rights. The harmonisation of our laws with the world's largest intellectual property market will provide Australian exporters with a more familiar environment and certain legal environment for the export of value-added goods to the United States. In turn, US investors will be attracted to the Australian market because of greater familiarity and confidence in our legal system.

Impact on Consumers

Consumers will benefit from the Agreement through the removal of substantially all tariffs on goods imported from the United States. Consumers will also benefit from increased cooperation between consumer protection enforcement agencies agreed under the Competition-Related Matters chapter. There will be greater redress in instances of fraud and deceptive practices through improved recognition of monetary judgements.

This will increase the ability of consumers who have been defrauded or deceived to seek monetary compensation.

A number of provisions in the Agreement relating to the transparency of conducting business and government administration will benefit consumers. Consumers will continue to benefit from important public policies which are preserved in the Agreement, such as retention of our science-based quarantine procedures designed, in large part, to protect human health and safety, access to affordable medicines in the Pharmaceutical Benefits Scheme, and the ability to maintain or enhance local content requirements for audiovisual services.

Impact on Government

1. Commonwealth Government

Broadly speaking the FTA will have two major impacts on the Commonwealth Government:

- (i) Tariff revenue collection forgone:
The Treasury has estimated that the financial cost of the Agreement to the Commonwealth Government will amount to \$190 million in the first year (2004/05), \$400million in the second year (2005/06), \$420million in the third year (2006/07) and \$450million in the fourth year (2007/08). This estimate is based on the expected loss of tariff revenue from imports from the United States, which are assumed to grow steadily in line with the economy. It is also assumed that the Agreement will enter into force on 1 January 2005. The estimates do not take account of the scope for additional lost tariff revenue that could arise if imports from the United States displace imports from other countries. Nor, however, do the estimates take into account the potential economic growth that the Agreement may generate and any additional taxation revenue resulting from this growth,
- (ii) Reduced regulatory flexibility in some areas through commitments that go beyond existing WTO obligations:
Legislative and regulatory changes that will be necessary to implement the Agreement are listed in Annex 8. The chapters on Cross-Border Trade in Services, Financial Services and Investment do not in any way affect the right of either Party to regulate for public policy reasons, such as for health and safety, consumer protection or environmental reasons. These chapters do, however, contain disciplines with regard to trade-related measures, principally the obligations to provide "national treatment" to the services, service suppliers, investors and investments of the other Party and to provide "market access" by not imposing certain kinds of quantitative limitations on trade in services.

These obligations will not apply to the sectors and activities Australia has listed under Annex II of the Agreement (and Annex IV in the case of Financial Services) and therefore Australia retains the right in these areas to maintain existing measures that do not comply with these obligations as well as to introduce new non-conforming measures. These obligations will also not apply to those existing measures Australia has specified in Annex I of the Agreement (Annex III in the case of Financial Services). However, Australia will not be able to increase the non-conformity of these measures

or introduce new non-conforming measures in these areas in the future.

The chapters on Cross-Border Trade in Services, Financial Services and Investment contain additional disciplines on the transparency of regulations affecting these areas as well as on the process of applying new regulations. While these disciplines do in some respects go beyond Australia's commitments under the WTO they are in line with Australia's existing regulatory practices and will not necessitate any changes to those practices.

There are additional commitments to bind our existing standards of regulation in certain aspects of intellectual property protection, telecommunications, monopolies and state-owned enterprises, and customs procedures. These are outlined in detail in the Explanatory Guide at Annex 3.

- (iii) Under the Government Procurement Chapter the Australian Government has committed to changing procurement management arrangements. The specific rules and procedures required by the Government Procurement Chapter will impose costs both in terms of central administration and in the conduct of tender processes. Special provisions in the Chapter that allow significant flexibility to be retained in Australian Government procurement arrangements have moderated these costs.

2. State and Territory Governments

The proposed action will have an impact on the States and Territories. The Chapters on Cross Border Trade in Services, Government Procurement and Competition Policy will be the most significant to State and Territory Governments. The commitment to review Australia's plasma fractionation arrangements will also be important for the States and Territories. A number of trade-restrictive measures will be bound at existing levels in the list of reservations to the Cross-Border Trade in Services and Investment Chapters. As is the case with the Commonwealth Government (as described above), this will mean less regulatory flexibility for State and Territory Governments to impose new trade-restrictive measures in those areas or to make existing measures more trade-restrictive.

Regional Impact

Regions will benefit from the opportunities created by the Agreement depending on the ability of regional exporters of goods and services to respond to these opportunities, and the contribution of tariff elimination to lower input costs, for example on agricultural machinery and fertiliser. Regions should also benefit from the impact of the Agreement in attracting additional investment from the United States, including in industries that will gain additional market access opportunities, for example, in the agricultural, mining and metals sectors.

Regional impacts may to some degree be inferred from sectoral impacts of the Agreement to the extent that particular industries are concentrated in regional and rural areas, or in particular states or regions.

The additional economic analysis and modelling currently under way will help to identify possible regional impacts of the Agreement. The results of the study will be forwarded to the JSCOT as an addendum to the National Interest Analysis and the Regulatory Impact Statement.

Regions are also likely to benefit from the opportunities created by the open access to the United States government procurement market. Under the Agreement, Australia will have a waiver from United States programs favouring US firms and products. However, Australian procurement preferences for small businesses and indigenous people, which are important for certain regional communities, will remain. Both Parties have agreed to work with their respective States and Territories to improve their Government Procurement offers, with a final decision to be made before the Agreement is signed. State and Territory Governments will take regional impacts into account when examining the value of signing on to the Government Procurement Chapter.

CONSULTATIONS

The Government undertook extensive consultations with State and Territory Governments, industry and other stakeholders in developing its approach to the negotiations. The Department of Foreign Affairs and Trade (DFAT) in November 2002 invited public submissions on Australia's approach to the negotiations. The Government received some 200 submissions, including 69 from industry and professional bodies and companies, 32 from NGOs and 8 from trade unions.

These submissions helped to inform the development of the Government's negotiating objectives. In particular, the Government's negotiating objectives took into account concerns expressed in relation to potential negative effects or risks of agreeing in the negotiations to changes to specific domestic policy programs or settings. The Government delivered on the commitment expressed in those objectives by ensuring that the outcomes of the FT A do not undermine Australia's ability to deliver important policy objectives in such areas as health, education, culture, quarantine and environmental policy.

The Government paid particular attention to concerns expressed by professional, community and industry groups and members of the public in relation to the possible treatment of the Pharmaceutical Benefits Scheme, and local content rules and other support mechanisms for broadcasting and audiovisual services. Officials from DFAT and Department of Health and Ageing undertook a wide range of consultations with stakeholders on the pharmaceutical benefits issue. DFAT and the Department of Communications, IT and the Arts also held regular meetings with representatives of the cultural and audiovisual industries on the treatment of culture and audiovisual services in the negotiations.

Many stakeholders, including the State and Territory governments, also expressed concern about the possible inclusion of a mechanism allowing foreign investors to initiate dispute settlement proceedings against governments. Reflecting the fact that both countries have robust, developed legal systems for resolving disputes between foreign investors and governments, the final draft Agreement does not include any provisions for investor-state dispute settlement.

Consultations with the States and Territories were an important priority throughout the course of the negotiations, including at the National Trade Consultations involving the Minister for Trade and his State and Territory counterparts responsible for trade issues. The Government held meetings or teleconferences with representatives from all the State and Territory Governments both before and after each of the six negotiating rounds, involving representatives of Premiers' and Chief Ministers' departments and departments responsible for industry and trade. There were also regular meetings with State and Territory agencies responsible for government procurement

The obligations in the chapters of the Agreement on Cross-Border Trade in Services, Investment and Government Procurement, in particular, cover areas of regulation for which the States and Territories carry sole or shared responsibility. The States were closely consulted on the approach taken to regional (i.e. sub-federal) measures in the Annexes of Non-Conforming Measures to the chapters on Cross-Border Trade in Services and Investment. They continue to be consulted in the process of finalising the lists of entities covered by the Government Procurement chapter. Other provisions in the Agreement with potential relevance to the States' and Territories' regulatory responsibilities include those on technical standards and competition-related matters, including provisions relating to monopolies and government enterprises.

