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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

AUSTRALIA

This report, prepared for the seventh Trade Policy Review of Australia, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Australia on its trade policies and practices.

Any technical questions arising from this report may be addressed to Mr Sergios Stamnas (tel: 022/739 5382) and Ms Katie Waters (tel: 022/739 5067).

Document WT/TPR/G/312 contains the policy statement submitted by Australia.

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Australia. This report was drafted in English.

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2. Structural policy reform, aimed at improving Australia's MFP and thus its international competitiveness, has been ongoing in certain areas. To facilitate the transition towards non-resource sector growth by supporting domestic demand, the central bank has cut its policy interest rate by 225 basis points to 2.5% since November 2011. During the review period, the fiscal deficit narrowed considerably to 1.5% of GDP, but then rose again in 2013/14 to 2.4%. Australia's budget strategy now includes a Temporary Budget Repair Levy and requires that new spending measures be more than offset by reductions in spending elsewhere.

3. The responsiveness of the freely-floating exchange rate to economic developments contributed to the maintenance of macroeconomic stability and containment of external vulnerabilities; it has helped the economy to absorb a sharp increase in terms of trade without leading to overheating and a spike in inflation. Despite some depreciation over 2013 and a subsequent decline in the terms of trade, the Australian dollar still remained relatively overvalued, to the detriment of Australia's export competitiveness. Reflecting the narrowing structural saving-investment gap, Australia's current account deficit dropped considerably in 2010/11 and thereafter rose gradually before dropping again in 2013/14. The merchandise trade account turned to surplus in 2010/11 and 2011/12 driven by the peak in the commodity price cycle; subsequently, it returned to a deficit as commodity prices moderated, and in 2013/14 it moved back towards surplus on the back of increased commodities production. Australia's international (foreign exchange) reserves have risen. Net external debt increased, largely held by the private sector, especially non-financial corporations.

4. Despite the openness of the Australian economy, international trade in goods and services continue to account for only around 40% of GDP. The share of commodities – the main traded goods – in total merchandise exports rose further. Developments in international trade and foreign direct investment (FDI) patterns during the review period continue to reflect the rising importance of China as Australia's main export market (especially for mining products), and the EU, the United States, and Japan as its major sources of FDI. Mining investment has risen while non-mining investment has been weighed down by, *inter alia*, excess capacity and an overvalued exchange rate. While maintaining an open stance towards foreign investment, Australia continues to screen large investment projects to ensure they are in the national interest. FDI proposals subject to screening are rarely rejected, but often have conditions attached. Foreign equity caps remain in the areas of airports, civil aviation, maritime transport and telecommunications. Restrictions on foreign direct investment in residential real estate and agricultural land are also in place.

5. While there have been few changes to the institutional framework for formulating and implementing trade policy, a change in Government in 2013 has resulted in policy shifts in many trade-related areas. Additionally, a key focus of the new Commonwealth Government over the review period has been to drive forward reforms to cut costs, provide more efficient and effective government services and create a less burdensome regulatory environment for businesses and citizens. It has also launched discussions on reform of the Australian Federation with a view to ensuring its efficient and effective functioning.

6. Australia's trade policy continues to be based on the premise that trade openness, economic growth and improved living standards are strongly linked; emphasis is placed on improving international competitiveness and market access overseas. Australia pursues a combined multilateral, regional, bilateral and unilateral approach to trade policy, and is exemplary in the transparency of its trade regime. It remains an active Member of the WTO and contributes a

significant amount of its official development assistance to aid for trade funding. It has maintained a strong record of notifications, with few outstanding. Since 2011, Australia has been involved in several WTO dispute settlement cases in different ways, including as a respondent in five cases relating to plain packaging requirements applied to tobacco products. Simultaneously, Australia has been actively pursuing new RTAs. Over the review period, RTAs with Malaysia and the Republic of Korea have entered into force, an RTA with Japan has been signed, and one with China has been concluded. Australia is negotiating three additional bilateral RTAs as well as four plurilateral ones.

7. The tariff remains one of Australia's main trade policy instruments, albeit a minor source of tax revenue. As a result of the introduction of the HS2012 tariff nomenclature, the average applied MFN tariff rate dropped slightly, from 3.1% in 2010 to 3% in 2014. Unilateral reductions on apparel and certain finished textile articles were implemented at the beginning of 2015. Some 96% of applied MFN tariff rates continue to be in the range zero to 5%. In line with long-standing, though decreasing, sectoral support to textiles, clothing and footwear (TCF) and passenger motor vehicles (PMV), the applied MFN tariff rates on the latter products (PMV) remain considerably higher than the average. The tariff structure has remained unchanged. Most tariff rates (99.7%) are *ad valorem*, which contributes to the transparency of the tariff. By contrast, the few non-*ad valorem* rates tend to conceal relatively high tariff rates, particularly those on used vehicles, although these seem to be rarely applied. The pattern of tariff escalation remains unchanged, which means that effective rates of MFN tariff protection can be considerably higher than nominal rates. Some 97% of tariff lines are bound, thereby imparting a high degree of predictability to the tariff. However, applied MFN tariff rates continue to fall short of bound rates by an average of about 7 percentage points and up to 55 percentage points for clothing items. While the consequent gap between bound and applied MFN rates provides considerable scope for the authorities to increase applied tariffs within bindings, this has not occurred.

8. During the review period, documentation requirements have remained minimal, and computerized customs clearance has facilitated virtually all imports and exports. Trade facilitation efforts included the simplification of Australia's duty concessions scheme, the enhancement of international cooperation, efforts to ratify the WTO Trade Facilitation Agreement and commitment to fund assistance to partner countries in this area. Customs valuation legislation was amended to ensure consistency with the WTO Agreement on Customs Valuation, and transfer pricing policy practices have been clarified.

9. Import prohibitions and restrictions, in the form of generally strict quarantine or technical requirements, have remained in place to preserve, *inter alia*, human, animal or plant life or health, the environment, safety, or security. During the review period, reforms were undertaken to develop a modern and responsive system that facilitates trade while managing biosecurity risks. Whereas technical standards and many other regulations are, by and large, subject to cost-benefit analysis, this is still not the case with SPS measures. The share of national standards that are identical or "modified adoptions" of international standards remains at 38% (or 97% of applied standards). During the review period, significant changes have been made to the legislative, institutional and procedural framework for anti-dumping and countervailing measures. Recourse to anti-dumping and countervailing action has been increasing in Australia, the WTO's fourth largest user of the former in 2013, with most initiations and measures relating to items originating in Asia. Two safeguard investigations were initiated, but no new safeguard measures were adopted.

10. Export controls or quantitative restrictions implemented by public sector entities affect certain primary and therapeutic goods to ensure, inter alia, adequate domestic supply, and to enforce standards; however, a permit requirement for wheat exports was repealed. The Rice Marketing Board for the State of New South Wales, an export monopoly, was the only state-trading entity operating during the review period. Export assistance, consisting of direct grants (e.g. through export market development grants) and tax concessions (e.g. Tradex), has been maintained and in certain areas is focussed on Asian markets. In addition to local content requirements, export finance is, *inter alia*, conditional upon "national interest" criteria. Export credit terms seem to be in line with OECD guidelines.

11. Support for domestic production and trade has been provided through tax and non-tax incentives, with increased emphasis on R&D spending as well as regulatory restrictions on competition in certain activities. Some industry-specific programmes (e.g. steel, TCF) were terminated or amended during the review period. The special Luxury Car Tax, which affects both

domestic and foreign cars, but seems to fall disproportionately on imports, has been retained. The effective rate of combined assistance (i.e. tariff, budgetary, agricultural pricing and/or regulatory assistance) continues to be relatively high for motor vehicles and parts, TCF, and forestry and logging. The State remains involved in the economy through government trading enterprises (GTEs) which provide services in key infrastructure sectors (e.g. water, electricity, ports, rail, urban transport), though not always on a fully commercial basis. Efforts to streamline state participation in areas where Commonwealth Government involvement is necessary included "bonus" payments to state governments that sell public assets and use the proceeds for infrastructure projects.

12. Australia has continued to use government procurement as an instrument of economic policy aimed at fostering industrial development in certain sensitive areas (e.g. real estate property or accommodation, inputs to R&D services, and motor vehicles) that are exempt from mandatory rules applying to procurement above certain thresholds. Procurement rules were amended, *inter alia*, to redefine procurement methods and adjust to new legislation's terminology. The target of sourcing at least 10% of purchase value from small and medium-sized enterprises (SMEs), as well as preference margins for local suppliers and local-content requirements by certain state governments have been maintained and, in certain areas, revised. However they are applied in line with RTA commitments. Foreign participation in the bidding or the granting of duty concessions may require the submission of an Australian Industry Participation Plan, an element also used for the granting of duty concessions under the Enhanced Project By-Law Scheme. Whereas Australia remains an observer to the WTO Committee on Government Procurement (GPA), it intends to initiate work to possibly accede to the GPA. Comprehensive chapters on government procurement in a number of its RTAs reflect its commitment to respect principles of transparency and non-discrimination in the conduct of its government procurement.

13. Australia has further strengthened protection of intellectual property rights by passing new legislation, considered as its biggest IP system overhaul in twenty years, by amending existing legislation in several areas and expanding its international commitments. The competition policy framework, which remains characterized by a long list of special regimes and exemptions, including at state or territory level, will be comprehensively reviewed with a revised compliance and enforcement policy being released in 2013. A recent legislative amendment is aimed at strengthening protection in the area of consumer credit protection and enforcement at the national level.

14. Despite its relatively small contribution to GDP (2.4%), Australia's market- and export-oriented agriculture remains of fundamental importance to the economy; its MFP has risen and a strategy to raise the sector's competitiveness is under consideration. During the review period, sectoral policy developments have focused largely on ensuring a sustainable, productive and resilient agricultural base, supported by measures on drought relief, water and land management, farm finance and rural research. The average level of applied MFN tariff protection for the sector (excluding forestry) remained negligible, at 1.4%, compared with 3.3% for manufacturing. However, some sensitive items (e.g. cheese, certain vegetables, certain oils and fats) continue to receive considerably higher tariff protection with tariff-rate quotas affecting certain types of cheese and curd. A generally strict quarantine and inspection regime remains in place, while biosecurity reform has proceeded. Exports and/or production of certain commodities (e.g. certain dairy products, grain, horticulture, livestock, and wines/grapes) continue to be subject to levies earmarked mainly for R&D. Single-desk arrangements (i.e. monopolies) continue to affect rice exports. Changes were made in areas such as: exceptional circumstances arrangements; export certification requirements; wheat export arrangements; and, the livestock supply chain. Despite a wide range of assistance programmes, the sector's overall level of support, as measured by various indicators, has remained low, with budgetary assistance declining in value terms to about 0.1% of GDP. This assistance continues to be delivered in the form of non-trade distorting (Green Box) budgetary outlays and remains within Australia's *de minimis* WTO commitments. A range of initiatives and measures have continued to improve fisheries' management and thus the sustainability of fish stocks for the long-term viability of the sector.

