

Trade in Services

- 8.1 The Sub-Committee received a substantial amount of evidence regarding the growing importance of Australia's services trade in the regions under reference. In particular, the evidence focused strongly on the opportunities for trade in legal and education services.
- 8.2 In answer to a Supplementary Question from the Sub-Committee, however, DFAT noted that there is considerable scope for Australia to improve its overall performance in trade in services:

Australia is one of the world's leading suppliers of education services and a rapidly growing provider of many other services, including financial services and professional services such as engineering, architecture and legal services. Despite this, services accounted for only 21 per cent of Australia's exports in 2009 - even though they generate 73 per cent of GDP and 86 per cent of Australian jobs.

Increasing international trade in services is not only good for exporters; it can also be of great benefit to importers. This is because international trade in services provides countries with access to skills and technologies that they do not have, but which can be crucial to improving the productivity and efficiency of their own industries - not just in the services sector but also in the manufacturing, agriculture and resources sectors.

Services trade can therefore assist countries to increase their competitiveness and exports in other sectors, boosting economic growth and helping them move up the development ladder.

As the Minister for Trade and the Parliamentary Secretary for Trade have said recently, 'The services sector is the key to driving productivity across the global economy.'¹

8.3 DFAT gave several examples of negotiations with our trading partners where services trade has been given a high priority:

Improving the business environment for Australian services exporters was a high priority for Australia in negotiations for the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), which entered into force on 1 January 2010.

The Government consulted closely with industry associations and firms representing services trade interests during the negotiations to ensure that their views informed the development of Australia's negotiating positions and objectives. The Agreement will enhance certainty and transparency for Australian services suppliers and investors, including through improvements to the WTO commitments of ASEAN countries in such areas as professional, financial, telecommunications and education services; strengthened regulatory disciplines, including on matters such as licensing procedures; and legal protections for Australian service suppliers with a commercial presence in ASEAN countries.

AANZFTA also creates a platform for ongoing economic engagement with ASEAN countries on services trade issues, including through a built-in agenda to review services commitments three years after AANZFTA's entry into force.

The Australia-United States Free Trade Agreement (AUSFTA) provides an open and non-discriminatory environment for Australian and US service providers, and includes a framework to promote mutual recognition of the qualifications of professional services.

Australia is working with the United States on continuing to expand access for the high quality professional service providers Australia has to offer the US market. The United States has also created a new visa category that is available only to Australian nationals. This specialty occupation (E3) visa will help Australian

1 Department of Foreign Affairs and Trade, Responses to Supplementary Questions, Submission 44, p. 1.

business people and professionals capitalise on the opportunities offered under AUSFTA.²

8.4 Similarly, DFAT said that services have a high priority in the discussions and reviews of the Free Trade Agreements with Thailand, Singapore and Chile.³

8.5 In 2009 the APEC economies adopted a Services Action Plan (SAP):

In their 2008 Statement, APEC Leaders called for accelerated implementation of APEC's regional economic integration agenda, and:

...instructed officials to undertake initiatives designed to promote greater convergence in key areas of APEC's trade and investment portfolio, including...cross-border services.

In response to Leaders' instructions, a Services Action Plan (SAP) has been developed to provide an overarching level of coordination and focus to the services-related work conducted across all of APEC's various sub-committees and working groups.

The aim of the SAP is to provide common direction and coherence to APEC's work on services trade, and establish a forward work program to foster the development of open and efficient services markets in the APEC region.⁴

8.6 This action was prompted by recognition of the important and growing role of services in the world's economies:

Modern economies are heavily dependent on services as drivers of economic activity, growth and job creation. In developed and developing economies alike, services account for a large and increasing share of gross domestic production and employment and play a critical enabling role in all aspects of economic performance.

In 2007, the services sector accounted for over 70% of GDP in developed economies and over 50% in developing economies.⁵

2 Department of Foreign Affairs and Trade, Responses to Supplementary Questions, Submission 44, p. 2.

3 Department of Foreign Affairs and Trade, Responses to Supplementary Questions, Submission 44, pp. 2-3.

4 APEC Secretariat, *APEC Services Action Plan*, p.69, App4_09_cti_rpt_ServicesActionPlan-1.pdf, accessed 13 October 2010.