State and Territory representatives also joined the Australian delegation to the negotiations as observers. One State and Territory representative attended the third round of negotiations, three attended the fourth round, two attended the fifth round, and one attended the sixth and final round. The inclusion of State and Territory representation was consistent with the Principles and Procedures for Commonwealth-State Consultation on Treaties agreed by the Council of Australian Governments (COAG) in June 1996. The COAG Principles provide that "in appropriate cases, a representative or representatives of the States and Territories may be included in delegations to international conferences which deal with State and Territory subject matters."

The Minister for Trade and members of the negotiating team discussed the Agreement with over 500 peak industry and business groups, companies, professional associations and unions, and non-governmental organisations during the course of the negotiations.

The Agreement was an item for discussion at policy advisory bodies such as the Trade Policy Advisory Council, the Agricultural Trade Consultative Group and the Automotive Council, attended by the Minister for Trade. The negotiating team held a number of consultations at important stages of the negotiations with manufacturing industry, service industry and peak business bodies, as well as regular separate briefings and consultations with a range of agricultural sector bodies.

The overwhelming majority of business, manufacturing, agricultural and services organisations was very supportive of the Government's pursuit of an FTA with the United States. Strong industry preferences in relation to a number of priorities and issues were reflected in the Government's approach to the negotiations. These included the need to ensure that the Agreement cover agricultural market access in a substantial fashion. The rules of origin (ROO) proposed for the agreement, which represented a departure from the existing models used for preferential tariff arrangements by

Australia, were the subject of an extensive separate consultation process with all interested industry sectors. The Government's decision to proceed with the proposed system reflected the fact that virtually all sectoral organisations were either positively disposed towards, or prepared to accept, a general rule of origin approach based on change of tariff classification. With the support of Australian industry, the Government also sought to have the latter approach applied to the textiles and clothing sector rather than the special "yarn-forward" rule proposed by the US side, but was unable to persuade the US to move from this position.

There was also close consultation with key industry groups likely to be affected by the Agreement during the final stage of negotiations. A number of agricultural sector organisations had representatives in Washington during the final round of negotiations who were briefed regularly by the negotiating team. Their views in relation to a number of specific aspects of the final provisions of the Agreement were taken into account. The automotive and textiles and fashion industries were also consulted in the final stages as industries likely to be most directly affected by tariff reductions. Their preferences for phasing of tariff elimination under the Agreement were reflected in the final outcome.

The Government sought to make extensive information available about the negotiations on the DFAT website, including media transcripts, background documents and answers to frequently asked questions. DFAT also issued a newsletter, "AUSFTA Briefing", providing updates after each of the first four negotiating rounds, which was distributed to over 1,000 e-mail subscribers, and Federal and State MPs. The Minister for Trade and the Minister for Foreign Affairs have received and responded to more than 1270 letters from interested Parties.

Annex 1 provides a full list of organisations consulted before and during the negotiations; a list of meetings and events such as public meetings and briefings or seminars for larger groups of companies; and a list of organisations contributing written submissions to the Government that agreed to have their names published.

IMPLEMENTATION AND REVIEW

The Agreement is being tabled prior to signature with the agreement of both Parties. The scheduled date for forwarding the National Interest Analysis to JSCOT is 24 March. It will be tabled on 30 March 2004. The text of the Agreement that was tabled in the House of Representatives on 8 March is a draft and subject to legal review of accuracy, clarity and consistency. Due to its own domestic requirements, the earliest date on which the United States Government can sign the Agreement is 13 May 2004.

The Agreement was referred to the Joint Standing Committee on Treaties (JSCOT) on 9 March. The JSCOT has up to twenty parliamentary sitting days to call for submissions, make its analysis and report its recommendations to Parliament. The twenty sitting days will expire on 24 June. Soon after JSCOT tables its report, the Government is expected to table complying legislation and make a recommendation to Parliament on approval of the Agreement.

In accordance with Article 23.4 of Chapter 23 (Final Provisions), the Agreement will enter into force sixty days after an exchange of notes confirming completion of the Parties' respective domestic procedures, or at such other date as the Parties may agree. The Governments of Australia and United States are working towards entry into force on 1 January 2005, which would require an exchange of notes on, or before, 2 November 2004.

The legislative and regulatory amendments required to implement the Agreement are detailed in Annex 8:

Australia - United States Free Trade Agreement

Consultations

The Government undertook extensive consultations with State and Territory Governments, industry bodies and other stakeholders in developing its approach to the negotiations. In November 2002, the Department of Foreign Affairs and Trade (DFAT) invited public submissions on Australia's approach to the negotiations. The Government received some 200 submissions, including 69 from industry and professional bodies and companies, 32 from NGOs and 8 from trade unions.

These submissions helped to inform the development of the Government's negotiating objectives. In particular, the Government's negotiating objectives took into account concerns expressed in relation to potential negative effects or risks of agreeing to changes to specific domestic policy programs or settings. The Agreement delivers on the commitment expressed in those objectives by ensuring that it does not undermine Australia's ability to deliver important policy objectives in such areas as health, education, culture, quarantine and environmental policy.

The Government paid particular attention to concerns expressed by professional, community and industry groups and members of the public in relation to the possible outcomes in relation to the Pharmaceutical Benefits Scheme, and local content rules and other support mechanisms for broadcasting and audiovisual services. Officials from the negotiating team undertook a wide range of consultations with stakeholders in relation to pharmaceutical issues. The negotiating team also held regular meetings with representatives of the cultural and audiovisual industries on the treatment of culture and audiovisual services in the negotiations.

Many stakeholders, including the State and Territory governments, also expressed concern about the possible inclusion of a mechanism allowing foreign investors to initiate dispute settlement proceedings against governments. Reflecting the fact that both countries have robust, developed legal systems for resolving disputes between foreign investors and governments, the Agreement does not include any provisions for investor-state dispute settlement.

Consultations with the States and Territories were an important priority throughout the course of the negotiations, including at the National Trade Consultations involving the Minister for Trade and his State and Territory counterparts responsible for trade issues. The Government held meetings or teleconferences with representatives from all the State and Territory governments both before and after each of the six negotiating rounds, involving representatives of Premiers' and Chief Ministers' departments and departments responsible for industry and trade. There were also regular meetings with State and Territory agencies responsible for government procurement.

The services and investment obligations and the Government Procurement chapter of the Agreement, in particular, cover areas of regulation for which the States and Territories carry sole or shared responsibility. The States were closely consulted on the approach taken to regional (i.e. sub-federal) measures in the Annexes of Non-

Conforming Measures to the chapters on Cross-Border Trade in Services and Investment. They continue to be consulted on the question of extending coverage of the Government Procurement chapter to state-level procurement. Other provisions in the Agreement with potential relevance to the States' and Territories* regulatory responsibilities include those on technical standards and competition-related matters, including provisions relating to monopolies and government enterprises.

State and Territory representatives also joined the Australian delegation to the negotiations as observers. One State and Territory representative attended the third round of negotiations, three attended the fourth round, two attended the fifth round, and one attended the sixth and final round. The inclusion of State and Territory representation was consistent with the Principles and Procedures for Commonwealth-State Consultation on Treaties agreed by the Council of Australian Governments (COAG) in June 1996. The COAG Principles provide that "in appropriate cases, a representative or representatives of the States and Territories may be included in delegations to international conferences which deal with State and Territory subject matters."

The Minister for Trade and members of the negotiating team discussed the Agreement with over 500 peak industry and business groups, companies, professional associations and unions, and non-governmental organisations during the course of the negotiations.

The Agreement was an item for discussion at policy advisory bodies such as the Trade Policy Advisory Council, the Agricultural Trade Consultative Group and the Automotive Council, attended by the Minister for Trade. The negotiating team held a number of consultations at important stages of the negotiations with manufacturing industry, service industry and peak business bodies, as well as regular separate briefings and consultations with a range of agricultural sector bodies.

The overwhelming majority of business, manufacturing, agricultural and services organisations was very supportive of the Government's pursuit of a free trade agreement with the United States. Strong industry preferences in relation to a number of priorities and issues were reflected in the government's approach to the negotiations. These included the need to ensure that the Agreement cover agricultural market access in a substantial fashion. The rules of origin (ROO) proposed for the Agreement, which represented a departure from the existing models used for preferential tariff arrangements by Australia, were the subject of an extensive separate consultation process with all interested industry sectors. The Government's decision to proceed with the proposed system reflected the fact that virtually all sectoral organisations were either positively disposed towards, or prepared to accept, a general rule of origin approach based on change of tariff classification. With the support of Australian industry, the Government also sought to have the latter approach applied to the textiles and clothing sector rather than the special "yam-forward" rule proposed by the US side, but was unable to persuade the United States to move from this position.