15. Mining (8.6% of GDP), which continues to operate in a seemingly competitive market environment with no apparent industry-specific restrictions on foreign investment and overall little government support compared with other sectors, remains critical to Australia's economic performance. Its average MFP growth rate dropped further but mining output, set to increase strongly in the coming years, is expected to give a boost to productivity. The sector's Mineral

Resources Rent Tax on iron ore and coal was applied from 2012 to late 2014, while the Petroleum Resource Rent Tax has been extended to virtually all onshore (as from 2012) and offshore oil and gas projects.

16. During the review period Australia, *inter alia*, reviewed its future energy needs, passed a comprehensive package of clean energy proposals, including a carbon price mechanism (repealed in 2014), and set mandatory minimum efficiency performance and energy rating label requirements. A new coherent and integrated approach to energy policy is under consideration. Electricity generation, transmission, and distribution remain subject to geographical and regulatory segmentation. Generation capacity is largely government-owned or controlled and retail electricity rates' regulation is maintained in all states and territories other than Victoria, South Australia and New South Wales. Tariffs are set by independent energy regulators or governments. Budgetary assistance to the electricity, gas, water, and waste services industries was the highest among all sectors. The Fuel Tax Credits Scheme continued to reduce the cost of liquid, gaseous and blended fuels for certain business uses; domestic producers of ethanol, biodiesel and renewable diesel used in transport also continued to receive a government subsidy, although subsidies for ethanol and biodiesel are to be gradually repealed.

17. The manufacturing sector contributes 7.1% to GDP. Manufacturing policy has been largely focused on increasing the multi-factor productivity, sustainability and growth of industry as well as creating new high-skilled jobs. Average annual MFP slowdown was reduced. The average applied MFN tariff rate on industrial products remained virtually unchanged. Budgetary assistance from a wide range of policy instruments is estimated to have remained at 0.1% of GDP, albeit decreasing in value terms. The textiles, clothing, footwear and leather industries, as well as motor vehicles and parts activities, have continued to attract high, albeit declining, effective rates of assistance, the highest amongst all manufacturing activities. The automotive industry continues to be assisted by mechanisms such as preferential government procurement policies, tax policy and restrictions on the importation of second-hand vehicles. Assistance continued to be delivered mainly in the form of industry-specific support and was supplemented by a Growth Fund to help adjustment to the end of car manufacturing. Industry-specific support for the textiles, clothing, footwear, and leather industries was drastically cut and the elimination of two remaining programmes is under consideration.

18. Australia's services sector is the mainstay of its economy, accounting for 71% of GDP and 77% of employment. While the financial services sector has performed well over the review period, a recently-released Financial Sector Inquiry has made various recommendations to strengthen and develop the sector, including eliminating distortions to the efficient market allocation of financial resources as well as impediments to competition. Approval is still required for all investments (both domestic and foreign) of over 15% in financial institutions. Banking reforms undertaken since 2011 have included: implementation of new capital and liquidity requirements; strengthened supervision; and winding down of measures introduced to mitigate the impact of the global financial crisis. Recent developments in the insurance sector have included the sale of a major state-owned private health insurer and the closure of the Private Health Insurance Administration Council. The provision of life insurance by foreign companies through branch operations is prohibited, but exceptions to this rule are increasingly being granted through RTAs.

19. Australia has a very high level of information and communication technology (ICT) development and has recently seen a big increase in both fixed and wireless broadband subscriptions and mobile subscriptions. Foreign investment restrictions remain in place for Telstra, the main player in the telecommunications sector, but are not applied to any other provider. The roll-out of the national broadband network is continuing, albeit with a new focus on using a range of different broadband technologies, rather than a largely fibre-to-the-premises approach. Completion is anticipated in 2020. The network is fully state-owned and will operate on a non-discriminatory, wholesale-only basis. Various regulatory steps have been taken to facilitate transition to the new regime and a new framework for providing universal services has been introduced. Australia's television broadcasting industry remains supported by local content measures and film production continues to benefit from various forms of financial assistance by the Commonwealth Government.

20. In the area of transport, budgetary provision has been made for major infrastructural works. While most major government-owned ports and airports are operated by the private sector entities, government involvement in the transport sector remains quite pervasive, and various

foreign investment restrictions are in place. In the maritime transport subsector, reforms have been implemented to make the Australian shipping industry more internationally competitive, increase the size of the shipping fleet and promote employment. These have included tax reforms, the creation of an International Shipping Register, and the implementation of a licensing system to give domestically-flagged ships a first opportunity to cabotage services. However, the cabotage policy is being reviewed by the current Government in light of concerns about its resulting costs and inefficiencies. In air transport, a foreign equity limit on investment in Qantas airline has been removed, bringing FDI restrictions applied to this airline in line with those applied to all others. The review period has seen a big increase in international passenger arrivals by air, the negotiation of several new air services agreements with third countries, and plans to enhance infrastructure. The domestic civil aviation market, which accounts for significantly more passenger arrivals than from international destinations, is dominated by two companies. The tourism sector is fully open to investment, and benefits from little government support. Tourism-related services remain Australia's major services export.

21. Australia's economic growth is expected to pick up to an above-trend pace over 2015/16. Despite its solid economic fundamentals, downside risks to the economic outlook are posed by, *inter alia*, its vulnerability to terms-of-trade shocks due to the increased role of the mining sector, as well as the balance, timing and strength of the decline in mining investment and the pick-up in activity in the non-mining economy. A major economic challenge confronting Australia, with potential trade policy implications, is to formulate appropriate macroeconomic and structural policies to facilitate market-driven adjustment to the effects of its declining terms-of-trade, the appreciation of the Australian dollar and the rising proportion of older people, as well as to enhance economic diversification away from mining. Confronting these challenges will require much faster MFP growth to enable Australia to strengthen its international competitiveness and continue meeting its economic and welfare objectives.

1 ECONOMIC ENVIRONMENT

1.1 Overview

1.1. Since the global financial crisis and its previous Trade Policy Review in 2011, Australia, one of the most open economies in the world, has performed well relative to many other advanced economies due, *inter alia,* to its broadly appropriate macroeconomic policy mix.[1] Following a period of expansion resulting from the boom in mining investment (which accounted for almost half of GDP growth recently) and driven by the improved terms of trade, growth slowed down to below its trend rate of 3% as resources investment peaked.[2] The economy has now entered a transition period towards mining production and export as well as to broader-based drivers of activity in non-resources sectors.[3] Australia's declining position among the most competitive economies in the world reflects only minor improvements in average multi-factor productivity (MFP) growth (Table 1.1, section 1.2.1), a key long-term determinant of international competitiveness and domestic living standards.[4] Whereas inflation remained low and relatively stable at around 2% (except for a 3.1% peak in 2010/11 and 2.7% in 2013/14), the unemployment rate rose slightly. Australia has maintained its impressive human development performance. There has been a 4.7% decrease in income inequality due to a decline in income for higher income brackets resulting from a fall in returns from the financial markets during the global financial crisis, rather than any improvement in the wealth of lower income earners.[5] International trade and foreign direct investment (FDI) trends reflect the continuously rising importance of China as Australia's main export market (especially mining products), and the European Union, the United States, and Japan as its major sources of FDI.

Table 1.1 Selected macroeconomic indicators, 2009/10-2013/14

	2009/10	2010/11	2011/12	2012/13	2013/14
Real GDP ($A billion, 2011/12 prices)	1,402.8	1,434.2	1,486.1	1,525.3	1,569.5
Real GDP (US$ billion, 2011/12 prices)	1,238.7	1,418.6	1,533.5	1,566.2	1,441.6
Current GDP ($A billion)	1,296.3	1,406.7	1,486.1	1,524.0	1,586.2
Current GDP (US$ billion)	1,144.7	1,391.3	1,533.5	1,564.9	1,456.9
GDP per capita US$	52,356.6	62,759.4	68,102.3	68,276.0	62,484.6
	% change, unless otherwise indicated				
National accounts					
Real GDP (at 2011/12 prices)	2.0	2.2	3.6	2.6	2.9
Consumption	2.2	3.6	2.9	1.8	2.3
Private consumption	2.3	3.7	2.5	2.1	2.5
Government consumption	1.8	3.3	3.8	1.1	1.7
Gross fixed capital formation	2.1	3.7	11.2	2.5	-1.4
Exports of goods and services	5.1	0.6	4.7	6.0	6.8
Imports of goods and services	6.4	10.2	11.4	1.0	-2.3
XGS/GDP (%) (at current market prices)	19.5	21.1	21.2	19.8	20.9
MGS/GDP (%) (at current market prices)	20.4	20.1	21.4	21.1	21.3
Unemployment rate (%)	5.5	5.0	5.2	5.4	5.9

[1] IMF (2014); Commonwealth of Australia (2014c), Statement 1: Budget Overview.

[2] Reserve Bank of Australia (2014d), Graph 3.10.

[3] According to the IMF, the shift to broader-based growth would be helped by a growing Asian middle class, which could support demand for Australia's services exports—in particular health, education, tourism and professional services (IMF, 2014).

[4] In 2014, Australia ranked 17th out of 60 countries (5th out of 58 countries in 2010) in the IMD *World Competitiveness Yearbook*. Furthermore, in 2014/15 Australia ranked 22nd out of 144 countries (15th out of 133 countries in 2010/11) in the WEF *Global Competitiveness Index* (section 2.6). In 2013/14 Australia's most problematic factors included restrictive labour regulations, inefficient government bureaucracy, tax rates and tax regulations (IMD online information. Viewed at: http://www.imd.org/news/2014-World-Competitiveness.cfm; WEF, 2013; and WTO document WT/TPR/S/244/Rev.1, 18 May 2011). The authorities consider that international comparisons of business indices are less meaningful in the context of the competitiveness of an entire nation than in the context of a particular industry selling a traded and homogeneous product. In addition they consider that competitiveness indices are often generated by arbitrarily weighting data on a large selection of variables and results of business opinion surveys which may not be representative, and there is no accounting for cross-country differences in approaches to responding to surveys.