5 According to the World Bank's World Development Indicators (2007).

Moreover, the rate of growth of services sectors in developing economies is higher than that in developed economies.

Services such as logistics, communications and financial services create the basic economic infrastructure upon which businesses operate. Educational, health and social services affect human security and the availability and quality of labour. Professional services provide the specialised expertise required by other firms to increase productivity and competitiveness.

In manufacturing industries, services provide critical inputs to the production chain, making up a major portion of value added through research and development, accounting, engineering, administration, advertising, warehousing and distribution services.⁶

Legal Services

8.7 The Law Council of Australia reported that it works very closely with DFAT and the International Legal Services Advisory Council (ILSAC) to improve access to foreign markets for Australian providers of legal services.⁷

8.8 The Council explained that its cooperation with DFAT was the most efficient way of achieving its international goals:

The Law Council and DFAT work together to promote Australian legal services on two fronts. On one front, DFAT pursues Government to Government activity, such as negotiating free trade agreements. On the second, complementary front, the Law Council pursues a profession to profession approach, using its standing as the peak legal body in Australia to foster close relations with counterpart Bars in countries of interest.

In this way, by constant briefings between the Government and the Law Council, Australia can deliver a co-ordinated strategy to increase the international mobility of the Australian legal profession.⁸

6 APEC Secretariat, *Group on Services*, accessed 13 October 2010 at: http://www.apec.org/apec/apec_groups/committee_on_trade/group_on_services.html.

7 Law Council of Australia, Submission 25, p. 3.

8 Law Council of Australia, Submission 25, p. 3.

- 8.9 Austrade is another close partner of the Law Council. Its knowledge of overseas markets, and the services offered by its personnel in those markets, have been valuable additions to assist the Council's networking:

In September 2008, the Law Council's International Law Section signed a Memorandum of Understanding with the Australian Trade Commission (Austrade), agreeing to cooperate for the benefit of their respective members. Through this partnership the Law Council and Austrade draw together lawyers interested in international trade, providing an opportunity for them to meet and discuss international trade and investment issues of importance to them and to their clients.

The Law Council International Law Section-Austrade Roundtable runs seminars on international trade and investment directed mainly at medium size commercial legal practices and corporate counsel and provides a sounding board for Austrade on legal issues relevant to its business.⁹

- 8.10 The Council has also extended its efforts by negotiating directly with its counterpart organisations overseas:

The Law Council has also developed professional partnerships with international legal bodies to create opportunities for Australian lawyers and providers of legal services in foreign legal markets. These partnerships have taken the form of Memoranda of Understanding, which recognise the importance of promoting mutually beneficial trade and of strengthening ties in the delivery of legal services internationally. As at 30 January 2009 the Law Council has entered 14 Memoranda of Understanding with foreign legal representative bodies in the Asia and Pacific region.¹⁰

- 8.11 The Law Institute of Victoria, which appeared with the Law Council, commented that it had recently completed a Memorandum of Understanding with the Hong Kong Law Society. The Institute added that it had hosted meetings with a senior Korean member of parliament and had run a number of sessions on the Australia New Zealand ASEAN FTA with Austrade, DFAT and the Law Council.¹¹

- 8.12 The Sub-Committee asked about the value of legal services exported and the Council responded that ILSAC, in a recent report, had put it at about

9 Law Council of Australia, Submission 25, p. 3.

10 Law Council of Australia, Submission 25, p. 3.

11 Law Institute of Victoria, Committee Hansard, 11 September 2009, pp. 37-8.

\$675 million in 2006-07. The Victorian Institute added, however, that “that is probably an underestimation”:

There is a general perception within the industry that the measurement of services and the value of services are not as precise as they perhaps should or could be.¹²

8.13 The witnesses continued that there are a number of reasons for the uncertainty:

One of the things that we think would be of merit, is more focus on the ABS statistics ...of services. That was a figure; we think it is probably underreported. You could probably take that figure and add a bit. What ‘the bit’ is is the vexed issue about the capture of those figures.

Part of that is probably because some legal services are fly-in fly-out. Other legal services establish branch offices. It really comes down to how you want to measure it.