There was also close consultation with key industry groups likely to be affected by the Agreement during the final stage of negotiations. A number of agricultural sector organisations had representatives in Washington during the final round of negotiations

and they were briefed regularly by the negotiating team. Their views in relation to a number of specific aspects of the final provisions of the Agreement were taken closely into account. The automotive and textiles and fashion industries were also consulted in the final stages as industries likely to be most directly affected by tariff reductions and rules of origin.

The Government sought to make extensive information available about the negotiations on the DFAT website, including media transcripts, background documents and answers to frequently asked questions. DFAT also issued a newsletter, *AUSFTA Briefing*, providing updates after each of the first four negotiating rounds, which was distributed to over 1,000 e-mail subscribers, and to Federal and State Members of Parliament. The Minister for Trade and the Minister for Foreign Affairs have received and responded to more than 1270 letters from interested parties,

A full list of organisations consulted before and during the negotiations is provided below along with a list of meetings and events such as public meetings and briefings or seminars for larger groups of companies; and a list of organisations contributing written submissions to the Government that agreed to have their names published.

Consultations

Industry, Sectoral & Business Associations and Advisory Bodies

Agribusiness Association
Advisory Council for Intellectual Property
Agricultural Finance Forum
Agricultural Trade Consultative Group
American Chamber of Commerce in Australia (AmCham)
Association of Independent Record Labels
Association of Independent Schools
Audio Visual Copyright Society (Screenrights)
AusBiotech
AusFILM
AUSTA (Australia-US FTA Business Group)
Australasian Performing Rights Association
Australian Association of Leather Industries
Australian Automotive International Business Group
Australian Bankers Association
Australian Business Limited
Australian Cane Farmers Association
Australian Chamber of Commerce and Industry
Australian Computer Society
Australian Copyright Council
Australian Cotton Shippers Association
Australian Dairy Industry Council
Australian Digital Alliance
Australian Ginger Growers Association
Australian Electrical and Electronic Manufacturers' Association
Australian Food and Grocery Council
Australian Industry Group
Australian Information Industry Association
Australian Institute of Export
Australian Interactive Media Association
Australian IT Security Forum
Australian Libraries Copyright Council
Australian Library and Information Association
Australian Lot Feeders Association
Australian Made Campaign Ltd
Australian Manufacturers' Patents, Industrial Designs, Copyright and Trade Mark Association
Australian Meat Industry Council
Australian Mechanical Copyright Owners Society
Australian Mobile Telecommunications Association
Australian Oilseeds Federation
Australian Paper Industries Council
Australian Pork Ltd
Australian Poultry Industries Association
Australian Publishers Association

Australian Recording Industry Association
Australian Screen Directors Association
Australian Seafood Industry Council
Australian Services Roundtable
Australian Shipbuilders Association
Australian Society of Authors
Australian Steel Institute
Australian Subscription Television and Radio Association
Australian Sugar Milling Council
Australian Telecommunications Users Group
Australian Toy Association
Australian Tyre Manufacturers Association
Australian Vice Chancellors Committee
Australian Visual Software Distributors Association
Australian Wine and Brandy Corporation
Australian Wool Innovation Ltd
Australian Wool Industries Secretariat
Australian Writers Guild
Book Industry Newsletter
Business Council of Australia
Business Software Association
Canegrowers
Cane Growers Council of Australia
Carpet Institute of Australia Ltd
Cattle Council of Australia
Commercial Television Australia
Commercial Radio Australia
Committee for Economic Development of South Australia
Confectionery Manufacturers of Australasia
Copyright Agency Limited
Copyright in Cultural Institutions Group
Cotton Australia
Council of Australian Libraries
Council of Textiles and Fashion Industries of Australia Ltd
CPA Australia
Customs Brokers Council
Dairy Australia
Distilled Spirits Industry Council of Australia
Engineering Employers Association, South Australia
Environment Business Australia
Federal Chamber of Automotive Industries
Federation of Automotive Products Manufacturers
Footwear Manufacturers Association of Australia
Furnishing Industry Association
Generic Medicines Industry Association of Australia
Grains Council of Australia
Horticulture Australia
Horticulture Market Access Committee
Intellectual Property Society of Australia and New Zealand
Interactive Entertainment Association of Australia

International Banks and Securities Association of Australia
International Legal Services Advisory Council
Internet Industry Association
Internet Society of Australia
Investment and Financial Services Association
Law Council of Australia
Law Institute of Victoria
Meat and Livestock Australia
Medicines Australia
Minerals Council of Australia
Motion Picture Association
Museums Australia
Music Council of Australia
National Agricultural Commodities Marketing Association
National Association for the Visual Arts
National Association of Forest Industries
National Association of Testing Authorities
National Farmers Federation
National Food Industry Council
National Food Industry Strategy
National ICT Alliance
National Meat Association
NSW Institute of Export
Pharmacy Guild
Plastics and Chemicals Industries Association
Pulse Australia
Ricegrowers Association of Australia
Rice Marketing Board of NSW
Screen Producers Association of Australia
Seafood Industry Council, Victoria
Service Providers Industry Association
Sheepmeat Council of Australia
Technical Textiles and Nonwoven Association
United Dairy Farmers of Victoria
Victorian Dairy Products Association
Victorian Farmers Federation
Victorian Manufacturing Industry Council
Victorian Wine Industry Association
VISCOPY
Winemakers Federation of Australia
WTO Advisory Group

Companies

A.I. Topper & Company
AARNET
ABB Grain
ABMT
ACC Group
ADI Limited

AFGC
ALCOA
Allanbank International
Aliens Arthur Robinson
AlphaPharm
Alstom Ballarat
ANZ Bank
AOL Time Warner
Apical International
Arnotts Biscuits Limited
Asia-Pacific Space Centre
ATR Industries
AUSAC Development
AusACCESS
Auspoly
Australian Defence Apparel
Australian Meat Holdings
Australian Stock Exchange
Australian Vinyls Corporation
Austrim Nylex
AVCARE
AWB Ltd
Baker & McKenzie
Baxter Healthcare
Bayer
Beringer Blass
BHP Billiton
BHP Steel/BlueScope Steel
Bickfords
Blake Dawson Waldron
BOC Australia Limited
Brambles
Bradmill
Brack Textiles
Bulk Dairy Foods
Burdett Buckeridge Young
C31 Adelaide Community Television
Cablex
Calyptech
Canning Vale Weaving Mills
Cards etc
Citigroup
CGI Australia
Codan
Collison and Co
Commonwealth Bank of Australia
Corrs Chambers Westgarth
Crane Group
Credit Suisse First Boston
CRM Software

Davies Collison Cave
De Bortoli Wines
December Films
DEFAB
Duke Energy
Dynek
EDS
Effem Foods
Elders
Electrolux Home Products
Eli Lilly Australia
Energy Australia
Esso Australia
Filtronic
FMP Group (Australia)
Ford Motor Company of Australia
Fosters Australia
Fox Sports
Fox Studios Australia
Freehills
G&KO'Connor
Gavin Anderson & Company
George Weston
Gerrard Industries
Golden Circle
GUD Holdings
Hawker Britton
Holden
HSBC Bank Australia
Hunt & Hunt Lawyers
Hunter Export Centre
IAG
IBM Australia
IDP Educational Services
Infogrames
IP3 Systems
John Fairfax Publications
JP Morgan Chase Bank
KPMG
Lavery International
Leighton Holdings
Macquarie Bank
Macquarie Corporate Telecommunications
Macquarie Textiles
Master Foods
Maxiworks
Melbourne IT
Microsoft
Microsoft Australia
Mincom

Minter Ellison
Mitsubishi Motors Australia
Monsanto
Murray Goulburn Co-operative
National Australia Bank
Natural Flair
News Ltd
NFIS
Note Printing Australia
Nufarm
Onesteel
Optus
Optus Television
Ozemail
P&O Australia
Packer Leather
Paton's Macadamia Plantations
Peanut Company of Australia
Peter Gallagher, Agricultural Industry Consultant
Pfizer Australia
Pilkington Australasia
Popcorn King
Publishing & Broadcasting
QANTAS Airways
QBE Insurance
Queensland Sugar
ResMed
Revelation Software Concepts
Rio Tinto
RM Williams
Roadshow Films
Rockwall Automation
Santos
Schefenacker Vision Systems Australia
Setec
Sharman Networks
Sheridan Australia
Simsmetal
Sony Computer Entertainment
Southcorp
Spangaro Systems
SPC Ardmona
Stainless Tanks & Pressure Vessels
Sunrice
Sydney Futures Exchange
Telstra Corporation
TenderSearch
Tenix Australia
Thales International
The Hanging Rock Winery