[5] In 2013, Australia continued to rank 2nd (out of 187 countries) after Norway in the UN Human Development Index (HDI) (UNDP, 2014). According to the Australian Bureau of Statistics, the Gini coefficient dropped from 0.336 (2007/08) to 0.320 (2011/12) (viewed at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6523.0Main+Features62011-12#factsheet5). The authorities indicated that studies over longer periods have shown rising inequality.

	2009/10	2010/11	2011/12	2012/13	2013/14
Labour participation rate (%)	65.3	65.5	65.3	65.1	64.8
Productivity					
Labour productivity (% change)	2.8	0.3	3.9	2.0	..
Capital deepening[a] (% change)	2.7	1.4	3.0	2.8	..
Multifactor productivity (% change)	0.2	-1.2	0.8	-0.8	..
Prices and interest rates					
Inflation (CPI, % change)	2.4	3.1	2.3	2.3	2.7
90-day bank bill (end-period)	4.89	4.99	3.49	2.8	..
90-day bank bill (average-period)	4.04	4.91	4.42	3.2	..
Government bond yield (end-period)	..	..	..	..	..
Government bond yield (average-period)	..	..	..	..	..
Exchange rate					
US$/$A (financial year average)	0.883	0.989	1.032	1.027	0.919
Real effective exchange rate (% change)	15.7	9.1	3.1	2.1	..
	(% of GDP, unless otherwise indicated)				
General government fiscal balance					
Revenue	22.6	22.0	22.8	23.6	23.7
Tax revenue	20.7	20.5	21.3	22.1	22.3
Expenditure	26.2	25.3	25.4	25.1	26.1
Net operating balance	-3.7	-3.3	-2.7	-1.5	-2.4
General government net debt	3.3	6.0	9.9	10.0	12.1
Savings and investment					
Gross national savings	22.6	24.2	25.3	24.4	..
Gross domestic investment	27.8	27.0	27.2	27.5	..
Savings-investment gap	-5.1	-2.8	-1.9	-3.1	..
External sector					
Current account	-5.0	-3.1	-3.3	-3.9	-3.0
Net merchandise trade	-0.7	1.6	0.6	-0.3	0.4
Exports	15.6	17.6	17.9	16.3	17.3
Imports	16.3	16.0	17.3	16.6	16.8
Services balance	-0.3	-0.5	-0.7	-0.9	-0.8
Capital account	0.0	0.0	0.0	0.0	0.0
Financial account	4.9	3.2	3.4	3.9	3.1
Direct investment	2.4	2.2	3.2	3.7	3.5
Terms of trade (% change)	-4.1	20.7	0.4	-9.8	-4.2
Merchandise goods exports (% change)[b]	-12.9	22.4	7.6	-6.3	10.0
Merchandise goods imports (% change)[b]	-6.3	6.7	14.2	-1.3	5.4
Service exports (% change)[b]	-2.9	1.4	1.0	3.7	7.3
Service imports (% change)[b]	-5.9	8.2	6.6	8.6	4.8
Foreign exchange reserves ($A billion, end period)	33.4	31.4	36.6	41.2	52.1
Foreign exchange reserves (US$ billion, end period)	29.5	31.0	37.7	42.3	47.9
in months of imports of goods and non-factor services	1.5	1.3	1.4	1.5	1.8
Net external debt ($A billion)	675.2	671.2	746.2	796.6	865.5
Net external debt (US$ billion)	596.2	663.9	770.0	817.9	794.9
Debt service ratio	..	..	..	..	..

.. Not available.

a Change in the ratio of capital to labour, weighted by the capital share of market sector income.
b Growth rates on merchandise goods and services trade are based on Australian dollars.

Source: Australian Bureau of Statistics online information; Reserve Bank of Australia online information; and Productivity Commission (2013), *PC productivity update*, May. Viewed at: http://www.pc.gov.au/__data/assets/pdf_file/0004/123970/2013-pc-productivity-update.pdf; Productivity Commission (2014), *PC productivity update*, April. Viewed at: http://www.pc.gov.au/__data/assets/pdf_file/0008/135935/productivity-update-2014.pdf.

1.2. Despite Australia's solid fundamentals, downside risks to the economic outlook are posed by, *inter alia*, its vulnerability to terms-of-trade shocks due to the economic importance of the mining sector, as well as the balance, timing and strength of the decline in mining investment and the pick-up in activity in the non-mining economy.[6] The recent sharp decline in Australia's terms of trade (section 1.2.1, Table 1.1)[7] and its ageing population could further constrain per capita

[6] Reserve Bank of Australia (2014c); IMF (2014); OECD (2013c).
[7] The terms of trade – that is, the ratio of export prices to import prices – dictate the real purchasing power of domestic output and are a key determinant of a nation's economic prosperity (Atkin et al. 2014).

income growth.[8] Confronting these challenges will require much faster MFP growth.[9] Addressing infrastructure bottlenecks in a manner consistent with the government's deficit reduction goals (sections 1.2.1 and 1.3.2) is another priority. A seemingly overvalued exchange rate, i.e. above most estimates of its fundamental value, presents, to some extent, a source of uncertainty for both economic activity and inflation; it remains subject to a number of downside risks, including changes in prices of key commodities exports, as well as future relative international interest rate movements. Tough reform seems required to avoid falling living standards.[10] The main external risks include the pace of growth in China over the medium term[11], commodity price developments, and surges in global financial market volatility.

1.2 Recent Economic Developments

1.2.1 Growth, income, and employment

1.3. After rising gradually until 2011/12, real GDP growth decreased to below-trend (i.e. 3%) rates due to slowdown of investment in new mining projects, and the weighing-down of non-mining investment by excess capacity and a seemingly overvalued exchange rate (Table 1.1, section 1.3.1). In light of a further expected decline in the terms of trade and subdued domestic price growth, the outlook for slightly below-trend growth (2.75%) over 2014/15 balances the opposing forces of the substantial fall in mining investment and planned fiscal restraint against an Infrastructure Growth Package[12] (section 4.5.7), higher resources exports (as new capacity comes on stream), and the stimulus to growth from expansionary monetary policy (section 1.3.1); according to the authorities growth is expected to pick up to an above-trend pace estimated at 4.75% over 2015/16.

1.4. Since 2010/11, changes in the overall sectoral pattern of Australia's GDP and employment have been relatively minor, with services accounting for more than 70% of economic activity followed by mining and manufacturing, whose shares have gradually declined (Table 1.2, section 4.4). For the period 2007/08 to 2012/13, the average MFP growth for the 12 industry sectors slowed to -0.57% (-0.35% in 2002/03-2007/08), making it clear that Australia is experiencing a structural decline in MFP growth.[13] Between 2010/11 and 2012/13 the deterioration in MFP growth has been most pronounced in the mining sector (section 4.3.1)[14]; however, following a peak in mining investment, output is set to increase strongly in the coming years, boosting productivity in the sector. Measures aimed at increasing broader-based productivity growth form an essential part of the Government's reform agenda[15], with focus on deregulation[16]

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[8] Commonwealth of Australia (2014c), Statement 1: Budget Overview.

[9] IMF (2014).

[10] Treasurer Joe Hockey's statement cited at *Australian Financial Review*, "Income recession confirmed as GDP growth slows", 3 December 2014. Viewed at: http://www.afr.com/p/national/income_recession_confirmed_as_gdp_ljjfkAYI94laDKTlEck4VJ.

[11] According to the authorities, Australia has a relatively high share of value added by international standards, which reflects two factors – geographic isolation and significant natural resource endowments. Firstly, Australia's distance from significant centres of final demand means that it has little involvement in intermediate processing stages of most global supply chains. Secondly, extraction of natural resources requires few imported inputs which results in the majority of the value added being assigned to domestic production. As natural resources make up a significant proportion of Australia's export base and exports to China, the gross trade flow figures understate the demand for value added production which originates domestically. China's use of Australian intermediate inputs to satisfy final demand in the United States and Europe implies that Australian exposure to economic shocks in those markets is greater than suggested by a cursory examination of gross trade.

[12] In the 2014/15 Budget, the Commonwealth Government committed to a $A 11.6 billion Infrastructure Growth Package, which will bring the Commonwealth Government's total investment in infrastructure to $A 50 billion through to 2019-20. Under the Package, which is to support economic growth and improve the long-term productive capacity of the economy, total infrastructure investment from Commonwealth, State and local governments, as well as the private sector, will build to over $A 125 billion of additional infrastructure by 2019-20 which, once completed, will add around 1 percentage point to Australia's GDP (Reserve Bank of Australia, 2014c; Commonwealth of Australia, 2014c, Statement 1: Budget Overview; and IMF, 2014).

[13] For the period 2007/08 to 2011/12, the average MFP growth was -0.7% (zero in 2003/04-2007/08) (Productivity Commission, 2013c; and IMF, 2014).

[14] The authorities indicated that focusing on annual growth in productivity statistics is not recommended due to its volatility and susceptibility to revision. Mining still made the largest negative contribution to market sector MFP growth but did not have the largest negative growth rate in 2012/13 (which it did in 2011/12).

[15] Despite successive rounds of reforms it seems that progress has stalled or even reversed in some productivity-enhancing policy areas and the 'to do list' among the Productivity Commission's recommendations

and improved infrastructure (sections 2.6 and 4.5.7).[17] Australia's terms of trade have declined by almost 20 percentage points from their historic peak in 2011 (Table 1.1)[18], and are expected to decline further over the coming years (i.e. by 6.75% in 2014/15 and 1.75% in 2015/16) as global mining capacity increases.[19] Its participation in Global Value Chains (GVCs) and domestic value-added in exports (87% in 2010) is quite high as compared to other top 25 exporting economies (section 4.4).[20]

Table 1.2 Basic economic indicators, 2009/10-2013/14

	2009/10	2010/11	2011/12	2012/13	2013/14
	(Annual percentage change)				
GDP by economic activity at 2011/12 prices[a]					
Agriculture, forestry and fishing	-0.9	3.7	1.0	-2.7	1.7
Mining	7.8	2.0	7.4	11.6	9.4
Manufacturing	0.4	-0.2	0.0	-1.1	-2.1
Electricity, gas, and water	1.0	2.7	0.1	-1.0	-3.1
Construction	0.5	2.7	10.7	0.5	3.7
Services	1.9	2.4	3.1	2.5	2.5
Wholesale and retail trade	2.5	0.5	4.1	3.3	0.2
Restaurants and hotels	-1.1	2.6	3.6	-0.2	-0.3
Transport, postal, and warehousing	1.8	3.2	3.9	2.7	-0.8
Information media and telecommunications	1.4	3.3	0.4	-2.2	2.1
Finance and insurance	0.4	1.1	4.0	3.3	6.5
Rental, hiring, and real estate services	1.8	0.5	7.1	3.1	7.5
Professional, scientific, and technical services	7.5	6.3	5.1	2.7	-1.8
Administrative and support services	-4.2	6.3	-2.0	5.0	3.1
Public administration and safety	0.4	2.9	2.4	0.5	4.7
Education and training	2.4	0.9	2.1	1.7	2.2
Healthcare and social assistance	5.1	2.7	3.1	6.4	5.1
Arts and recreation services	0.2	2.4	1.5	1.7	4.2
Other services	-0.2	0.8	3.6	-4.4	2.0
Ownership of dwellings	0.8	1.7	1.4	2.4	2.5
	(%)				
Share of sectors in GDP, current prices[b]					
Agriculture, forestry, and fishing	2.4	2.5	2.4	2.4	..
Mining	7.9	10.0	9.6	8.6	..
Manufacturing	8.6	8.0	7.5	7.1	..

is still a fairly long one, including those to: abolish remaining tariffs; limit provisions for "anti-dumping" action; terminate selective industry subsidies (e.g. automotive and renewable energy industries) that cannot deliver demonstrable net social benefits; extend reforms to drought support; phase-out public sector procurement preferences; and conduct a second, more focussed round of National Competition Policy reviews in priority areas (e.g. pharmacy ownership restrictions, taxi licence quotas, coastal shipping protection, the ban on parallel book imports, and unduly restrictive licensing and self-regulation of certain professional services (e.g. medical and legal)) (Banks, 2012).

