



Submission No 58

**Review of Australia's Relationship with the
Countries of Africa**

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Joint Standing Committee on Foreign Affairs, Defence and Trade

Inquiry into Australia's Relationship with Africa

Ade Kukoyi* and Professor Anne Fitzgerald†

This submission relates to certain aspects of the Australia-Africa relationship within the Committee's Terms of Reference, namely:

- economic issues, including trade and investment;
- cultural relations and exchanges; and
- development assistance co-operation and capacity building.

Trade and investment

African countries are embarking on economic development strategies, a central part of which is the strengthening of their trade and investment relationships with other countries. For many African countries, economic development will be predicated upon attracting new investment into their agricultural and resource sectors and opening market opportunities for their commodity exports. As a developed economy with strong, export-oriented agricultural and resources sectors, there is a significant potential for Australian companies to engage with and contribute to the economic development strategies of African countries on a mutually advantageous basis. Participation by Australian companies will take the form of direct investment of capital in African projects as well as the supply of specialist goods and services.

In addition to the assistance that can be provided by Australian government agencies such as Austrade in fostering Australia-Africa economic relations, an important role will be played by Australian-African business and professional associations in developing links between

* **Ade Kukoyi** is the founding President of the Australia-Nigeria Business Council (ANC). Mr Kukoyi was born in Lagos, Nigeria and came to Australia to study in 1979. He is now an Australian citizen and is married, with two daughters. Ade has academic qualifications in accounting (Charles Sturt University, 1981), corporate management, law and an MBA (Banking/Finance) from the University of Technology, Sydney. Ade has over 30 years of management experience (in corporate, small business and the performing arts) in Australia and Nigeria in various professional capacities and has been actively engaged in strengthening the links between Australia and Africa in these sectors.

† **Professor Anne Fitzgerald** is a Professor in Law Research at QUT's Faculty of Law, where she researches and teaches in the fields of intellectual property, internet/e-commerce and international trade law and works as a principal researcher for the Open Access to Knowledge (OAK) Law and other research projects. In 2002 Anne was awarded the JSD degree (Doctor of the Science of Law) by Columbia University, New York. The book based on her Columbia dissertation was published in 2002 by LexisNexis/Butterworths, entitled "Mining Agreements: Negotiated Frameworks in the Australian Minerals Sector." Anne has an extensive background in the areas of intellectual property and electronic commerce law and has researched, taught and published in these areas since 1991. In 2008, Anne was an expert advisor to the federal government's review of the National Innovation System (see the [venturousaustralia Green Paper](http://www.venturousaustralia.gov.au/GreenPaper) at <http://www.innovation.gov.au/innovationreview>) and in the 1990s served terms as a member of Australia's two principal federal government-appointed standing advisory committees on intellectual property: the Advisory Council on Intellectual Property (ACIP) and the Copyright Law Review Committee's Expert Advisory Group.

both the public and private sectors. In this respect, the Committee's attention is drawn to the activities of the Australia-Nigeria Business Council (ANBC) which was formed in 2008 to foster and promote business, investment and economic initiatives between Australia, Nigeria and other African countries. ANBC representatives visited Nigeria to meet government officials in 2008 and, in 2009, a delegation of Australian professionals led by Ade Kukoyi as ANBC President visited Nigeria to establish contacts with their Nigerian counterparts and to exchange knowledge and experience.

Cultural relations and exchanges

A shared feature of Australia and African countries is that they have a rich indigenous heritage, the importance of which is increasingly recognised. As well as promoting stronger cultural links and exchanges between Australia and Africa, there is much to be learned from the Australian experience over the last 20 years which has seen indigenous cultural works (in all art forms) becoming firmly established as part of the Australian cultural landscape. Indigenous cultural and creative works are central to the visual and performing arts sector in Australia, encompassing dance, visual arts, film and music.