Tower Technology
Toyota Australia
Twentieth Century Fox Film Distribution
UBS
VARIAN Australia
Verizon Communications
WAFEX
Walter Construction Group
Westfield Corporation
Westpac Banking Corporation
Woodside
Yakka

Professional Bodies and Institutions

Architects Accreditation Council of Australia
Australian Council of Physiotherapy Regulators
Australian Council of Professions
Australian Medical Association
Australian Nursing Council
Australian Nursing Federation
Federation of Intellectual Property Attorneys
Institute of Chartered Accountants
Institution of Engineers
Licensing Executive Association Australia and New Zealand
Queensland Nurses Association
Royal Australian Institute of Architects

Unions

Actors Equity
ACTU
Australian Manufacturing Workers Union
Australian Workers Union
Community and Public Sector Union
Media Entertainment and Arts Alliance
National Tertiary Education Union
National Union of Workers
NSW Musicians Union
Tasmanian Papermills Employees Association
Victorian Teachers Union

Non-Governmental Organisations

Arts Law Centre of Australia
Australia Institute
Australian American Association
Australian Coalition for Cultural Diversity
Australian Conservation Foundation
Australian Consumers Association

Australian Doctors' Fund
Australian Fair Trade and Investment Network
Consumers Health Forum
Doctors Reform Society
Free to be Australian Group
Greenpeace Australia
Humane Society International
National Environmental Consultative Forum
Public Interest Advocacy Centre
Tasmanian Conservation Trust

Public Sector and Educational Institutions

Australia Council for the Arts
Australasian Film and Video Security Office
Australian Broadcasting Authority
Australian Broadcasting Commission
Australian Film Commission
Australian Local Government Association
Australian Centre for Intellectual Property in Agriculture
Dairy Food Safety Victoria
Export Finance and Insurance Corporation
Film Finance Corporation Australia
Food Standards Australia New Zealand
Intellectual Property Research Institute of Australia
Ministerial Council on Education Employment Training and Youth Affairs
Reserve Bank of Australia
Standards Australia
State and Territory Health Ministers' meeting
Supreme Court of ACT
Sydney University
University of Adelaide (Institute for International Business, Economics and Law)
University of Melbourne
Victorian Arts Centre
Victorian Meat Authority
WA Trade and Industry Coordination Group

Presentations, Speeches, Business Briefings (Incomplete)

AIG focus groups, meetings on Rules of Origin: Adelaide, Brisbane, Melbourne, Sydney, June-August 2003
AMCHAM, Sydney, 5 June 2003
American Club, Sydney, Business Breakfast, 30 May 2003
AUSFTA International Conference, Perth, 29 August 2003
Business luncheon, Mackay, Queensland, 22 October 2003
Conference on ICT, Melbourne, 2 September 2003
Dubbo public forum on AUS FTA, 17 October 2003
Film and television industry, 7 May 2003, 20 August 2003, December 2003
Hunter Export Centre, 28 May 2003
Illawarra businesses (TradeStart/NSW Small Business seminar), 12 September 2003

Industry Leaders Roundtable, 18 June, 2003
International Business Week, Adelaide, 27 August 2003
Prime Minister's Science Council, 1 September 2003
Round Table on Industrial Issues, organised by Victorian Government, 7 My 2003
Seminar, 'Australia-USA Free Trade Seminar - A Western Australian Agricultural
Industry Focus', Narrogin, WA, 28 August 2003
South Australian business groups, 10 April 2003
Standards bodies and regulators, 3 March 2003
Textiles industry, 5 February 2003
World Electronic Forum, Melbourne,! September 2003

Submissions received **from** private sector, professional and non- governmental organisations*

Industry and Sectoral Organisations:

- General Business Groups

Australian Chamber of Commerce and Industry
Australia-US FTA Business Group (AUSTA)

^H Agriculture and Processed Food

Australian Chicken Meat Federation
Australian Dairy Industry

Australian Red Meat Industries:

- Australian Lot Feeders' Association;
- Australian Meat Council, Cattle Council of Australia;
- Meat and Livestock Australia;
- National Meat Association;
- Sheepmeat Council of Australia.

Australian Wine and Brandy Corporation

AWB Ltd

Confectionery Manufacturers of Australasia

National Farmers' Federation

Peanut Company of Australia

Queensland Sugar

Rice Marketing Board, NSW

Southcorp

Sustainable Australia

Winemakers' Federation of Australia

^a Manufacturing

Australian Industry Group

Australian Shipbuilders Association

Australian Tyre Manufacturers Association

BMP Steel

Carpet Institute of Australia

* Only those organisations which answered in the affirmative *to* a request to list them are listed.

Council of Textile and Fashion Industries of Australia
Cucina Latella
EGRInc
Federal Chamber of Automotive Industries
Federation of Automotive Products Manufacturers
Ford Motor Company of Australia
Fosters Australia
PER International
Proteome Systems
Santos

^H Services, IT and Intellectual Property

Australian Bankers' Association
Allanbank Communications International
Australia Council for the Arts
Australian Copyright Council
Australian Information Industry Association
Australian Interactive Multimedia Industry Association
Australian Library and Information Association
Australian Medical Association
Australian Publishers' Association
Australian Screen Directors' Association
Australian Services Roundtable
Australian Society of Authors
Australian Stock Exchange
Australian Writers Guild
Collison and Co
Copyright Agency
Institution of Engineers
Interactive Entertainment Association of Australia
Law Council of Australia
Law Institute of Victoria
Music Council of Australia
Roadshow Films
Telstra Corporation

Unions:

Australian Education Union
Communications Electrical Plumbing Union
Media Entertainment and Arts Alliance
National Tertiary Education Union
Queensland Nurses' Union

Non-Governmental Organisations:

American Australian Association, New York
ATTAC Australia
Australian Coalition for Cultural Diversity
Australian Conservation Foundation
Australian Doctors' Fund
Australian Fair Trade and Investment Network
Australian Pensioners' and Superannuants' League, Queensland

Bio-Dynamics Tasmania
CREATE Australia
Doctors¹ Reform Society
Friends of the ABC, ACT and NSW branches
Greenpeace Australia
Humane Society International (Australian Office)
Information for Action
Liberty Victoria - Victorian Council for Civil Liberties
Mudgee District Environment Group
National Association of Practising Psychiatrists
National Social Responsibility and Justice, Uniting Church in Australia
Network of Concerned Farmers, Western Australia
SEARCH Foundation
Students' Association of Flinders University
TradeWatch
UnitingCare, NSW/ACT
Young Australian Professionals in America

Australia-United States Free Trade Agreement
Statement of Australian Objectives

Free trade leads to higher economic growth, better living standards and more and better job opportunities. The Government is committed to negotiating a Free Trade Agreement (FTA) with the United States that will reduce restrictions on the ability of the two countries to do business with each other. Australia will aim to ensure that the outcomes of the FTA negotiations complement and reinforce our objectives in the Doha Round of World Trade Organisation (WTO) negotiations and in Asia Pacific Economic Cooperation (APEC) forums, and set a high standard for other FTAs in the region. Australia's shared approach with the United States on many issues in both the WTO and APEC provides a strong foundation for achieving that goal.

The higher incomes that free trade brings will enhance the ability of both the US and Australia to achieve fundamental economic and social policy objectives. Nevertheless, the Government will ensure that outcomes from the FTA negotiations do not impair Australia's ability to meet fundamental policy objectives in health care, education, consumer protection, cultural policy, quarantine and environmental policy. The Government will continue to place a high priority on consultations with the States and Territories, industry and professional bodies and community organisations as the negotiations proceed.