[16] According to Deloitte Access Economics, Australia's productivity is being choked by red tape, with the combined cost of administering and complying with public and private sector bureaucracy costing the nation $A 249 billion every year. Strikingly, the cost of complying with self-imposed rules created by the private sector is double that associated with government regulations. The self-imposed rules of the private sector cost $A 155 billion a year: $A 21 billion to develop and administer, and $A 134 billion a year in compliance costs (Deloitte, 2014).

[17] According to the IMF, enhancing the cost-benefit analysis framework for the selection and prioritization of infrastructure projects and including more involvement by the private sector would help focus spending on infrastructure consistent with the government's deficit reduction goals (section 1.3.2) (IMF, 2014).

[18] This historic high was driven by record high global prices for key Australian exports such as coal and iron ore, reflecting strong demand for steel in China (IMF, 2014). According to the authorities, the rise in the terms of trade has benefitted all Australians through rising national income. Equity holders have benefitted from the increase in the value of mining stocks due to higher commodity prices. The falling iron ore price has slashed Australia's terms of trade and thus lowered national income, hitting both expected corporate and income tax revenues (ABC online information, "Treasurer Joe Hockey says no instant budget fix planned for estimated $51b black hole", 11 November 2014. Viewed at: http://www.abc.net.au/news/2014-11-11/treasurer-facing-51-billion-budget-black-hole/5880718?section=business).

[19] Currently Australia appears to be the world's largest exporter of steel-making materials and it is likely to also become a major source of liquefied natural gas exports in the coming years (section 4.3.2.2). A decline in the terms of trade is therefore, to some extent, the result of new supply from Australian producers coming on-line (Atkin et al., 2014; Commonwealth of Australia, 2014c, Statement 1: Budget Overview; and IMF, 2014).

[20] UNCTAD (2013).

	2009/10	2010/11	2011/12	2012/13	2013/14
Electricity, gas, and water	2.5	2.6	2.7	3.1	..
Construction	8.1	7.9	8.2	8.3	..
Services	70.6	69.0	69.4	70.5	..
Wholesale and retail trade	9.5	9.3	9.2	9.2	..
Restaurants and hotels	2.5	2.5	2.5	2.4	..
Transport, postal, and warehousing	5.0	5.0	5.1	5.2	..
Information media and telecommunications	3.4	3.2	3.0	3.0	..
Finance and insurance	8.9	8.6	8.4	8.7	..
Rental, hiring, and real estate services	2.6	2.5	2.7	2.7	..
Professional, scientific, and technical services	6.8	6.7	7.0	7.3	..
Administrative and support services	3.0	3.1	3.1	3.1	..
Public administration and safety	5.7	5.6	5.6	5.6	..
Education and training	4.8	4.7	4.8	4.9	..
Healthcare and social assistance	6.5	6.6	6.5	6.9	..
Arts and recreation services	0.9	0.9	0.9	0.9	..
Other services	2.0	1.9	2.0	1.9	..
Ownership of dwellings	8.9	8.6	8.6	8.9	..
Share of sector in total employment[c]					
Agriculture, forestry, and fishing	3.2	2.8	2.8	2.6	..
Mining	1.7	2.0	2.3	2.3	..
Manufacturing	8.9	8.5	8.4	8.1	..
Electricity, gas, water, and waste services	1.3	1.3	1.3	1.3	..
Construction	9.1	9.1	8.7	8.8	..
Services	75.8	76.3	76.5	76.9	..
Wholesale and retail trade,	14.5	14.4	14.1	14.3	..
Restaurants and hotels	6.7	6.9	6.7	6.8	..
Transport, postal, and warehousing	5.2	5.2	5.0	5.2	..
Information media and telecommunications	1.9	1.8	2.0	1.8	..
Finance and insurance	3.6	3.7	3.7	3.6	..
Rental, hiring, and real estate services	1.7	1.7	1.8	1.7	..
Professional, scientific, and technical services	7.7	7.7	8.0	7.9	..
Administrative and support services	3.5	3.5	3.5	3.4	..
Public administration and safety	6.3	6.4	6.2	6.5	..
Education and training	7.6	7.5	7.7	7.8	..
Health care and social assistance	11.2	11.6	11.9	12.0	..
Other services	5.9	5.8	5.8	5.8	..

.. Not available.

a Based on chain volume measures that value quantities by using prices in a base period which is updated annually.
b Percentage of gross value added at basic prices.
c Based on calendar year; 2009/10 should read 2010, etc.

Source: Australian Bureau of Statistics, Australian System of National Accounts, 5204.0; and Australian National Accounts: National Income, Expenditure and Product, June 2014.

1.5. Following a drop to 5% in 2010/11, the unemployment rate has risen gradually to 5.9% in 2013/14 (Table 1.1), due to weak employment growth and a falling participation rate. In part, this is a consequence of the mining sector moving to a less labour-intensive production phase.[21] The Infrastructure Growth Package (see above) could have a job-creating effect in the near future.[22] According to the authorities, the unemployment rate is forecast to continue to edge higher, settling at around 6.25% at the end of 2015/16, consistent with the outlook for real GDP growth.

1.2.2 Prices

1.6. During the review period, consumer price inflation (CPI) remained close to the middle of the Reserve Bank of Australia's (RBA) target band rates (section 1.3.1) except in 2010/11 as a result of the effect of flooding and cyclone activity in Queensland on food prices, specifically fruit and vegetables, as well as strong tobacco price rises due to increases in the excise tax rate in April 2010 and June 2011 (Table 1.1).[23] In 2014/15, the CPI is expected to remain well contained due to moderate wage pressures helping to keep unit labour costs down and the repeal of the

[21] Commonwealth of Australia (2014c), Statement 1: Budget Overview; IMF (2014); and OECD (2013c).
[22] The authorities consider that the Infrastructure Growth Package will stimulate the construction sector and create thousands of jobs as the economy transitions from resource-led growth to broader-based growth.
[23] IMF (2014).

carbon tax (sections 1.4.1, 3.4.1.2, 4.3.1, and 4.3.2) which is likely to reduce the headline CPI by three-quarters of a percentage point by June 2015.[24]

1.3 Main Macroeconomic Policy Developments

1.3.1 Monetary and exchange rate policy

1.7. During the period under review, the Government maintained the inflation target range (2%-3% over the cycle) of the RBA and its independence in setting monetary policy.[25] As indicated above, overall CPI rates remained within the target levels and inflation expectations were well anchored. To facilitate the transition towards growth from non-resource sectors by supporting domestic demand, since November 2011 the RBA has cut its policy interest rate by 225 basis points to 2.5%, with the most recent cut in August 2013, thus bringing market lending rates well below their historical averages. According to the IMF, the RBA's accommodative monetary policy stance is broadly appropriate.[26] In November 2014 the RBA indicated that a period of stability in interest rates is likely.[27]

1.8. Australia has maintained its freely-floating exchange rate system. Foreign exchange market operations may be undertaken by the RBA solely for the preservation of national or international security when the market threatens to become excessively volatile or when the exchange rate is clearly inconsistent with underlying economic fundamentals.[28] These operations are invariably aimed at stabilizing market conditions rather than meeting exchange rate targets; explanations of these interventions are set out in the RBA's Quarterly Statements on Monetary Policy. No such intervention has taken place since 20 November 2008.

1.9. The responsiveness of the exchange rate to economic developments contributed to maintaining macroeconomic stability and containing external vulnerabilities during the period under review; it has helped the economy to absorb a sharp increase in terms of trade without leading to an overheated domestic economy and a spike in inflation.[29] Despite some depreciation (over 2013) and the decline in the terms of trade (section 1.2.1), the Australian dollar, generally viewed by the market as a commodity currency and a proxy for China's growth, has remained relatively overvalued during the review period (Table 1.1).[30] This has been supported, *inter alia*, by substantial capital inflows to fund mining sector investment, the gap between domestic and foreign interest rates, portfolio allocation towards Australian dollar assets by foreign institutional investors, and better-than-expected domestic economic data. The pace of increase of the real effective exchange rate slowed down. According to the IMF, should these factors ease, possibly triggered by exit from unconventional monetary policies by major advanced economies, the exchange rate would likely depreciate further in line with the terms of trade development, supporting the transition of the economy towards more balanced growth.[31]

1.3.2 Fiscal policy

1.10. During the period under review the fiscal deficit narrowed considerably from 3.7% of GDP (Table 1.1) in 2009/10 to 1.5% in 2012/13, and rose again to 2.4% in 2013/14, partly due to a one-off grant of $A8.8 billion from the Commonwealth Government to the RBA to strengthen its

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[24] Commonwealth of Australia (2014c), Statement 1: Budget Overview.

[25] RBA online information. Viewed at: http://www.rba.gov.au/monetary-policy/about.html.

[26] Currently borrowing rates for households and businesses are well below average and, with banks' balance sheets in a healthy position, low-cost finance is available for sound projects (IMF, 2014).

[27] Reserve Bank of Australia (2014d).

[28] WTO document WT/TPR/S/244/Rev.1, 18 May 2011; and IMF (2014).

[29] IMF (2014).

