



Australian Government
Productivity Commission

Bilateral and Regional Trade Agreements

Productivity Commission
Research Report

November 2010

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The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

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Foreword

In recent years, Australian governments have entered a range of bilateral and regional trade agreements, and negotiations are presently underway for more. These agreements typically seek to reduce trade barriers between partner countries on a preferential basis, and some also contain provisions affecting broader areas of policy.

The Commission was asked by the Government to examine the effects of such agreements on a range of matters, including trade and investment barriers, prospects for multilateral reform, regional integration and Australia's economy generally.

In preparing this report, the Commission has drawn on a range of information and evidence, including material put forward in submissions and during consultations with interested parties, studies in the academic literature, and research and quantitative analysis undertaken within the Commission.

Preparation of the report was overseen by Commissioner Patricia Scott and Associate Commissioner Andrew L. Stoler. Mr Stoler was appointed by the Government on a part-time basis specifically for the purposes of this study. He has extensive experience as a United States trade negotiator in Geneva and then as a Deputy Director-General at the WTO, and his views and knowledge have contributed to the report in various ways. Mr Stoler does not agree with a number of the recommendations in this final report, as well as some of the supporting analysis and findings. His views are set out in appendix A. The Commission considered these carefully in reaching its conclusions.

The Commission is grateful to all those businesses, organisations, individuals and officials who participated in the study through submissions, consultations, workshops and surveys. The research team for the study was led by Paul Gretton and Tom Nankivell and located in the Commission's Canberra Office.

Gary Banks AO
Chairman

November 2010

Terms of reference

REVIEW OF BILATERAL AND REGIONAL TRADE AGREEMENTS

The Productivity Commission is requested to undertake a study on the impact of bilateral and regional trade agreements on trade and investment barriers and on Australia's trade and economic performance.

Context

It is widely acknowledged that the benefits of trade liberalisation are greatest if the liberalisation is undertaken multilaterally. Nevertheless, conclusion of the current round of multilateral trade negotiations has proven elusive and many countries have sought more quickly realisable outcomes through bilateral and regional free trade agreements. Free trade agreements have also been seen by many as promoting broader economic integration and serving foreign policy and strategic interests.

Globally, bilateral and regional trade arrangements have thus emerged as part of the policy landscape. The World Trade Organization estimates that close to 400 free trade agreements will be in force globally by 2010. The proliferation of free trade agreements poses many challenges for Australia and for the global trading system. Depending on the nature of the agreements they can carry the risk of trade diversion. Countries not party to agreements can be disadvantaged by the preferences offered to others under the agreements.

The Australian Government is committed to reinforcing the primacy of the multilateral trading system and resisting any rise in global protectionist measures. Australia has been pursuing bilateral and regional agreements intended to support the multilateral trading system while also enhancing commercial opportunities between Australian businesses and businesses in partner countries and enhancing Australia's broader economic, foreign and security policy interests. Australia has therefore signed a number of trade agreements and is in the process of negotiating, or considering, several others.

Against this background, the Commission is requested to provide advice on the effectiveness of trade agreements in responding to national and global economic and trade developments and in contributing to efforts to boost Australia's engagement in the region and evolving regional economic architecture.

Scope of the Study

The Commission is requested to:

- examine the evidence that bilateral and regional trade agreements have contributed to a reduction in trade and investment barriers. Consider also to what extent such

agreements are suited to tackling such barriers, including in the context of the proliferation of such agreements between other countries;

- examine the evidence that bilateral and regional trade agreements have safeguarded against the introduction of new barriers. Consider also the potential for trade discrimination against Australian businesses without full engagement in the evolving network of bilateral and regional agreements;
- consider the role of bilateral and regional trade agreements in lending support to the international trading system and the World Trade Organization;
- analyse the potential for trade agreements to facilitate adjustment to global economic developments and to promote regional integration;
- assess the impact of bilateral and regional agreements on Australia's trade and economic performance, in particular any impact on trade flows, unilateral reform, behind-the-border barriers, investment returns and productivity growth;
- assess the scope for Australia's trade agreements to reduce trade and investment barriers of trading partners or to promote structural reform and productivity growth in partner countries. Consider alternative options for promoting productivity improving reform in partner countries; and
- assess the scope for agreements to evolve over time to deliver further benefits, including through review provisions and built-in agenda.

Key Considerations

In conducting the study and making recommendations the Commission shall:

- seek public submissions and consult widely with the business sector, government agencies and other interested parties;
- draw on available, credible evidence both nationally and internationally and take into account the changed international trade, economic and strategic environment;
- have regard for the Government's commitment to uphold Australia's international treaty obligations and to play a constructive role in any global response to the economic challenge of rekindling sustained growth; and
- have regard to the report of the independent Review of Export Policies and Programs undertaken by Mr David Mortimer AO and Dr John Edwards and the work undertaken by the associated FTA Reference Panel.

The Commission is to produce and publish a final report within twelve months of commencement.

NICK SHERRY

Assistant Treasurer

[received 27 November 2009]

Disclosure of interests

The *Productivity Commission Act 1998* specifies that where Commissioners have or acquire interests, pecuniary or otherwise, that could conflict with the proper performance of their functions during an inquiry they must disclose the interests.