The Government's specific objectives for negotiations with the United States are as follows:

Trade in Industrial Goods and Agriculture

- « Seek to eliminate tariffs and other barriers to trade between Australia and the United States on the broadest possible basis.
- Seek the removal of tariff rate quota restrictions on Australian exports to the United States, including those affecting exports of beef, dairy products, sugar, peanuts and cotton.
- « Seek the elimination or reduction of United States agricultural subsidies that affect Australian exports to the United States or to third country markets, as well as agreement for the United States not to subsidise exports of agricultural products to Australia.
- « Reaffirm our commitment to work together in the WTO negotiations towards substantial improvements in market access globally, eliminating all export subsidies on agricultural products, and substantial reduction in domestic support for agriculture.
- Seek the removal of legislative barriers to the export of Australian-built fast ferries and other vessels to the United States.
- Secure improved market access for Australian manufactured goods by addressing non-tariff barriers in such areas as standards certification and technical regulation.
- « Pursue opportunities for harmonisation or mutual recognition of mandatory and/or voluntary technical standards.

Rules of Origin

- « Agree on a set of rules of origin that ensure that the benefits of preferential tariff treatment under the FT A apply only to Australian and US goods eligible for such treatment while avoiding unnecessary obstacles to trade.
- « Agree on conditions to maintain the integrity of the rules and seek to ensure they are not unnecessarily burdensome to administer from the points of view of business and government.

Quarantine / Sanitary and Phytosanitary (SPS) Measures

- * Seek to have the United States reaffirm its WTO commitments on SPS measures and eliminate any unjustified SPS restrictions.
- * Seek to strengthen cooperation between Australian and US quarantine authorities.
- * Seek to reinforce mutual commitment to the development and application of science-based quarantine measures, consistent with the WTO SPS Agreement.
- * Seek to strengthen collaboration with the US in implementing the SPS Agreement and to enhance cooperation with the US in relevant international bodies on developing international SPS standards, guidelines, and recommendations.

Trade Remedies

- « Pursue exemption of Australian products from US general safeguards legislation.
- » Seek provisions that minimise the impact of other US trade remedy laws on Australian exports to the US.

Customs Cooperation

- « Ensure that the customs procedures of both parties are transparent, efficient, and consistent and that they facilitate trade.
- « Strengthen cooperation in the investigation and prevention of infringements of customs law and in combating illegal trans-shipment of goods.
- « Pursue harmonisation of customs policies, data and procedures, and develop cooperation in such areas as customs techniques and research and development.

Trade in Services

- « Seek reduced impediments in accessing the United States market for Australian services suppliers such as providers of professional services, other business services, education services, environmental services, financial services and transport services.
- * Explore the scope for improvements in the recognition of the qualifications and experience of Australian professionals in the United States.
- « Look for opportunities to reduce any unnecessary access impediments imposed on Australian service suppliers by licensing requirements, standards

or other regulations in the United States, including Australians seeking access to US capital markets.

- « Pursue opportunities to enhance the temporary entry of business persons and other Australians to the United States.
- « Ensure that the negotiations take account of Australia's cultural and social policy objectives, and the need for appropriate regulation and support measures to achieve these objectives in areas such as audiovisual media.
- » Ensure that the outcome of the negotiations does not limit the ability of government to provide public services, such as health, education, law enforcement and social services.

Investment

- * Seek an enhanced framework to govern investment flows between Australia and the United States that will complement the outcome of the negotiations in relation to trade in goods and services.
- Look for opportunities to reduce any unnecessary impediments that licensing requirements, standards or other regulations in the United States impose on Australian investors
- « Ensure that the negotiations take account of Australia's foreign investment policy, and the need for appropriate policies to encourage foreign investment, while addressing community concerns about foreign investment.

Intellectual Property Rights

- * Reaffirm the standards established in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and other international intellectual property agreements to which the USA and Australia are signatories.
- « Seek to ensure that the rights of Australian holders of intellectual property are protected according to international standards in the US, including the right to be remunerated fairly for use of their works.
- « Ensure that Australia remains free to determine the appropriate legal regime for implementing internationally agreed intellectual property standards, maintaining a balance between the holders of intellectual property rights and the interests of users, consumers, communications carriers and distributors, and the education and research sectors.
- « Deepen cooperation on intellectual property issues of mutual interest, advancing our common objectives in multilateral intellectual property negotiations; and strengthening cooperation between our respective intellectual property agencies.
- « Explore opportunities to work with the United States to promote the implementation of effective and appropriate intellectual property systems in the Asia-Pacific region, without limiting the scope of existing activities of this nature.

Telecommunications and Electronic Commerce

- Develop agreed principles in the regulation of telecommunications on the basis of non-discrimination, transparency, predictability, consultation with stakeholders and independence and autonomy of regulators.

- Address licensing and other procedural constraints on participation of Australian companies in the US telecommunications market.
- Seek to promote international Internet charging arrangements that are applied on fair, non-discriminatory and pro-competitive terms.
- Seek to enhance the growth of electronic commerce in goods and services with the United States in terms that promote the use of electronic commerce globally.
- Reaffirm the current practice of not imposing customs duties on electronic transmissions between Australia and the United States.

Government Procurement

- « Agree on rules for government procurement that are flexible, transparent and fair.
- « Seek to expand access for Australian goods and services to US government procurement markets.

Competition Policy

- * Build upon existing bilateral treaty arrangements to foster cooperation on competition law and policy, and provide for consultations on specific problems that may arise.

State-to-State Dispute Settlement

- Encourage the early identification and settlement of disputes through consultation.
- « Establish fair, transparent, timely, and effective procedures to settle disputes arising under the agreement.

Environmental issues

- « Seek to ensure that trade and environment policies are mutually supportive by maintaining Australia's ability to protect and conserve its environment and to meet its international environmental obligations.

United States Political Brief

The United States is a liberal democracy with a federal political structure comprising 50 states and the District of Columbia. Under the US constitution, which came into effect in 1789, the federal government is characterised by a separation of the powers of the executive from the legislative and judicial functions. The constituent states have significant powers of self-government.

Heading the executive is a president elected every four years in a national contest by universal suffrage. The federal legislature, Congress, consists of two chambers with distinct powerful roles, the 100-member Senate and the 435-member House of Representatives. The judiciary is headed by the Supreme Court, which has nine judges appointed by the President and approved by the Senate.

The United States has an advanced, market-based economy, with GDP of US\$10,875 billion in 2003 (representing close to one third of global GDP), and equating to GDP per capita of US\$37,312. It is the world's largest trading nation, and most important source of technological innovation.

The United States is Australia's most important economic partner and closest security ally. There is a high level of bilateral cooperation on issues spanning the breadth of the security, intelligence and trade relationship.

The United States is Australia's second largest merchandise export market and our most important market for services. It is Australia's largest source for both merchandise and services. The United States is the largest investor in Australia. The United States one of the top five countries for visitors to Australia in terms of numbers and expenditure per person.

Two-way merchandise trade reached A\$30 billion in 2003. Our merchandise trade deficit in favour of the United States was \$11 billion. Two-way services trade rose by \$1.1 billion in the past four years to A\$ 11.3 billion in 2003. Our services trade deficit in favour of the United States was \$1.2 billion.

Major exports to the United States include bovine meat, crude petroleum, alcoholic beverages, lamb and passenger motor vehicles. Major imports from the United States include aircraft and parts, telecommunications, measuring and controlling instruments, internal combustion piston engines and computers.



UNITED STATES

Fact Sheet

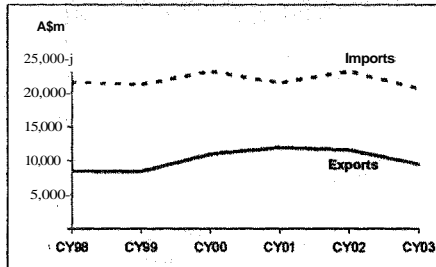
General information:

Capital:	Washington D.C.	Head of State and Head of Government:	
Surface area:	9,364 thousand sq km	President:	George W Bush
Official language:	English		
Population:	291 million (2002)		
Exchange rate:	A\$1 = US\$0.7384 (Dec 2003)		

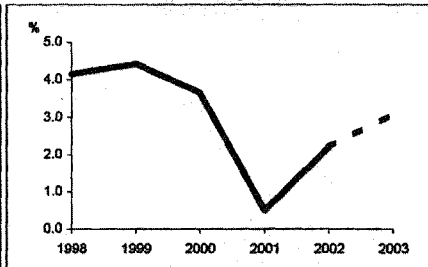
Recent economic indicators:

	1998	1999	2000	2001	2002(a)	2M3(b)
GDP (US\$bn):	8,747.0	9,268.4	9,817.0	10,100.8	10,480.8	10,875.3
GDP per capita (US\$):	31,357	32,869	34,446	35,070	36,012	37,312
Real GDP growth (% change YOY):	4.2	4.4	3.6	0.5	2.2	3.1
Current account balance (US\$m):	-204,670	-290,870	-411,460	-393,740	-480,860	-553,203
Current account balance (% GDP):	-2.3	-3.1	-4.2	-3.9	-4.6	-5.1
Goods & services exports (% GDP):	10.9	10.7	11.2	10.2	9.6	9.1
Inflation (% change YOY):	1.6	2.1	3.4	2.8	1.5	2.1
Unemployment rate (%):	4.5	4.2	4.0	4.7	5.8	6.0

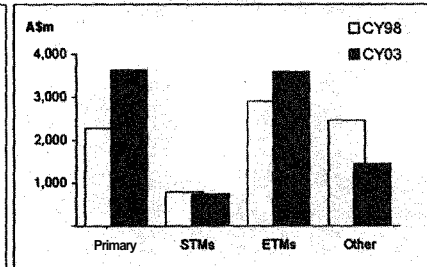
Australia's trade with the United States



Real GDP growth



Australia's exports to the United States



Australia's relationship with the United States-

Major Australian exports, 2003 (A\$m):

Bovine meat	1,355
Alcoholic beverages	837
Crude petroleum	583
Meat (excluding bovine)	377
Aircraft & parts	341

Major Australian imports, 2003 (Aim):

Aircraft & parts	3,270
Measuring and controlling instruments	714
Internal combustion piston engines	693
Medicaments (incl. veterinary)	644
Computers	630

Australian merchandise trade with the United States, 2003:

		Total share:	Rank:	Growth (yoy):
Exports to the United States (A\$m):	9,451	8.8%	2nd	-18.1%
Imports from the United States (A\$m):	20,529	15.8%	1st	-11.3%
Total trade (exports + imports) (A\$m):	29,980	12.6%	2nd	-13.6%
Merchandise trade deficit with the United States (A\$m):	11,078			

Australia's trade in services with the United States, 2003:

		Total share: ^
Exports of services to the United States (A\$m):	5,051	15.5%
Imports of services from the United States (A\$m):	6,270	18.9%
Services trade deficit with the United States (A\$m):	1,219	

United States' global trade relationships:

United States' principal export destinations, 2003:

1	Canada	23.4%
2	Mexico	13.5%
3	Japan	7.2%
4	United Kingdom	4.7%
5	Germany	4.0%
14	Australia	1.8%

United States* principal import sources, 2003:

1	Canada	17.8%
2	China	12.1%
3	Mexico	11.0%
4	Japan	9.4%
5	Germany	5.4%
30	Australia	0.5%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the MS, the IMF and various International sources.

(a): all recent data subject to revision; (b): EIU forecast

Fact sheets are updated biannually; next update: May 2004

List of other treaties with the United States of America

Convention [between United Kingdom and United States of America] relative to the Disposal of Real and Personal Property and Supplementary Convention
[1902] ATS 3

Treaty [between United Kingdom and United States of America] relative to the Establishment of a Communication by Ship Canal between the Atlantic and Pacific Oceans [Hay-Pauncefote Treaty]
[1902] ATS 4

Treaty [between the United Kingdom (including the Empire) and the United States of America] with regard to the Establishment of Peace Commission
[1914] ATS 11

Convention amending [Articles IV and VI.2] the Convention relative to the Disposal of Real and Personal Property of 2 March 1902
[1941] ATS 1

Treaty amending in their Application to Australia certain Provisions of the Treaty respecting the Establishment of a Peace Commission of 15 September 1914
[1941] ATS 2

Air Transport Agreement
[1946] ATS 8

Exchange of Notes constituting an Agreement relating to the Extension, on a Reciprocal Basis, of the time for compliance with Conditions and Formalities Prescribed by their Respective Copyright Laws
[1949] ATS 17

Exchange of Notes constituting an Agreement regarding Reciprocal Waiver of Visa Fees
[1950] ATS 2

Exchange of Notes constituting an Agreement relating to Mutual Defence Assistance
[1951] ATS 22

Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Gifts and
Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on the Estates of Deceased Persons
[1953] ATS 4

Exchange of Notes constituting an Agreement relating to Non-Immigrant Passport Visas
[1955] ATS 18

Exchange of Notes constituting an Agreement regarding the Furnishing of Supplies and Services to Naval Vessels
[1957] ATS 1

Agreement concerning Cooperation regarding Atomic Information for Mutual Defence Purposes
[1957] ATS 13

Agreement to Facilitate the Interchange of Patent Rights and Technical Information for Defence Purposes, and Exchange of Notes
[1958] ATS 2

Exchange of Notes constituting an Agreement relating to Non-Immigrant Visa Procedures
[1959] ATS 32

Mutual Weapons Development Program Agreement
[1960] ATS 11

Exchange of Notes constituting an Agreement for Co-operation in a Transit Navigational Satellite Programme
[1961] ATS 10

Exchange of Notes constituting an Amendment to the Agreement regarding the Furnishing of Supplies and Services to Naval Vessels
[1963] ATS 8

Agreement concerning United States Forces in Australia
[1963] ATS 10

Agreement for the Funding of Certain Education and Cultural Programs (Fulbright Agreement) and
Exchange of Notes of 27 May 2003 amending the Agreement
[1964] ATS 15

Exchange of Notes constituting an Agreement regarding the Reciprocal Granting of Authorisations to Permit Licensed Amateur Radio Operators of Either Country to Operate their Stations in the Other Country
[1965] ATS 8

Agreement Relating to the Establishment of a Joint Defence Space Research Facility
[1966] ATS 17

Exchange of Notes constituting an Agreement to amend the Fulbright Agreement
[1967] ATS 12

Exchange of Notes constituting an Agreement relating to the Establishment of United States Facilities on the Territory of Norfolk Island for the Purpose of Studying Ionospheric Propagation in Relation to Long Range Radio Paths
[1969] ATS 2

Exchange of Notes constituting an Agreement concerning the Disposal of United States Government Excess Property in Australia
[1973] ATS 33

Exchange of Notes constituting an Agreement concerning a Cooperative Scientific Program designated Hi Star South
[1974] ATS 19

Exchange of Notes constituting an Agreement concerning the Discontinuance of the Facility Used in Measuring the Physical Effects of Disturbances in the Atmosphere or in Space and the Transfer of this Facility to the Australian National University
[1975] ATS 11

Treaty on Extradition
[1976] ATS 10

Exchange of Notes constituting an Agreement concerning the Establishment, Maintenance and Operation of a Solar Observatory
[1977] ATS 25

Exchange of Notes constituting an Agreement regarding the Management and Operation of the Joint Geological and Geophysical Research Station at Alice Springs
[1978] ATS 3

Exchange of Notes constituting an Agreement concerning Space Vehicle Tracking and Communication Facilities, 1980
[1980] ATS 15

Agreement concerning Peaceful Uses of Nuclear Energy
[1981] ATS 4

Agreement relating to Cooperation on Antitrust Matters
[1982] ATS 13

Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income
[1983] ATS 16

Exchange of Notes constituting an Agreement to amend the Agreement regarding Management and Operation of the Joint Geological and Geophysical Research Station at Alice Springs of 28 February 1978
[1984] ATS 9

Exchange of Notes constituting an Agreement concerning Access to the Repair and Maintenance Facilities of Australian Ports to United States Fishing Vessels
[1984] ATS 17

Exchange of Notes constituting an Agreement on Employment for Dependents of Officials Overseas
[1984] ATS 33

Exchanges of Notes constituting Agreements concerning the Application of the Agreement concerning Peaceful Uses of Nuclear Energy of 5 My 1979

[1985] ATS 22

Exchange of Notes constituting an Agreement relating to the Launching of Long Duration Balloon Flights beyond Australia for Scientific Purposes

[1985] ATS 23

Exchange of Notes constituting an Agreement Amending and Further Extending in force the Agreement on the Establishment of a Joint Space Research Facility of 10 December 1966

[1988] ATS 36

Exchange of Notes amending, extending and changing the title of the Agreement of 10 November 1969 to Agreement between relating to the Establishment of a Joint Defence Facility at Nurrungar

[1988] ATS 37

Exchange of Notes constituting an Agreement to amend the Air Transport agreement of 3 December 1946

[1989] ATS 6

Exchange of Notes constituting an Agreement concerning [airline] Capacity

[1989] ATS 7

Exchange of Notes constituting an Agreement concerning the Transfer of Australian Ores containing Uranium, Thorium, Monazite and Xenotime