Daki Budtcha Records Pty Ltd, a Brisbane-based indigenous recording and publishing company established by Maroochy Barambah (elder of the Turrbal tribe of the Brisbane area) and Ade Kukoyi in 1988, has been at the forefront of the emergence of indigenous culture in Australia. Daki Budtcha, one of the oldest surviving independent recording companies in Australia, was founded with the objective of commercially producing and distributing music recordings based on or inspired by indigenous culture and themes. Over the years, Daki Budtcha has nurtured the careers of numerous indigenous Australian performers in the cultural and music industry. Some of the landmark productions with which Daki Budtcha has been associated are the opera film "Black River" (featuring Maroochy Barambah, which won the 1993 Grand Prix IMZ Opera Screen Award in Paris) and the Goodwill Concert held at the United Nations headquarters in New York in 1993 to mark the International Year for the World's Indigenous People.

Development assistance co-operation and capacity building

There is a great scope for strengthening the economic and cultural relationship between Australia and African countries through appropriately designed and targeted development assistance and capacity building. As a developed economy with a large agricultural and resource sector, Australia provides an ideal location for African students to study and gain practical experience across a wide range of fields which are crucial for the future development of the economies of their nations.

In particular, the Committee's attention is drawn to the potential for Australia to play a significant role in capacity building in the following areas:

- **Mining law and regulation:** African countries have been modernising their mining laws with the objective of creating an investment environment that is conducive to

foreign investment in the (hard rock) mining sector. In doing so, they have been enacting legislation that employs concepts and principles that have long underpinned the mining laws in force in all Australian States and the Northern Territory. For example, in 2007, Nigeria enacted a new *Mining and Minerals Act*. While such legislation is of relatively recent origin in African countries, there is a wealth of knowledge and practical expertise in Australia relating to the regulation of interests in minerals, petroleum and other valuable natural resources.

- **Administration of land title and mining title registries:** Each of the Australian jurisdictions has considerable expertise in establishing and managing registries of interests in land, mineral and other resources. Some government agencies have considerable experience in providing training to officials from other countries on how to establish and manage similar registries in their own jurisdictions.
- **Databases of mineral exploration information:** A feature of the Australian mining investment and development sector is that mining prospectors and explorers are required to provide geo-information to the relevant government entity that administers the mining legislation. In order to encourage investment in exploration activity, the information contained in mining exploration reports is made available on an open access basis, in digital, web-accessible databases.
- **Intellectual property law and administration:** Australia is a leader in intellectual property law and administration and, as such, is well positioned to provide training and assistance to African countries as they implement and enforce intellectual property systems. Australian academics, IP practitioners and government agencies (eg IP Australia) have played a key role in providing education and training for countries in the Asia-Pacific region as they have introduced national intellectual property laws. There are various avenues for providing training, including in-country short courses and seminars, academic and governmental exchanges and post-graduate research. Another important vehicle for capacity building is the Australian Leadership Awards Fellowship program under which public sector employees from overseas undertake intensive courses (running over several weeks) in Australia. An example of the kind of course that can be offered under the ALAF program is the train-the-trainer course provided in March-April 2010 to a group of Indonesian science and technology managers, entitled “Enhancing the trade competitiveness of Indonesian Small to Medium Enterprises (SMEs) through technology commercialisation and innovation promotion”.
- **Protection of indigenous traditional knowledge and cultural expression and biodiversity:** There is a growing awareness in Africa of the importance of traditional knowledge and cultural expression biodiversity and ensuring that its exploitation provides economic benefit to indigenous people, through effective management regimes and benefit-sharing arrangements. The importance of this area was recognised in a seminar run at the Centre for Indigenous Knowledge and

Development at the University of Ibadan in Nigeria in February 2009. At this conference it was acknowledged that Nigeria and other African countries have “compelling interests and comparative advantage in championing the protection of its intellectual property rights, genetic resources and associated indigenous knowledge and various forms of cultural heritage for economic empowerment of its peoples and to identify ways to leverage Nigeria’s economic strength outside of oil and gain political clout in the current global constitutive process”.