...certainly the Australian Services Roundtable has some concerns about the way the Australian Bureau of Statistics captures statistics on services.¹³

Education Services

8.14 An important part of improving trade and investment relations concerns the facilitation of trade in education services, the movement of tourists, and smoothing and encouraging the migration of people with skills that are needed in the Australian economy.¹⁴

8.15 In evidence to the Sub-Committee, Universities Australia emphasised the importance of the rapid growth in exports of education services in recent years:

...education exports have become a very significant component in a relatively short period of Australia’s exporting activity. From almost nothing 10 or 15 years ago we now have the third largest export sector coming from education. That has been a marvellous

12 Law Council of Australia and Law Institute of Victoria, Committee Hansard, 11 September 2009, p. 38.

13 Law Council of Australia and Law Institute of Victoria, Committee Hansard, 11 September 2009, pp. 38-9.

14 Department of Immigration and Citizenship, Submission 15, p. 1.

achievement, we think, but there are, as we know from a number of recent events, risks attached to that sector and to other sectors as well.

Our concern is to seek to underpin the sustainability of that achievement which for us in education is not only an economic achievement. Hand in hand with economic benefits to the country are a whole range of wider social and community benefits that come out of education beyond the simple making of money.

Indeed, were I addressing a humanities faculty, I probably would not even emphasise \$15 billion or \$16 billion of export success, I would be talking about the splendid integration of ideas that come with the mixing of people from different backgrounds, their ability to research from different perspectives and share their experience through education.

The nice thing about education is that the two things go together, so that we have created a very significant export industry. In the context of your inquiry, we are looking to find support for reinforcing a number of the underpinnings that have helped that happen and perhaps address in several ways some matters that can threaten that success.¹⁵

- 8.16 Universities Australia indicated to the Sub-Committee, however, that while Australia offers an open sector for participation by overseas universities, the same is not always available to Australian universities seeking to establish campuses overseas. Responding to a comment on the importance of exports of education services, Universities Australia said :

It is important; we would like it to become more important. One of the reasons that that is an issue is, of course, a lot of behind-the-border protections overseas as opposed to here, where, for instance, we have recently opened up our sector to universities like University College London, Carnegie Mellon and so on, which have been able to establish campuses here by exactly the same rules as Australian universities are established by. The same protocols apply.

On the other hand, that does not necessarily apply in many of our major overseas partners. An example is India, where there are severe restrictions on the establishment of campuses by foreign universities. In many other countries it has to be done in

15 Universities Australia, Committee Hansard, 11 September 2009, p. 13.

partnership with local universities and you cannot have a freestanding foreign university establishing itself.

We would be particularly keen to see, in international FTA-type negotiations, complementary negotiations that deal with those sorts of behind-the-border restrictions, if not specific education chapters, for instance – and we would like to see that too.¹⁶

- 8.17 The Sub-Committee noted that the number of student visas granted had almost doubled between 2003-04 and 2007-08. The number of Asian students increased by almost 81 per cent and, from a low starting point, the number of students from Latin America more than trebled:

Student Visas Granted – by Region¹⁷

	2003-04	2004-05	2005-06	2006-07	2007-08
Asia	77,815	77,177	85,897	117,674	140,692
Latin America	3,686	4,843	7,192	9,698	12,353
Pacific	1,028	1,128	1,178	1,209	1,216
Total	82,529	83,148	94,267	128,581	154,261

- 8.18 The submission from DIAC makes the point that not only do these visiting students represent a large market for Australian education, but they also create valuable personal linkages that can “have downstream benefits for future trade and investment relations”.¹⁸
- 8.19 To assist in efforts to increase the scope for international marketing of education services, responsibility for that function was transferred to Austrade on 1 July 2010. Following its 2010 meeting, the COAG Ministerial Council on International Trade reported:

Ministers noted the arrangements for the transfer of responsibility to Austrade on 1 July 2010 for the marketing and promotion of international education. Ministers highlighted the important contribution of education exports to the economy and emphasised the importance of ensuring a smooth transition of the functions.

Ministers acknowledged that the rapid growth in the international education services sector had generated challenges for

16 Universities Australia, Committee Hansard, 11 September 2009, p. 14.

17 Department of Immigration and Citizenship, Submission 15, p. 1.

18 Department of Immigration and Citizenship, Submission 15, p. 1.

governments in relation to education quality, student welfare and the regulatory framework. Ministers noted the International Student Strategy for Australia and the Baird Review as complementary elements of governments' responses to these challenges. The Council of Australian Governments (COAG) International Student Strategy will give students more support and information, and better protect their rights.