[1989] ATS 31

Exchange of Notes constituting an Agreement and an Arrangement concerning Trade in certain Steel Products

[1990] ATS 13

Exchange of Notes constituting an Agreement to amend and extend the Agreement concerning Space Vehicle Tracking and Communication Facilities of 29 May 1980

[1990] ATS 15

Agreement concerning Cooperative Development of the Digital Chart of the World

[1990] ATS 23

Agreement concerning NAVSTAR Global Positioning System

[1991] ATS 11

Exchange of Notes constituting an Agreement to bring International Obligation Exchanges under the Coverage of the Agreement concerning Peaceful Uses of Nuclear Energy, and Agreed Minute, of 5 July 1979

[1991] ATS 48

Exchange of Notes amending the Fulbright Agreement

[1992] ATS 8

Agreement concerning Cooperation in Radar Activities
[1992] ATS 11

Exchange of Notes constituting an Agreement to amend the Agreement relating to the Establishment of a United States Naval Communications Station in Australia of 1963, as amended
[1992] ATS 21

Protocol amending the Treaty on Extradition of 14 May 1974
[1992] ATS 43

Exchange of Notes constituting an Agreement to amend the Air Transport Agreement of 3 December 1946 and the Agreement concerning Capacity of 23 March 1989
[1994] ATS 8

Agreement concerning Cooperative and Collaborative Research, Development and Engineering
[1994] ATS 35

Memorandum of Agreement of concerning Reciprocal Defence Procurement
[1995] ATS 20

Exchange of Notes constituting an Agreement concerning Certain Mutual Defence Commitments
[1995] ATS 35

Project Arrangement on Detection and Tracking of Targets in a Clutter and
Project Arrangement on data fusion for Over-the-Horizon Radar
[1997] ATS 29

Agreement concerning Acquisition and Cross-Servicing
[1999] ATS 18

Treaty on Mutual Assistance in Criminal Matters
[1999] ATS 19

Agreement on Mutual Antitrust Enforcement Assistance
[1999] ATS 22

Agreement for Cooperation concerning Technology for the Separation of Isotopes of Uranium by Laser Excitation [SILEX Agreement], Agreed Minute and Exchange of Notes
[2000] ATS 19

Exchange of Notes Constituting an Agreement to further extend in force the Agreement relating to the Establishment of a Joint Defence Facility at Pine Gap of 9 December 1996, as amended
[2000] ATS 27

Exchange of Notes constituting an Agreement to further amend and Extend the Agreement concerning Space Vehicle Tracking and Communications Facilities of 29 May 1980, as amended
[2000] ATS 32

Agreement by Exchange of Notes to Amend and Extend the Agreement on Cooperation in Defence Logistics Support (CDLSA)

[2001] ATS 13

Exchange of Notes constituting an Agreement concerning Cooperation in the application of Non-Proliferation assurances on retransfer to Taiwan

[2002] ATS 9

Agreement on Social Security

[2002] ATS 18

Agreement for the Enforcement of Maintenance (Support) Obligations

[2002] ATS 24

Agreement concerning Security Measures for the Protection of Classified Information

[2002] ATS 25

Protocol Amending the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income of 6 August 1982

[2003] ATS 14

Annex?

List of treaties of the same type with other countries:

- Australia New Zealand Closer Economic Relations - Trade Agreement [ANZCERTA]
[1983] ATS 2
 - o Protocol to ANZCERTA on Harmonisation of Quarantine Administrative Procedures
[1988] ATS 17
 - o Protocol to ANZCERTA on Acceleration of Free Trade in Goods to ANZCERTA
[1988] ATS 18
 - o Protocol to ANZCERTA on Harmonisation of Quarantine Administrative Procedures
[1988] ATS 20
 - o Exchange of Letters to amend ANZCERTA
[1988] ATS 27
 - o Exchange of Letters constituting an Agreement to delete Article 203 and Annex F
from ANZCERTA
[1992] ATS 27
 - o Exchange of Letters constituting an Agreement to amend Article 3.1 of ANZCERTA
[1994] ATS 39

- Agreement on Trade and Commercial Relations with Papua New Guinea [PATCRA II]
[1991] ATS 37

- « Free Trade Agreement with Singapore (SAFTA)
[2003] ATS 16

Summary of Necessary Legislative and Regulatory Changes

The legislative and regulatory amendments required to implement the Agreement are summarised as follows:

Goods, Agriculture and Textiles Chapters

- « Amendments to *Customs Tariff Act 1995* by inserting provisions that will allow for a preferential rate of duty to apply to goods from the United States where they meet the rules of origin as set out in the Agreement.
- « Amendments to the *Customs Act 1901* and the *Customs Tariff Act 1995* to allow Customs to implement safeguard action, which is a mechanism to stop or slow the decrease in tariff rates where preferential entry harms the local industry. The Productivity Commission will be the competent authority to conduct a safeguard investigation.
- « Amendments to the *Customs Act 1901*, to give Customs the power to question and to audit exporters in regard to the production or manufacturing details of goods they are exporting, or have exported, to the United States.
- « Amendment to the *Customs Act 1901* to implement the temporary importation provisions of Article 2.5 of the Agreement.
- Amendments to the Dairy Produce Regulations 1986 (Part 2 Export Control) to add as regulated dairy produce all of the items included under the new access arrangements and to identify any conditions that may be necessary for the export of specified categories of dairy produce to the United States. The *Dairy Produce Act* will not require change.
- *Australian Meat and Livestock Industry Act 1997* and the *Australian Meat and Livestock (Quotas) Act 1990* will not require amendment. However, the orders under the Act will need to be changed to reflect additional product category requirements for beef, specifically to administer the tariff rate quotas set out in the Agreement.
- « The *Horticulture Marketing and Research and Development Services Act 2000* will not require amendment. However, a new order under the Act will need to be made to reflect additional product categories as regulated horticulture products.

Rules of Origin

- « Rules of Origin (ROOs) determine the goods that qualify for preferential treatment under the Agreement. The Agreement will introduce a new system based on change of tariff classification whereby each non-originating input must be transformed in the manufacturing process such that it undergoes a particular change in tariff classification. For certain products, the change of tariff classification rule is combined with a local content requirement. This model has also been adopted for the Australia-Thailand FTA. It differs from the ROOs under the Australia-New Zealand CER Trade Agreement which is based on a local content requirement of 50% of the ex-factory value.
- « Amendments to the *Customs Act 1901* to outline the general ROOs provisions set out in Chapter 5 of the Agreement.
- « The product-specific ROOs in the Annexes 4-A and 5-A will be incorporated in the Regulations made under the *Customs Act*.

Services and investment

- * Amendments to the *Life Insurance Act 1995* and Part 3 of the Life Insurance Regulations 1995 to allow US owned life insurers to operate in Australia through branches.
- « Amendments to the *Foreign Acquisitions and Takeovers Act 1975* and Foreign Acquisitions and Takeovers Regulations 1989 to reflect the commitments made in the Investment Chapter in relation to screening of US investment through the Foreign Investment Review Board (FIRB). Specifically, amendments to address the increase in the threshold for FIRB examination of US acquisitions in non-sensitive sectors from \$50 million to \$800 million (indexed to the Australian GDP deflator), as well as to exempt US acquisitions of interests in Australian financial sector companies from notification through the FIRB process (such acquisitions will still be subject to the approval and other requirements of the *Financial Sector (Shareholdings) Act 1998* and other financial sector regulation.)

Intellectual Property

- * Amendments to the *Copyright Act 1968* to address a number of obligations, including, but not limited to, copyright term extension, ISP liability and criminal penalties. Specifically, to address:
 - o a scheme for immunity of Internet Service Providers (ISPs) for potential copyright infringement in return for compliance with a scheme for the removal of allegedly infringing material on their networks;
 - o implementation of copyright term extension;
 - o enhanced measures against copyright infringement - particularly on networks, and in support of the technology used by owners in seeking to protect their material in electronic form; and
 - o broadening the scope of the remedies and criminal offences in the Act and amendments concerned with related limitations and exceptions.
- * Amendments to the *Australian Wine and Brandy Corporation Act 1980* to address geographical indications and trade marks. Specifically to:
 - o make provision for the cancellation of a registered geographical indication; and
 - o make provision to allow a trade mark owner to oppose an application for a geographical indication.
- * Amendments to the *Therapeutic Goods Act 1989* to provide:
 - o measures in the marketing approval process to prevent a person from entering the market with a generic version of a patented medicine before a patent covering that product has expired, unless they have the consent of the patent owner; and
 - o that a patent owner be notified of an application for marketing approval in those cases in which the person seeking the approval considers the patent invalid and intends to market a generic version of a patented product before the patent expires.
- « Amendments to the *Agricultural and Veterinary Chemicals Act 1994* to change the scheme currently in place, including in relation to the time period for protection of agricultural chemical test data.
- * Amendments to the *Patents Act 1990* to ensure that the ground for revocation of a patent will continue to be available.

