
1 About the study

While Australian governments have a long record of pursuing trade liberalisation on a non-discriminatory basis, including in multilateral forums, in recent years they have also increasingly entered a range of preferential bilateral and regional trade agreements. Since 2003, Australia has entered into such agreements with Singapore, the United States, Thailand, Chile and ASEAN (together with New Zealand), and it is negotiating and exploring several others (chapter 2). Previously, Australia's only major preferential trade agreement was the 1983 'Closer Economic Relations' trade agreement with New Zealand.

Australia's rapid take-up of preferential trade agreements, struck on a bilateral or regional basis, mirrors an international trend. The growth of these agreements worldwide means that around half of global trade is potentially covered by preferential arrangements.

The increasing prevalence of such trade agreements has resulted in debate about their implications for the global trading system. Are they 'building blocks' that are making genuine progress in reducing trade barriers, more rapidly and deeply than could be achieved through multilateral means alone? Or are they 'stumbling blocks' that distort trade patterns and have the effect of undermining multilateral trade negotiations and impeding domestic reform? There are also questions about the trade and economic effects of such agreements on participating countries and their trading partners, as well as the role such agreements might play in advancing regional integration and related strategic objectives.

1.1 The reference

On 27 November 2009, the Australian Government asked the Commission to undertake a study of bilateral and regional trade agreements (BRTAs). The study is to examine the effectiveness of such 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. Among other things, the Commission must examine:

- the contribution of such trade agreements to reducing trade and investment barriers and safeguarding against the introduction of new barriers;

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- the role of such trade agreements in lending support to the international trading system and the World Trade Organization (WTO);
 - the potential for such agreements to facilitate adjustment to global economic developments and to promote regional integration;
 - the impact of trade 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; and
 - 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.

The terms of reference — which are reproduced in full at the front of this report — ask the Commission to examine evidence available both nationally and internationally, and to take into account the changing international economic and strategic environment. The study is to have regard to 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, following the global financial crisis and associated economic downturn. It is also required to have regard to recent reports which have covered preferential trade agreements, including the 2008 Review of Export Policies and Programs chaired by David Mortimer AO (hereafter the Mortimer review). The Commission has also been invited to make recommendations in this study.

In reporting on matters referred to it, the Commission is also required, under the *Productivity Commission Act 1998*, to provide a variety of viewpoints and options representing alternative means of addressing the issues in the report. The Act also provides that, in performing its functions, the Commission may inform itself on any matter as it thinks appropriate.

1.2 Conduct of the study

After receiving the terms of reference, the Commission sought input from a range of interested parties:

- It met informally with a broad cross-section of stakeholders, including: business people (including David Mortimer AO who, as noted, headed up the 2008 review), industry bodies, union representatives, non-government organisations, academics, and Commonwealth and State government officials (listed in appendix B).
- The Commission released an Issues Paper on 21 December 2009 outlining a range of matters on which it was seeking information and advice. In response to that paper, 61 submissions were received (also listed in appendix B).

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- As the submissions received by the end of March contained only limited information on the specific effects of Australia's BRTAs on businesses, in April the Commission distributed a further request for such information via a number of business groups. (One group, the Australian Chamber of Commerce and Industry, surveyed its members and provided a response following the draft report.) The Commission also surveyed Commonwealth government agencies to obtain estimates of the costs associated with the negotiation of trade agreements.

The Commission also undertook two major quantitative analyses for the study:

- 'ex ante' modelling of the potential effects of a range of hypothetical trade liberalisation strategies, including multilateral, unilateral and bilateral tariff reductions, and various investment liberalisation scenarios; and
- an 'ex post' econometric examination of the effects of a range of existing BRTAs on merchandise trade flows, utilising data for more than 140 countries dating back to 1970.

The preliminary results of the Commission's modelling and econometric analysis were made available for scrutiny and comment at a workshop held in Canberra on 17 May 2010. Feedback from that workshop was taken into account in the versions of the modelling and econometrics presented in the report. Technical supplements to the draft report, documenting the quantitative exercises, were made available on the Commission's website on 24 September 2010.

The draft report process

As well as information from participants and its quantitative analyses, in preparing the draft report the Commission drew on previous Commission research, submissions to the Mortimer review and the report of the review itself, and the academic literature on trade agreements, including previous quantitative studies on the effects of trade agreements.

The draft report was released on 16 July 2010. The draft report set out the Commission's preliminary views on the matters under reference. It included seven draft recommendations as well as requests for further information on matters where the information received prior to the draft had been less than expected.

The draft was released to provide participants an opportunity to provide additional information on areas covered by the report, point out areas in which the Commission may have overlooked or misconstrued evidence, and to provide feedback on the Commission's conclusions and draft recommendations.

The Commission received 40 submissions following release of the draft report. It also received feedback at a policy forum on the draft (hosted by the Crawford School of Economics and Government, Australian National University) attended by a range of academics and invited stakeholders, including from business, unions and government. The Commission also met separately with selected government departments and interested parties, held a roundtable to discuss matters relating to investor-state dispute settlement issues, and made follow-up inquiries on particular issues to a number of participants. Appendix B lists the participants that attended the roundtable and policy forum and/or made submissions following the draft.

The final report

This report sets out the Commission's completed analysis, findings and recommendations in relation to the matters under reference.

Reflecting feedback on the draft report and further analysis and deliberation by the Commission, the final report varies from the draft in some important respects. In particular, the Commission has included formal findings on a number of factual and normative matters for which the Commission's examination has enabled it to reach a sufficiently firm conclusion. The Commission has also revised its recommendations. Most notably, it has not retained the proposal in the draft report that the government consider pursuing services-only or goods-only agreements (see section 13.2). On the other hand, it has strengthened or reformulated a number of recommendations from the draft, including in relation to:

- the basis on which future BRTAs should be pursued (recommendation 1);
- the approach to intellectual property and investor-state dispute settlement provisions in BRTAs (recommendations 4b and 4c); and
- the approach to trade policy development and the future role of BRTAs (recommendation 5).

Recommendations have also been added regarding the approach to capacity building in the context of BRTAs (recommendation 6) and broader approaches to the achievement of trade and investment liberalisation (recommendations 7-9).

While in agreement with some aspects of this study, the Associate Commissioner does not agree with a number of the recommendations and some underlying analysis and findings in this final report. The Associate Commissioner's views on these matters are reported in appendix A.