The Commonwealth Government's response to the Baird Review, announced on 23 June, will improve the regulatory framework and consumer protection arrangements. Together, the Baird response and the International Student Strategy support the objective of providing a high-quality experience to international students and a sustainable future for quality international education in Australia.¹⁹

- 8.20 Universities Australia raised one serious issue, however, that could pose a threat to the continued growth in the number of visiting students in our universities. Its submission included a recommendation that by 2025, 40 per cent of adult Australians up to 35 years old should have a bachelor's degree. When queried on this, the response was :

It is the target given by the present government. It was not our target, it is the one that this government has laid down now as its objective for 2025. It is seeking 40 per cent of adult Australians up to the age of 35 – I think it is – having a bachelor's degree. ...We are at about the low thirties currently so it is a big ask.

How does it relate to this? Importantly, in a range of ways; that is, the government chose not to adopt one key recommendation of the Bradley review, which was to increase the funding per student in teaching and learning. It has adopted many of the other recommendations of the Bradley review framework, and we are very supportive of that. We think, potentially, there is an excellent framework now in place, but one we have a significant worry about is the absence of an increase in real funding per student in Australia.

Why is that relevant to this? We have been relying upon international students to cross-subsidise domestic students. It has reached the point where that is forcing our class sizes to be so large that the question is: if you were an international student,

19 Council of Australian Governments Ministerial Council on International Trade, Meeting Communiqué, 30 June 2010, pp. 2-3.

why would you come here when you have got a class size, on average, of 26, when you can go to Canada for a class size of 20, Britain for 19 and Germany for probably about 12?

Unless we stop the reliance upon international students to cross-subsidise domestic students, and save the domestic treasury from having to fund higher education appropriately, we run the risk of undermining the very success that treasuries are free riding on.

There has got to be a correct balance there.²⁰

- 8.21 Continuing this theme, the witnesses emphasised that the situation could quickly start to affect the reputation of our universities overseas and, consequently, the number of students wishing to study here:

We have had a 30 per cent real decline over the past decade in real funding per Australian student. That is nice for the taxpayer, but in the end the taxpayer may cop it on the chin if, for instance, the sorts of recent problems that emerged with international students kill the goose that lays the golden egg.

That can happen because classes will get too crowded, university services for those international students will not be able to assist them properly with accommodation or with employment that is safe and validated, and they will not have the appropriate other health and counselling support and the like on campuses that can help sustain that experience. They will start going elsewhere, or incidents will recur of the kind that we do not have the funding to pre-empt fully.

So there is an interesting connection between our export industry and what we do by way of funding for domestic students. These days, universities receive only about 20 per cent of their revenue as direct institutional grants for students. That is almost the lowest in the OECD – much lower than Germany, which is about 70 per cent.²¹

- 8.22 Universities Australia also raised the problem of differential treatment given to overseas students when compared to their domestic counterparts. It gave as examples travel concessions and safety issues:

International students of any brand really get annoyed that they don't get the same travel concessions as domestic students. It's a symbolic issue for them. They really feel short-changed and

20 Universities Australia, Committee Hansard, 11 September 2009, pp. 15–6.

21 Universities Australia, Committee Hansard, 11 September 2009, p. 15.

abused because they don't get the concessions in New South Wales and Victoria that their equivalent domestics do, even though they're paying GST and they're paying income tax on their employment. Rightly or wrongly, that's how they feel.

That sort of issue, along with safety issues and the like, was bubbling away. I sat in a format like this as a member of a visiting delegation, and the minister for higher education in India picked up a letter from his nephew in Melbourne about how the nephew was attacked. He read it out and said: 'What are you going to do about it? You can't have this. This is going to be a problem.' So we came back and put submissions to COAG and we got told to go away again.