Andrew L. Stoler has advised that he holds the position of Executive Director with the Institute for International Trade at the University of Adelaide. The Institute undertakes projects related to bilateral and regional trade agreements (as well as other trade matters) for a range of clients in both the private and public sectors, including the Department of Foreign Affairs and Trade.

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Abbreviations and explanations

Abbreviations

AANZFTA	ASEAN-Australia-New Zealand Free Trade Agreement
ABS	Australian Bureau of Statistics
ACCI	Australian Chamber of Commerce and Industry
ACBPS	Australian Customs and Border Protection Service
ACFID	Australian Council for International Development
ACI-FTA	Australia-Chile Free Trade Agreement
ACP	African, Caribbean and Pacific Group of States
ADB	Asian Development Bank
AFP	Australian Federal Police
ANZCERTA	Australia-New Zealand Closer Economic Relations Trade Agreement
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South-East Asian Nations
ASR	Australian Services Roundtable
ATIGA	ASEAN Trade in Goods Agreement
AUSFTA	Australia-United States Free Trade Agreement
BCA	Business Council of Australia
BIS	Bank for International Settlements
BITs	Bilateral Investment Treaties
BRTAs	Bilateral and Regional Trade Agreements
CACM	Central American Common Market
CAL	Copyright Agency Limited
CEPEA	Comprehensive Economic Partnership in East Asia
CEPT	Common Effective Preferential Tariff

CER	Closer Economic Relations
CGE	computable general equilibrium
CIE	Centre for International Economics
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMAs	Critical Mass Agreements
COAG	Council of Australian Governments
CPG	Commonwealth Procurement Guideline
CRTA	Committee on Regional Trade Agreements
CTC	Change in Tariff Classification
DAFF	Department of Agriculture, Fisheries and Forestry
DFAT	Department of Foreign Affairs and Trade
DoFA	Department of Finance and Administration
EAS	East Asia Summit
EC	European Community
EEC	European Economic Community
EFTA	European Free Trade Association
EMDG	Export Market Development Grants
FDI	Foreign Direct Investment
FIC	Forum Island Countries
FIRB	Foreign Investment Review Board
FMA	Financial Management and Accountability
FTAs	Free Trade Agreements
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GNP	Gross National Product
GTAP	Global Trade Analysis Project
IAC	Industries Assistance Commission
IC	Industry Commission
ICSID	International Centre for Settlement of Investment Disputes

ILO	International Labour Organization
IMF	International Monetary Fund
IP	Intellectual Property
IPPA	Investment Promotion and Protection Agreement
ISDS	Investor-State Dispute Settlement
ISO	International Organization for Standardization
ISPs	Internet Service Providers
ITA	Information Technology Agreement
ITU	International Telecommunications Union
JSCOT	Joint Standing Committee on Treaties
LAFTA	Latin American Free Trade Area
MERCOSUR	Acuerdo Comercial–Mercado Común del Sur (Southern Common Market Agreement)
MFN	Most Favoured Nation
MFAT	New Zealand Ministry of Foreign Affairs and Trade
MIPI	Music Industry Piracy Investigations
MOU	Memorandum of Understanding
MPPs	Mandatory Procurement Procedures
MRAs	Mutual Recognition Agreements
NAFTA	North American Free Trade Area
NFF	National Farmers’ Federation
NIA	National Institute of Accountants
NIA	National Interest Analyses
NZ	New Zealand
OECD	Organisation for Economic Co-operation and Development
PACER	Pacific Agreement on Closer Economic Relations
PATCRA	Papua New Guinea-Australia Trade and Commercial Relations Agreement
PBAC	Pharmaceutical Benefits Advisory Committee
PBS	Pharmaceutical Benefits Scheme
PC	Productivity Commission

PSR	Product Specific Rules
PTA	Preferential Trade Agreement
R&D	Research and Development
RAMSI	Regional Assistance Mission to the Solomon Islands
RIRDC	Rural Industries Research and Development Corporation
RoO	Rule(s) of Origin
RVC	Regional Value Content
SAFTA	Singapore-Australia Free Trade Agreement
SCFTAAUSA	Select Committee on the Free Trade Agreement between Australia and the United States of America
SFADTC	Senate Foreign Affairs, Defence and Trade Committee
SPARTECA	South Pacific Regional Trade and Economic Cooperation Agreement
SPS	Sanitary and Phytosanitary Measures
TAFTA	Thailand-Australia Free Trade Agreement
TBT	Technical Barriers to Trade
TCF	Textiles, Clothing and Footwear
TIFAs	Trade and Investment Framework Agreements
TPMs	Technological Protection Measures
TPP	Trans-Pacific Partnership
TRIMS	Trade-Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property
UNCTAD	United Nations Conference on Trade and Development
US	United States
WIPO	World Intellectual Property Organization
WITS	World Integrated Trade Solution
WTO	World Trade Organization

Explanations

Billion	The convention used for a billion is a thousand million (10^9).
Findings	<i>Findings in the body of the report are paragraphs highlighted using italics, as this is.</i>
Recommendations	<i>Recommendations in the body of the report are highlighted using bold italics.</i>