[30] The estimated overvaluation of the Australian dollar declined somewhat in 2013. The currency started to weaken in early 2013 following the RBA policy rate cuts (IMF, 2014). The depreciation of the exchange rate has created better conditions for exporters, but the exchange rate remains high by historical standards; this strength stands in sharp contrast to the historical tendency of the exchange rate to move together with the terms of trade. The IMF notes that the floating exchange rate can help buffer shocks by depreciating when the terms of trade fall, making other tradable goods and services more competitive. The Treasury's sensitivity analysis suggests that without depreciation a permanent fall in terms of trade of around 4% would cause a fall in nominal GDP of 0.75% to 1% (IMF, 2014; and Commonwealth of Australia, 2014c, Statement 1: Budget Overview).

[31] IMF (2014).

financial position.[32] The goal of returning the budget to surplus in 2012 was held back by slower-than-projected output growth and weaker commodity prices; revenue fell short of projections and spending was somewhat higher than expected.[33] The current aim remains to reach a fiscal surplus in a few years, and to attain a sustained surplus of more than 1% of GDP by 2023/24.[34] The Government's budget repair strategy includes a Temporary Budget Repair Levy[35] and requires that new spending measures (e.g. the Infrastructure Growth Package (section 1.2.1)) be more than offset by reductions in spending elsewhere.[36] The 2014/15 Budget included measures to target family payments more tightly and changes to pensions, including indexation arrangements, to ensure the transfer system is more sustainable over the long-term.[37] Furthermore, since October 2013, an independent National Commission of Audit (section 2.2) has reviewed the performance, functions and roles of the Commonwealth government providing an important input to the 2014/15 Budget considerations; many of its recommendations have been addressed in the Budget, thus allowing savings conducive to improving the medium-term fiscal position.[38] According to the IMF, achieving and sustaining a surplus over the next decade will be challenging in light of current spending commitments. Furthermore, Australia's economic performance and hence its fiscal position is sensitive to changes in a number of economic parameters including labour productivity growth, the labour force participation rate and the terms of trade.[39]

1.4 Main Structural Policy Developments and Challenges

1.11. Australia's trade and domestic reform are considered as intrinsically linked.[40] During the review period structural policy reform for improving its international competitiveness has been ongoing in certain areas (see below and sections 3.4.3, 3.4.4, 3.4.5, 4.4.1, and 4.5). The authorities plan to embark on a comprehensive round of structural reforms aimed at strengthening competition in labour and product markets as well as addressing infrastructure bottlenecks that are critical to increase productivity and further diversify the sources of growth.[41] An October 2014 Industry Innovation and Competitiveness Agenda aims at addressing business costs, labour force, infrastructure, and innovation/entrepreneurship challenges in a holistic manner (section 3.4.2).[42] According to the OECD, reforms to enhance investment in infrastructure and knowledge-based capital as well as to boost labour force participation would help to ensure that Australia's good economic performance can be sustained in the long run.[43]

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[32] Treasury Media Release, "Strengthening the Reserve Bank of Australia", 23 October 2013. Viewed at: http://jbh.ministers.treasury.gov.au/media-release/011-2013/.

[33] IMF (2014); and Reserve Bank of Australia Media Releases/Speeches, "Building on Strong Foundations", Deputy Governor Philip Lowe, Address to the Australian Business Economists (ABE) Annual Dinner Sydney on 25 November 2014. Viewed at: http://www.rba.gov.au/speeches/2014/sp-dg-251114.html.

[34] Commonwealth of Australia (2014c), Statement 1: Budget Overview.

[35] From 1 July 2014 until 30 June 2017, the Temporary Budget Repair Levy of 2% on individuals' taxable income above $A 180,000 applies and will raise an estimated $A 3.1 billion. An individual with taxable income of $A 300,000 a year will pay an additional $A 2,400 in tax for each of the next three years (Commonwealth of Australia, 2014c, Statement 1: Budget Overview).

[36] The authorities indicated that the 2014/15 Budget balances the need to build growth while not placing additional near-term pressure on the economy. The Commonwealth Government is shifting resources from recurrent spending to investment in new infrastructure, and providing targeted incentives to states and territories to unlock capital on their balance sheets.

[37] Commonwealth of Australia (2014c), Statement 1: Budget Overview; and Reserve Bank of Australia Media Release/Speeches, "2014 Post Budget Economic Briefing", presentation by Nigel Ray, 23 May 2014. Viewed at: http://www.treasury.gov.au/~/media/Treasury/Publications%20and%20Media/Speeches/2014/2014%20Post%20Budget%20Economic%20Briefing/Downloads/Speech_IPAA_20140523.ashx.

[38] IMF (2014).

[39] Parliamentary Budget Office (2014).

[40] Peter Varghese AO, Secretary, Department of Foreign Affairs and Trade, "Trade and Domestic Reforms: The Australian Experience", CUTS International 30th Anniversary Lecture, 3 February 2014. Viewed at: https://www.dfat.gov.au/media/speeches/department/140203-cuts.html.

[41] IMF (2014).

[42] Prime Minister/Minister for Industry Media Release, "An action plan for Australia's future", 14 October 2014. Viewed at: https://www.pm.gov.au/media/2014-10-14/action-plan-australias-future.

[43] OECD online information, "Going for Growth 2014: Australia", Viewed at: http://www.oecd.org/eco/growth/going-for-growth-2014-australia.htm, based on OECD (2014a).

1.4.1 Tax reform

1.12. A White Paper on the Reform of Australia's Tax System, due to be completed by the end of 2015, is to provide a longer-term approach to tax reform that is consistent with the Government's core principles of fairness and simplicity.[44] Against this background, the Government has already delivered a large number of other key tax priorities, including: repealing the Minerals Resource Rent Tax (MRRT) (September 2014) and the carbon pricing mechanism (July 2014); reducing the corporate income tax rate to 28.5%; introducing a 1.5% levy on certain large corporates to fund the proposed new Paid Parental Leave Scheme; as well as implementing the Temporary Budget Repair Levy (section 1.3.2).[45] To ease the tax burden on businesses and on SMEs in particular, simplified and more generous amortisation rules allowing "carry back" losses to offset past taxable income have been in place since July 2012. According to the OECD, the tax structure is relatively inefficient; the general consumption tax burden is relatively low (below OECD average) while headline corporate income tax is comparatively high (above OECD average) for a capital-importing country like Australia (section 3.4.1.2).[46]

1.4.2 Pension system reform

1.13. During the review period, some changes were brought to Australia's superannuation pension system. Since 1 January 2014, employers have been required to pay default contributions to an authorized "MySuper" product which is designed to be a simple superannuation fund with few standardized fees and a single balanced investment option.[47] Superannuation funds have until July 2017 to transfer accrued default balances to "MySuper".[48] The minimum obligation (i.e. a "superannuation guarantee" contribution rate) required by employers has been scheduled to increase gradually from 9% (as at 1 July 2012) to 12% (by 2021/22) of the employee wage; as of 2014/15 it stood at 9.5% and it will remain at this rate until 2020/21 as the original schedule for increasing the rate has been delayed as part of funding negotiated changes to repeal the Minerals Resource Rent Tax (section 1.4.1) and associated measures.

1.4.3 Labour market reform

1.14. Australia kept unchanged its legal and institutional framework for workplace relations under the Fair Work Act 2009. This focused, *inter alia*, on enterprise-level bargaining to closely link wages with workplace productivity.[49] During the review period, supporting the participation of mature-age people in the workforce continued to be a major policy focus.[50] Jurisdiction was provided to the Fair Work Commission to stop workplace bullying and help to make sure all Australian workplaces are safe, healthy and productive. Since January 2012 Wage Connect has assisted job seekers into employment and since 1 July 2013 the Remote Jobs and Communities Program has helped people in 60 regions across remote Australia find jobs. From 1 July 2015 the Commonwealth Government is to implement a new employment services model aimed at moving more job seekers into employment with less red tape for providers and employers. Key features of the system will be Work for the Dole and employer engagement.[51] A number of targeted wage subsidies such as Restart for mature age workers and a subsidy aimed at the long-term unemployed will be available for cohorts who need additional assistance to connect with the labour market.

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[44] Commonwealth of Australia (2014c), Statement 1: Budget Overview.

[45] PricewaterhouseCoopers online information. Viewed at: http://www.pwc.com.au/tax/federal-budget/2014/tax-reform-agenda.htm.

[46] OECD (2013b).

[47] The introduction of the "MySuper" reforms followed a government-commissioned review into the governance, efficiency, structure and operation of Australia's superannuation system (the Super System Review); previously, employers covered by awards were required to select a default fund from the list of funds specified in the awards.

[48] As of 30 June 2014, Australians had over $A 1.85 trillion in superannuation assets.

[49] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[50] Department of Education, Employment and Workplace Relations (2013).

[51] Work for the Dole, which can include volunteer work with not-for-profit organisations, or local, state, territory or Australian Government agencies, started in 18 locations across Australia on 1 July 2014. The programme will be phased-in moving to a full national scheme from 1 July 2015; it is expected to be compulsory for the majority of all job seekers aged between 18 and 30 (Department of Employment online information. Viewed at: https://employment.gov.au/work-dole).

1.5 Balance-of-Payments Developments

1.15. Reflecting the structural saving-investment gap and trade balance developments[52], Australia's current account deficit dropped considerably in 2010/11 and thereafter rose gradually before dropping again in 2013/14 (Tables 1.1 and 1.3). The merchandise trade account turned to surplus in 2010/11 and 2011/12 driven by the peak in the commodity price cycle; in 2012/13 it returned to a deficit as commodity prices moderated, and in 2013/14 it moved back towards surplus on the back of increased commodities production. According to the IMF, increased mining exports should improve the trade balance, and the current account deficit is expected to remain below 4% of GDP over the medium-term, stabilizing Australia's net foreign liability position as a share of GDP.[53]

1.16. Growing external liabilities used, *inter alia*, for the financing of current account deficits are a potential source of vulnerability for the economy. The counterpart to the prolonged savings-investment imbalance has been a build-up in net foreign liabilities representing 55.1% of GDP in 2013/14 (Table 1.1 and A1.1).This is high relative to many other advanced countries, reflecting sustained current account deficits.[54] Despite a considerable drop, the net income deficit was equivalent to 81% of the current account deficit in 2013/14 (Table 1.3). This was due, *inter alia*, to the decline in Australian interest rates, the compositional shift from banking sector to government debt, and the decline in mining companies' profitability. Between 2009/10 and 2013/14, net external debt increased by around 28% (Table 1.3); in 2013/14, the private sector – especially non-financial corporations[55] – continued to account for 73.6% of foreign debt although public sector debt has increased by 101.6% since 2009/10 (Table 1.3). According to the IMF, Australia's net foreign liabilities as a share of GDP could stabilize or decline as mining investments bear fruit, with resources exports expected to grow strongly over the coming years.

