

Trade in services

Introduction

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

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

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

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

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

Services exports to ASEAN countries

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

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

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

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

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

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

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

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

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

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

Education

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Risks

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

Other obstacles

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

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

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

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

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

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

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

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

Responses

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

Education and FTAs

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

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

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

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

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

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

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

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

Committee comment

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

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

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

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

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

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

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

Telecommunications

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

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

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

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

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

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

Ownership restrictions

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

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

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

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

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

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

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

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

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

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

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

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

Regulatory restrictions

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

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

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

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

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

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

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

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

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

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

6.53 Telstra identified other problems:

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

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

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

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

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

Responses

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Responses by Australia

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

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

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

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

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

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

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

Telecommunications and free trade agreements

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

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

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

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

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

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

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

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

Committee comment

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

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

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

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

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

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

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

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

Recommendation 4

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

Aviation

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

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

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

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

Committee comment

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

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

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

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

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

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

Recognition of professional qualifications

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

Obstacles

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

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

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

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

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

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

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

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

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

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

Responses

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

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

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

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

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

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

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

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

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

Committee comment

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

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

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

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

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

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

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

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

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

Recommendation 5

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

Recommendation 6

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

Foreign Direct Investment

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

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

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

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

Committee conclusion

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

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

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

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

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

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

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