Government Procurement

« Amendments may be necessary to the regulations issued under the *Financial Management and Accountability Act 1997* (FMA Act) and to the Commonwealth Procurement Guidelines, promulgated and used under the FMA Regulations.

- Specifically, minor changes may be required to the FMA Act and the *Commonwealth Authorities and Companies Act 1997* (CAC Act) to ensure compliance across all departments and agencies covered by the GP chapter.

Economic Analyses and Modelling Reports prior to the completion of negotiations

While economic modelling can provide helpful indicators of the likely direction of change and provide evidence that supports or cautions against a particular course of action, results are only estimates based on a range of assumptions about how the world works and how it will change in the future. No single figure for the gains from a free trade agreement (FTA) can be generated with a high degree of certainty.

Moreover, there is a range of factors that models cannot readily capture in quantitative form. The APG-Cubed model (described below) does capture dynamic factors to a greater extent than earlier static models. It may also be possible to provide some estimates of the impact of the effects of an FTA in terms of stimulating competition and productivity: the Centre for International Economics (CIE) is considering how to address this dimension in its analysis of the final Agreement. Even so, it is unlikely that a model can capture all the dynamic benefits of integrating Australia with the world's largest, most dynamic and most competitive economy, as well as the extent to which Australian firms innovate faster, and find and exploit market niches that arise as a result of an FTA.

An example of the kind of opportunities that could be facilitated by an FTA, which would not be reflected in a model that used broad aggregate data for different sectors, is the elimination of tariffs on light metals such as unwrought titanium (15 per cent) and magnesium (8 per cent). The removal of these tariffs by the United States will make the development of new industries producing these metals more feasible, although this may still not be a sufficient factor on its own to make such industries viable in the future.

A report by the CIE commissioned by the Department of Foreign Affairs and Trade in 2001, entitled "Economic impacts of an Australian - United States Free Trade Area", estimated that an FTA with the United States could boost Australian welfare (measured by household consumption) by nearly 0.3 per cent above what it might otherwise be within five years, rising to 0.4 per cent in 10 years and to 0.5 per cent in 20 years. It also estimated that annual GDP would increase by around 0.4 per cent within 10 years of entry into force, equivalent to US\$2 billion in real terms (relative to the year 2000). Expressing the stream of net benefits over the next 20 years in net present value terms, the gain in welfare to Australia could be US\$9.9 billion and in GDP terms US\$15.5 billion.

The above analysis by the CIE used the APG-Cubed computable general equilibrium model, which captures dynamic effects over time and the effects on investment and capital flows. The robustness of that analysis was supported by a second simulation using the GTAP model, which is comparative-static in nature and does not incorporate the dynamic effects over time and the effects on investment and capital flows, but does incorporate a greater amount of sectoral detail than APG-Cubed. CIE's GTAP simulation estimated a relative increase in GDP of 0.34 per cent within 10 years. CIE assessed that the difference between this figure and the APG-Cubed estimate of a 0.4 per cent relative increase in GDP reflected the treatment of investment in the APG-

Cubed model, according to which Australia would see an increase in capital stocks and productive capacity, and subsequently a greater increase in real GDP than under GTAP.

Further evidence in support of the likelihood that an FTA with the US could provide significant benefits was provided by a study conducted by the Allen Consulting Group for the Government of South Australia, which was tabled in the South Australian Parliament on 13 November 2003. Allen Consulting's report included econometric modelling by the Centre of Policy Studies (CoPS), Monash University. CoPS⁵ simulation used its Monash-Global model, which is based on GTAP but incorporated some additional dynamic variables, and examined three scenarios. Two scenarios examining only the impact of the removal of tariffs and other barriers to merchandise trade found estimated annual increases in GDP of \$US 500-800 million and in welfare of US\$200 million, depending on whether the trade in agricultural products and motor vehicles and parts were included (the results were not provided in terms of percentage increases). The third scenario incorporated a range of changes regarding services and regulatory reform in addition to removal of tariff and barriers to goods, and predicted annual GDP increases in the range US\$1.5 - \$1.9 billion over 5-10 years, with welfare boosted by around \$800 million annually in that timeframe.

While the results of the CIE and Allen/CoPS studies are not strictly comparable, they point to similar outcomes in terms of order of magnitude of potential gains. The third Allen/CoPS scenario, like the CIE analysis, incorporates estimates of the impact of services and other regulatory changes. The first two Allen/CoPS scenario suggests that an FTA that completely excluded agriculture might not necessarily make a large difference to the order of magnitude of the result. The actual outcome of the Agreement is in fact quite comprehensive in relation to agriculture, with tariffs eliminated on 75 per cent of tariff lines within four years, and significant liberalisation in all other areas except sugar.

Both these studies are consistent with an earlier modelling simulation undertaken internally in DFAT in 1994, which estimated that an Agreement with the United States could increase GDP by 0.34 per cent in relative terms.

Apart from the need to incorporate the full details of the final Agreement, the new modelling analysis will take into account changes in the national and global economy subsequent to the earlier analyses. While there is little point speculating about the likely outcome of the new analysis, it is worth noting that, while both the 2001 CIE analysis and the Allen/CoPS analyses assumed full elimination of tariff and quota barriers for all goods, it also assumed a four-year transition period for tariff elimination. So while the actual FTA will not eliminate tariffs and quotas on a range of agricultural and manufacturing products within a four-year timeframe, it will eliminate tariffs on the vast majority of goods (over 90 per cent) from entry into force, i.e. more quickly than the earlier modelling studies.

There are also two important results of the Agreement that were not factored into the original CIE study - access to the US government procurement market, and the increase in Australia's US beef quota access. Additional exports to the United States from the increased beef quota will be worth up to \$3 billion. Access to the US government procurement market, worth well over \$200 billion annually, presents further opportunities for Australian exporters.

Another econometric modelling exercise, undertaken by ACIL Economics, which cast doubt on the potential gains of an agreement, has received attention in the media. The ACIL research was commissioned by the Rural Industries Research and Development Corporation. However, it never received endorsement as an official RIRDC report because of ongoing concerns that the modelling results were far from robust and highly implausible for a country the size of Australia. In particular, ACIL found that unilateral liberalisation of Australia's barriers would generate negative welfare gains for Australia, an outcome not supported by other quantitative analysis of the Australian economy. The logic of ACIL's analysis would suggest that Australia would be better off with increased protection, which is contrary to mainstream economic theory and evidence of the robust growth of the Australian economy over recent years following closer integration with the international economy.

STATEMENT OF REQUIREMENT

The Department of Foreign Affairs and Trade requires the Contractor to undertake economic analysis and modelling work to estimate the impact upon Australia and the US of entering into AUSFTA. This analysis and modelling work must focus on the economic impact upon Australia of entering into the Agreement.

The outputs of this work are to include:

- « estimates of the impacts upon the Australian and US economies of reductions in tariffs and non-tariff barriers on industrial and agricultural goods, as well as of the impact of services liberalisation
 - ^m including impact on output and net welfare by country, and
 - ^H the impact on other key variables such as trade (and investment flows if in model), output by sector and prices
- « short, medium and long-ran outcomes
- « outcomes for two basic scenarios
 - ^H assuming no "dynamic" effects (other than those covered in the basic model)
 - ^H assuming additional "dynamic" productivity gains from deeper integration and/or higher investment flows
- « estimates of implications for employment
- « case studies as agreed, including on agriculture (beef and dairy), automobiles, light metals and financial services involving 12 working days in total
- « modelling results and analysis on the implications of the agreement for the States and Territories of Australia
- » an analysis of the environmental impact of AUSFTA on Australia, including in regions and by sector
- « broad indications of the impact of an AUSFTA on third countries
- « possible participation in a conference to present results
- * quantitative results and analysis of a further scenario, assuming that certain other countries enter free trade agreements with the United States, but that Australia does not.