Table 1.3 Balance of payments, 2009/10-2013/14

($A million)

	2009/10	2010/11	2011/12	2012/13	2013/14
Current account	**-64,236**	**-43,689**	**-49,253**	**-58,992**	**-48,079**
Goods and services balance	-12,600	14,655	-1,905	-18,714	-6,851
Goods balance	-8,995	21,978	8,732	-4,620	6,587
Exports	201,805	247,006	265,722	248,917	273,803
Imports	210,800	225,028	256,990	253,537	267,216
Services balance	-3,605	-7,323	-10,637	-14,094	-13,438
Receipts	50,349	51,046	51,565	53,487	57,381
Transportation	6,275	6,419	6,335	6,082	6,440
Travel	31,124	30,998	30,687	31,370	33,709
Insurance and pension	340	352	449	473	530
Financial	1,058	1,119	1,572	2,155	2,815
Royalties and licence fees	1,038	1,000	848	827	812
Telecommunication	233	153	129	212	251
Computer and information	1,512	1,560	1,509	1,580	1,731
Other business	6,932	7,615	8,130	8,937	8,956
Personal and cultural	773	817	868	828	892
Government goods and services n.e.s.[a]	1,064	1,013	1,038	1,023	1,245
Tourism-related services	33,817	33,801	33,309	33,744	36,098
Payments	53,954	58,369	62,202	67,581	70,819
Transportation	13,715	14,758	16,118	16,858	17,030
Travel	23,910	25,711	26,742	28,025	30,009
Insurance and pension	625	757	757	758	838
Financial	592	650	968	960	1,482
Royalties and licence fees	3,589	3,872	3,962	4,111	4,077
Telecommunication	480	394	250	230	268
Computer and information	1,503	1,654	1,661	1,838	2,447
Other business	7,103	7,856	8,816	11,425	11,238
Personal and cultural	1,322	1,490	1,608	1,783	1,623

[52] Gross savings have been comparable to those of other advanced economies, but Australia's investment level has been significantly higher than those of its peers (IMF, 2014).

[53] IMF (2014).

[54] IMF (2014).

[55] After the global financial crisis, Australian banks started borrowing less from overseas. At the same time non-financial corporations continued increasing their share in net foreign debt, driven by debt liabilities in the mining sector.

	2009/10	2010/11	2011/12	2012/13	2013/14
Government goods and services n.e.s.[a]	1,115	1,227	1,320	1,593	1,807
Tourism-related services	29,028	31,814	33,430	35,095	36,337
Income balance	-50,104	-56,337	-45,021	-37,983	-38,979
Credit	38,782	44,653	47,230	46,112	48,888
Debit	88,886	100,990	92,251	84,095	87,867
Current transfers	-1,532	-2,007	-2,327	-2,295	-2,249
Credit	6,238	6,888	7,126	7,127	7,715
Debit	7,770	8,895	9,453	9,422	9,964
Capital and financial account	**62,913**	**44,044**	**50,294**	**59,369**	**48,222**
Capital account	-284	-316	-408	-453	-355
Financial assets	-4	-29	-25	-94	44
Credit	22	73	1	0	48
Debit	-26	-102	-26	-94	-4
Capital transfers	-280	-287	-383	-359	-399
Credit	0	0	0	0	0
Debit	-280	-287	-383	-359	-399
Financial account	63,197	44,360	50,702	59,822	48,577
Direct investment	31,459	30,514	48,156	56,076	56,215
Australian's direct investment abroad	-9,627	-8,418	-11,899	-771	3,950
Foreign direct investment in Australia	41,086	38,932	60,054	56,848	52,265
Portfolio investment	69,606	33,982	44,788	31,523	38,966
Assets	-92,909	-68,336	-20,754	-34,742	-55,987
Liabilities	162,514	102,318	65,542	66,265	94,953
Financial derivatives	-8,773	-6,479	-20,884	-8,098	-18,140
Assets	35,029	44,668	14,906	32,551	84,198
Liabilities	-43,802	-51,147	-35,790	-40,649	-102,337
Other investment	-35,024	-10,458	-15,450	-18,868	-17,735
Assets	-9,901	-37,775	-8,548	-24,324	-67,156
Liabilities	-25,123	27,318	-6,902	5,456	49,421
Reserve assets	5,929	-3,199	-5,908	-811	-10,730
Net errors and omissions	1,323	-356	-1,040	-377	-143

a "Services n.e.s." includes manufacturing services, maintenance and repair services, and construction.

Source: Australian Bureau of Statistics, "Balance of Payments and International Investment Position 5302.0, September Quarter 2014".

1.17. Despite a minor drop in 2010/11, Australia's international (foreign exchange only)[56] reserves have risen progressively, from $A 31.4 billion equivalent to 1.3 months of imports of goods and services at end-June 2011 to $A 52.1 billion or 1.8 months of imports at end-June 2014 (Table 1.1).

1.6 Developments in Merchandise Trade

1.18. The openness of the Australian economy to international trade, and its integration into the world economy continued to be reflected by the ratio of its trade (exports plus imports) in goods and services to GDP that rose progressively from 39.9% in 2009/10 to 42.6% in 2011/12, before dropping to 40.9% in 2012/13, partly due to a drop in mining commodity prices (iron ore and coal) and increasing again to 42.2% in 2013/14 (Table 1.1).

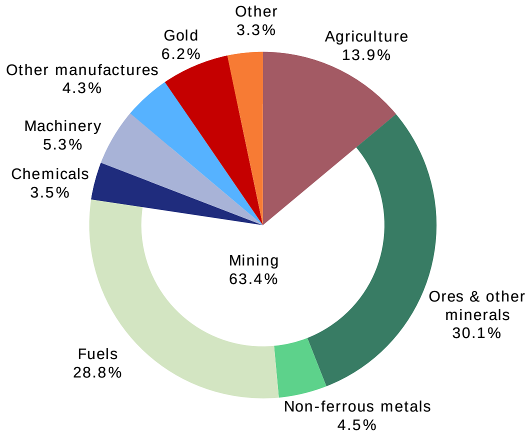
1.19. Since its previous Review, Australia has remained largely dependent on commodity exports (metalliferous ores, mineral fuels, food), and in particular mining products, reflecting the investment boom in the sector (Chart 1.1, Table A1.2). Mining exports, mainly to China, are growing as new capacity comes on stream.[57] The share of manufactured items in total exports and imports has declined reflecting, *inter alia*, the steep fall in capital goods imports.[58]

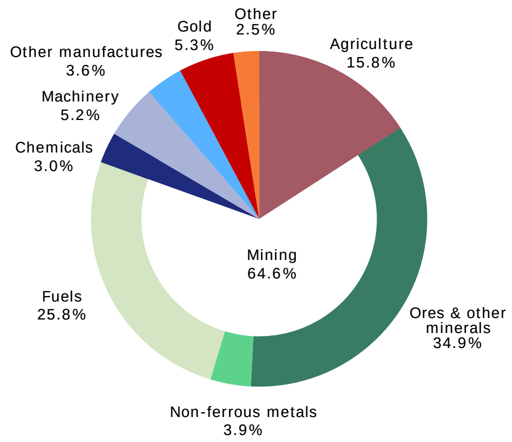
[56] This amount does not cover all of Australia's "official reserve assets" which also comprise SDRs, its Reserve position in the IMF, and gold.
[57] IMF (2014).
[58] Reserve Bank of Australia (2014c).

Chart 1.1 Product composition of merchandise trade, 2010 and 2013

2010 | **2013**

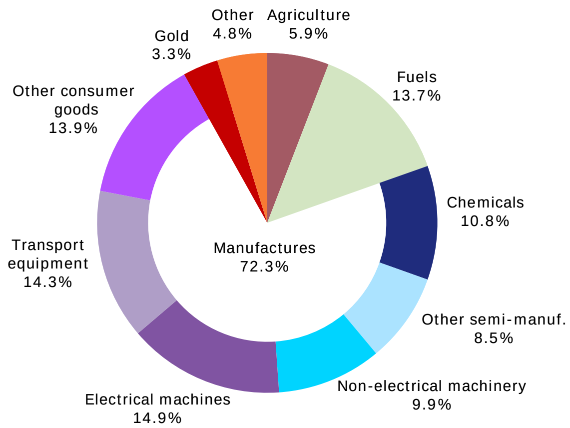
(a) Exports

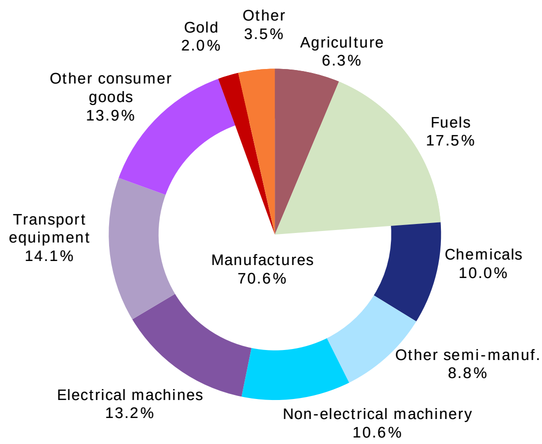




Total: US$212.5 billion | **Total: US$253.7 billion**

(b) Imports





Total: US$188.7 billion | **Total: US$232.5 billion**

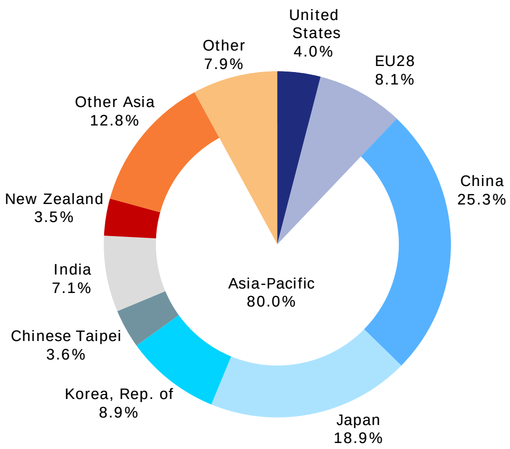
Source: WTO calculations, based on data provided by the Australian authorities.