The sorts of issues that finally bubbled up with the Indian students are partly a whole-of-government issue because of that artificial separation where the states think they only do VET and the Commonwealth thinks it does universities. We are bringing them together now in our framework, particularly for domestic students, but we did not square the circle on the international students, and that is costing us dearly in brand Australia.²²

- 8.23 Similarly, Universities Australia reported that the cost of student visas is also an issue and that many students feel they are being 'milked'. The Sub-Committee noted that the cost of a visa is shown as \$458 and queried whether this is the true cost, and how that compares to our competitors:

To the international student, yes. When you are paying \$20,000 a year for a degree, it is not a lot. But it is a little like the travel concessions. They list the visa thing again as one of those symbolic issues. They think they are being milked.²³

- 8.24 The Sub-Committee said that it understood the cost in New Zealand is \$121 and asked what students used as a benchmark for visa costs:

...Other countries. It says one of two things: either we are milking them or, if it is a full-cost justification, which I am sure Immigration would say it is, we are inefficient in managing visas. If the costs are that much to manage a visa compared to New Zealand, which also operates on full-cost principles, then we have not got our costs under control.²⁴

22 Universities Australia, Committee Hansard, 11 September 2009, pp. 19-20.

23 Universities Australia, Committee Hansard, 11 September 2009, p. 20.

24 Universities Australia, Committee Hansard, 11 September 2009, p. 20.

- 8.25 The Witnesses added that the problems lie in the symbolic importance attached to these issues when Australian conditions are compared to other countries:

Compared to the \$20,000 a year in fees and living costs it is nothing, but what we get from surveys is that they see it like we would. If you are leaving a country with an exit charge and they demand \$100 for you to leave, but you do not have any money at the time, you think, 'What sort of country am I in?' It is that sort of symbolism.

The international students in the surveys that we do with them tell us that there are three things about Australia that are symbolically significant. One is the visa fee, another is the travel concessions and the third is the attitude of employers for work experience when they make inquiries in Australia – because one of the attractions of Australia in the past that helped us build the international education industry was that we were more relaxed about students working while studying than the US.

For a long while, you could not work off-campus if you were an international student in the US. Australia allowed students to work up to 20 hours a week much earlier than the US. That was quite attractive, although not necessarily for the sort of people you are talking about. For instance, a very wealthy Indian middle-class family does not worry about whether the student can work much or not.²⁵

- 8.26 One issue raised by Universities Australia was the decline in government funding for universities. The witnesses pointed out that, compared to other OECD countries, government funding on higher education in Australia has declined as a share of GDP:

According to the OECD, which has the most comparable information in this area by common definitions, over the last 10 to 12 years we were the only OECD country where public expenditure on higher education as a share of GDP fell backwards. Depending on which 10 years you are talking about, it declined by four to six per cent, whereas the average OECD country increased its share of GDP on higher education through public outlays by 48 per cent.

So we were falling backwards while the others were going forwards. However, we were increasing our spending through

private sources such that we now have, along with the United States and Japan, the highest share of private revenues going into universities of any of the other countries. Those three are the large private entities. In the United States and Japan it is through private universities; in Australia it is through the earnings of public universities.

In Australia, 40 per cent of our revenue comes from government – half of that is competitive research grants from the ARC and the NHMRC; the other half is direct grants to universities – whereas private schools get 60 per cent of their revenue from the Commonwealth government. So you have got public universities at 40 per cent and private schools at 60 per cent. They are indicators of how we have fallen back in the balance of public and private funding.

In universities we do not for a minute want to reduce our entrepreneurialism – because that is really what it has been for over 10 years now – in alternative sources of revenue. We like our mixed portfolio of revenue sources. We do not want to be dependent only upon private revenue or only upon government revenue, because we like to be free and independent. Having a range of benefactors really helps us position ourselves to do what we believe we are there to do, which is to provide independent generation of knowledge and training in knowledge.

We think the balance has got a bit out of whack and that the public component has fallen. Overall, for instance, we now have about 1.6 per cent of GDP being spent on higher education. The European Community has now committed itself to two per cent. For us to reach that would roughly require that government step up to the OECD average in public funding; then we would be there. That is an aspirational goal of the OECD, but we have a little way to go on that.

In research areas, which are additional to the teaching areas, the European Community has set a goal of three per cent of GDP for private and public research. In Australia we are only at about two per cent. There we are down on the private spending; in higher education we are down on the public spending. So both partners in the national endeavour have to step up to the plate more, in our

view, for Australia to be an even smarter and more skilled nation.²⁶

26 Universities Australia, Committee Hansard, 11 September 2009, p. 23.