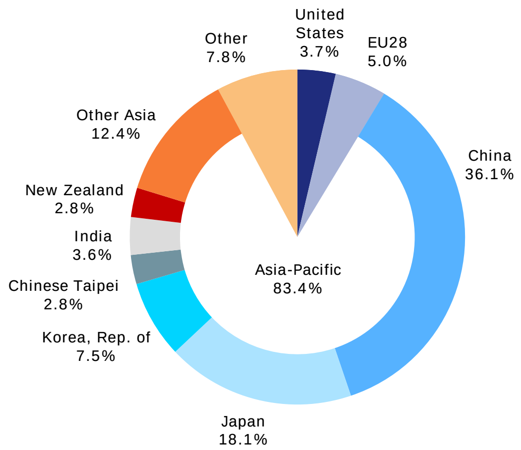
1.20. Australia's merchandise trade with East Asia grew further between 2010 and 2013 (Chart 1.2, Table A1.3) mainly as a result of a continuous increase in exports to China. Notwithstanding some fluctuation in trade shares, more than 71% of total merchandise trade has continued to be conducted with trading partners from the Asia-Pacific Economic Cooperation (APEC) and 9.5% with members of the Association of South East Asian Nations (ASEAN) (Tables A1.4 and A1.5). China, Japan, Korea (Rep. of), the European Union, and the United States were Australia's main markets in 2013. New Zealand's share in Australian foreign trade continued to fall during 2010-13; in 2013, it accounted for 2.8% (3.6% in 2009) of Australia's total merchandise trade.

Chart 1.2 Direction of merchandise trade, 2010 and 2013

2010 **2013**

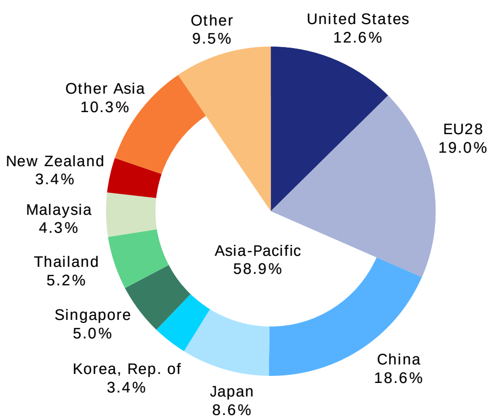
(a) Exports

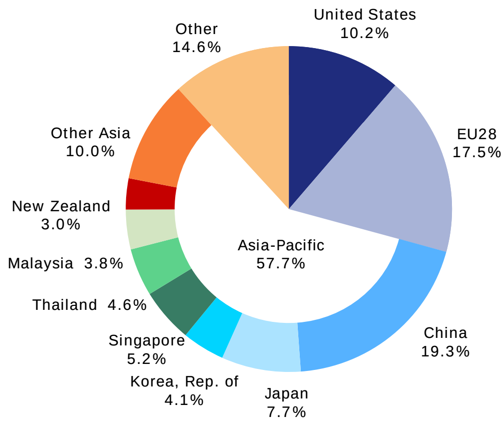




Total: US$212.5 billion **Total: US$253.7 billion**

(b) Imports





Total: US$188.7 billion **Total: US$232.5 billion**

Source: WTO calculations, based on data provided by the Australian authorities.

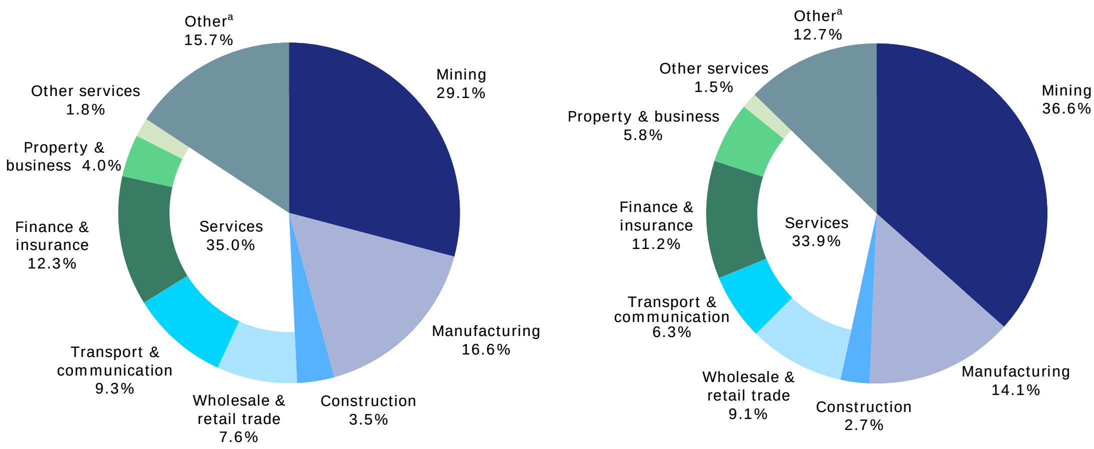
1.7 Trends and Patterns in Foreign Investment

1.21. During 2009-13, Australia's stock of inbound foreign direct investment (FDI) expanded by around 29% to almost $A 630 billion (Chart 1.3). The overall pattern of the FDI stock has remained unchanged; it is concentrated in mining (whose share rose considerably), manufacturing, finance and insurance, and wholesale and retail trade. In response to the rise of terms of trade (section 1.2.1) mining investment has increased while non-mining investment has been weighed down by excess capacity, an overvalued exchange rate, a general lack of business confidence, and a possible shift in household savings behaviour.[59] Inward FDI stock continues to originate mainly in the European Union, the United States, and Japan; the share of stock originating in Australia's RTA partners rose gradually from 29.4% (2010) to 32.3% (2013).

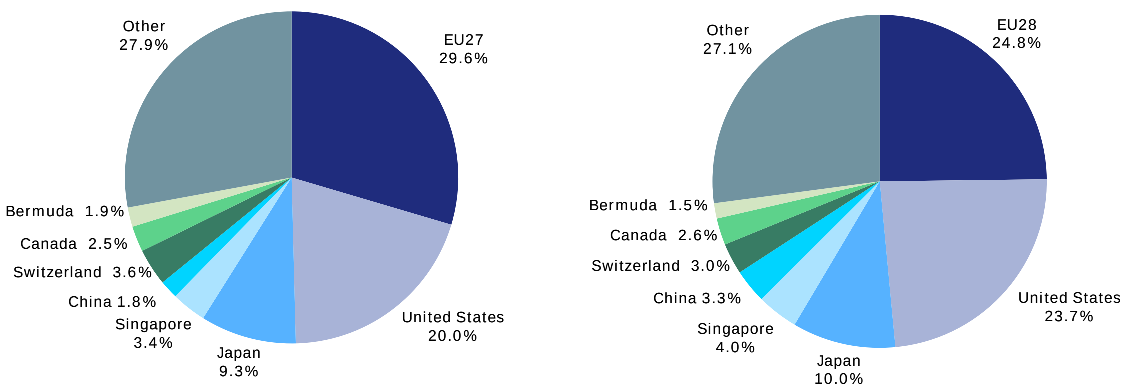
Chart 1.3 FDI inward stock, 2009 and 2013

2009 | **2013**

(a) By economic activity



(b) By origin



Total: A$ 489.9 billion | **Total: A$ 629.9 billion**

a Including mainly unallocated activities.

Source: Data provided by the Australian authorities.

1.22. Since 2009, the stock of Australian investment overseas has risen by 22.7% but has not exceeded the value and growth pace of inward FDI (Table 1.4). It remains concentrated in mining, finance and insurance services, and manufacturing. The United States, the European Union, and New Zealand remain the main destinations for Australian outbound FDI; the share of outward FDI stock in RTA partner countries is estimated to range from 28.9% (2011) to a peak of 40% (2013).

[59] IMF (2014).

Table 1.4 Outward stock of foreign direct investment, by partner and economic activity, 2009-13

(A$ million and %)

	2009	2010	2011	2012	2013
Total outward FDI stock (A$ million)	**406,435**	**439,529**	**405,036**	**445,039**	**494,844**
	(% of total FDI)				
By main partners					
United States	24.6	21.7	24.3	23.4	24.6
European Union[a]	22.9	22.9	17.8	17.7	14.8
New Zealand	10.4	9.1	10.0	9.9	9.3
Canada	..	4.9	..	..	5.8
Papua New Guinea	1.1	..	..	..	3.6
Indonesia	0.8	0.8	0.9	1.1	1.8
Singapore	1.8	1.6	1.7	2.5	1.8
Brazil	..	..	3.2	..	1.6
Bermuda	..	1.6	..	1.3	1.4
China	0.6	1.5	1.6	1.9	1.3
Malaysia	0.8	0.9	..	..	1.2
Hong Kong, China	3.4	2.6	1.0	1.0	0.6
Mexico	..	0.4	..	0.6	0.4
Chile	..	..	0.3	0.4	0.4
India	0.1	0.2	..	0.3	0.3
By economic activity					
Agriculture, forestry, and fishing	..	..	..	..	..
Mining	32.9	34.8	32.8	33.3	29.2
Manufacturing	13.4	13.0	13.0	12.8	13.5
Electricity, gas, and water	1.6	1.5	1.6	..	1.6
Construction	2.1	2.5	2.7	2.7	2.6
Services	..	..	..	..	..
Wholesale and retail trade	0.7	0.7	0.9	0.8	0.9
Accommodation, cafes, and restaurants	..	..	..	..	..
Transport and communication	2.1	2.1	2.3	1.5	1.0
Finance and insurance	27.8	25.2	24.5	25.3	28.4
Property and business services	2.6	2.0	2.4	2.1	2.2
Other services	..	..	..	..	..

.. Included in totals but not available for publication.

a EU27 from 2009 to 2012. EU28 from 2013.

Source: Data provided by the Australian authorities (ABS Catalogue 5352.0).

2 TRADE AND INVESTMENT REGIME

2.1 Overview

2.1. Since its last Review in 2011 there have been no changes to Australia's framework for trade policy formulation and implementation. A key focus of the Commonwealth Government over the review period has been to drive forward reforms to cut costs, provide more efficient and effective government services and create a less-burdensome regulatory environment for businesses and citizens.

2.2. While participating actively in the WTO, Australia continues to pursue regional and bilateral trade agreements. New RTAs with Malaysia and the Republic of Korea have entered into force. A new RTA has been signed with Japan and RTA negotiations with China have been concluded. Australia is negotiating two additional bilateral RTAs as well as four plurilateral ones. During the review period it has been involved in several WTO dispute settlement cases in different ways, including as a respondent in five dispute settlement cases relating to measures concerning plain packaging requirements for tobacco products. Australia has maintained its highly transparent trade and investment regime and its solid record of making timely notifications to the WTO. It has commenced its domestic approval process to ratify the WTO Agreement on Trade Facilitation and is considering joining the WTO's Government Procurement Agreement. It has devoted over 10% of its total Overseas Development Assistance to finance Aid for Trade projects.

2.3. Australia continues to screen proposed foreign investments over a certain value to ensure that they are in the national interest. However, higher screening thresholds for non-sensitive sectors are increasingly being incorporated into RTAs. As at the time of Australia's previous Review, proposed investments are almost always allowed, but conditions are often attached, particularly in the real estate sector. In 2011, a foreign equity limit on investment in Qantas airline was removed, bringing FDI restrictions on this airline in line with those applied to all others. Foreign equity caps remain in the areas of airports, civil aviation, maritime transport and telecommunications. Restrictions on foreign direct investment in residential real estate are also in place.

2.2 General Framework

2.4. There have been no changes to the Constitution of the Commonwealth of Australia over the review period. This sets out, *inter alia*, the composition and responsibilities of the executive, legislative and judicial branches of Government as well as the responsibilities of state governments.[1] The last federal election was in September 2013, with the next to take place in 2016.

2.5. Under Australia's federal system, powers are distributed between the Commonwealth and six states; in addition to the states, there are several territories, two of which are self-governing, but over which the Commonwealth retains ultimate power.[2] Each state has its own constitution and government. The states and territories remain responsible for a number of trade-related policies, such as standardization, government procurement and state-trading. Their legislative powers also include agriculture, education, health and services. However, where there are inconsistencies between state and commonwealth legislation, the latter prevails.[3] States may provide bounties (subsidies) to, or impose taxes on, mining activities. The Commonwealth has exclusive power concerning all other bounties or support measures.[4] In 2014, the Commonwealth Government released an issues paper to launch discussions on reform of the Australian Federation. This is ultimately to be followed by a White Paper in 2015 which will seek to clarify the roles of the Commonwealth Government, States and Territories, with a view to ensuring the efficient and effective functioning of federation.[5]

[1] The Commonwealth of Australia Constitution Act (the Constitution), viewed at: http://www.comlaw.gov.au. For more information on the respective responsibilities of the executive, legislative, and judicial branches of Government, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[2] The six states are New South Wales, Queensland, Victoria, South Australia, Western Australia, and Tasmania. The two territories are the Northern Territory and the Australian Capital Territory.

[3] The Constitution, Article 109.

[4] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[5] Australian Government online information. Viewed at: https://federation.dpmc.gov.au.

2.6. The Council of Australian Governments (COAG), brings together the Prime Minister and State and Territory Premiers and Chief Ministers; it promotes national policy reforms where there is a need for coordinated action at the different levels of government.

2.7. The Productivity Commission remains the Government's independent research and advisory body on microeconomic policy and regulation. It undertakes government-commissioned projects/public enquiries, performance reporting, and other services to government bodies.

2.8. Over the review period, COAG continued to implement various reforms under the 2008 National Partnership Agreement to Deliver a Seamless National Economy (SNE NP). The SNE NP comprised 36 stand-alone measures aimed at reducing the regulatory burden on firms operating in multiple domestic jurisdictions. These included: 27 deregulation priorities, eight competition reforms and one reform related to regulation-making and review processes. The SNE NP was officially concluded in 2012, although implementation of some measures continued beyond that date.[6] Measures undertaken since 2011 have been: reforms to personal property securities through the unification of separate laws and the consolidation of several registers into a single register; the introduction of a single, national regime for fair trading and consumer protection, through entry into force of the Australian Consumer Law; and the signature of three intergovernmental agreements on heavy vehicles, rail and maritime safety which should promote regulatory efficiency in these areas of transportation (see section 4.5.7). In 2012, the Productivity Commission undertook an assessment of 17 of the SNE NP business regulation reforms, and estimated that their full implementation could increase GDP by around 0.4% in the long run. It noted that realisation of benefits of reforms thus far had been mixed and that additional efforts by governments were needed in some areas.[7]

2.9. The Commonwealth Government has committed to undertake institutional reforms with a view to ensuring that the public sector is streamlined and refocused on areas where its involvement is strictly necessary. In 2013, an independent National Commission of Audit was established with a mandate to review and report on the performance, functions and roles of the Commonwealth Government and to make recommendations which would result in savings sufficient to bring about a surplus of 1% of GDP prior to 2023-24 (section 1.3.2). The Commission issued a Phase One report in February 2014 and a Phase Two report in March 2014.[8] These reports recommended, *inter alia*, a reduction in the number of boards, committees, councils and government bodies. As noted by the authorities, the Commonwealth Government has already abolished over 230 programmes as well as 70 bodies, boards, committees and councils with a view to streamlining accountabilities and improving efficiency. It is also undertaking reviews into ownership options for several government bodies and developing a contestability framework to drive efficiency and assess whether a government function should be open to competition. The Commonwealth Government has committed itself to consideration of further reforms following the 2014-15 Budget.

2.3 Trade Policy Formulation and Objectives

2.10. Australia's trade policy continues to be based on the premise that trade openness and economic growth/performance and living standards are strongly linked; emphasis is placed on improving international competitiveness and market access overseas. To reach these objectives, Australia pursues a combined unilateral, multilateral, regional and bilateral approach to trade policy. Its trade policy agenda is also influenced by the new Government's 2014 Industry Innovation and Competitiveness Agenda (see sections 1.4, 3.4.2, and 4.4).

2.11. The Minister for Trade and Investment and the Department of Foreign Affairs and Trade (DFAT) continues to maintain prime responsibility for bilateral, regional and multilateral trade policy as well as administrative responsibility for all treaties. DFAT also administers Australia's Aid for Trade funding, which in 2013-14 was estimated to be $A 630 million or 12.5% of Australia's total Official Development Assistance.[9] Various other departments and agencies are involved in

[6] The most recent update on implementation of COAG reforms dates back to April 2013 (COAG online information. viewed at: https://www.coag.gov.au/node/499).

[7] Productivity Commission (2012).

[8] National Commission of Audit online information. Viewed at: http://www.ncoa.gov.au.

[9] As reported by DFAT most of Australia's aid for trade was directed to multi-country initiatives (35%), projects in Asia (31%) and projects in the Pacific, including Papua New Guinea (17%). The aid for trade

international trade policy and trade relations.[10] As reported in Australia's previous Review, Australia's highly transparent trade policy formulation and evaluation structure involves interactions between the executive branches of government, advisory bodies, businesses, non-governmental organizations (NGOs) and other stakeholders.

2.12. The Executive branch of government has the authority under the Constitution to enter into treaties relating to trade and investment (as with all other treaties), to decide on negotiating positions and ultimately sign and ratify them. The Minister for Trade and Investment has authority for negotiating trade agreements, as mandated by Cabinet. With respect to bilateral investment treaties and investment protection and promotion agreements, the Treasurer and Attorney-General hold authority along with DFAT. Although it is not a constitutional requirement, treaties are in practice put before Parliament's Joint Standing Committee on Treaties post-signature, but pre-ratification, allowing for review by this body. A tabled treaty is accompanied by a National Interest Analysis (NIA) and a Regulatory Impact Statement (RIS), if it affects business or restricts competition. Consultations with state and territory governments take place through the Commonwealth-State-Territory Standing Committee on Treaties (SCOT) and with industry and other interest groups through a range of processes organised by DFAT, from standing bodies to informal methods.[11] Treaties are also subject to review by the Foreign Affairs, Defence and Trade References Committee. Current procedures do not provide for an independent and transparent analysis of the final text of a proposed agreement after negotiation but before signing.

2.13. Australian trade laws largely take the form of statutes and implementing regulations. The legislative process is described in the Secretariat report for Australia's previous Review. Statutes are printed separately (and are available online on the Commonwealth Government's ComLaw website), while regulations are published in the Commonwealth of Australia gazettes.[12] Similar arrangements hold for state and territory governments. At the time of announcement of Australia's last election (5 August 2013), the Government entered caretaker mode, and bills that were before Parliament and that had not been passed, lapsed. Some of these bills have not yet been reintroduced before the new Parliament.

2.4 Trade Agreements and Arrangements

2.4.1 WTO

2.14. Australia is an original Member of the WTO, and grants at least most-favoured-nation (MFN) treatment to all its trading partners. It is not a member of the WTO plurilateral Agreements on Government Procurement or Trade in Civil Aircraft. However, Australia announced on 14 November 2014 that it is working towards acceding to the Government Procurement Agreement (GPA) (section 3.2.8).[13] It has also commenced its domestic approval process to ratify the WTO Trade Facilitation Agreement.

2.15. Since 2011, Australia has participated as a respondent in five new dispute settlement cases relating to certain measures taken concerning trademarks, geographical indications and other plain packaging requirements applicable to tobacco products and packaging. In these cases the complaining Members have been: Cuba (case DS548); Indonesia (case DS467); the

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activities were: economic infrastructure including transport and storage (42%), building productive capacity including in agriculture (54%), and trade policy and regulation (4%) (DFAT online information. Viewed at: http://www.dfat.gov.au/trade/aid-for-trade/).

[10] These include: the Department of Agriculture; the Department of Communications; the Department of Finance; the Department of Health; the Department of Immigration and Border Protection; the Department of Industry; the Department of Infrastructure and Regional Development; IP Australia; the Attorney-General's Department and the Treasury. A full list of all Commonwealth Government departments and agencies was viewed at: http://australia.gov.au.

[11] Detailed information on the treaty-making process in Australia was viewed at: https://www.dfat.gov.au/treaties/making/.

[12] These gazettes are: the *Government Notices Gazette*; the *Australian Public Service Gazette*; the *Government Purchasing*; the *Business Gazette*; the *Australian Securities and Investments Commission Gazette*; the *Tariff Concessions Gazette*; the *Chemical Gazette*; the *Australian Pesticides & Veterinary Medicines Authority Gazette*; and the *Food Standards Gazette*.

[13] Media release by the Minister for Trade and Investment, 14 November 2014. Viewed at: http://trademinister.gov.au/releases/Pages/2014/ar_mr_141114a.aspx.

Dominican Republic (DS441); Honduras (DS435); and, the Ukraine (DS434). The complainants agreed to harmonize the procedures and the timetables in the five cases and the panels were composed on 5 May 2014.[14] Since 2011, Australia has reserved its third party rights in several cases but has not participated in any new dispute settlement case as complainant.

2.16. Australia has maintained a strong record of notifications to the WTO; at end October 2014, notifications were outstanding in the areas of import licensing procedures and agriculture (use of special safeguard provisions; domestic support; and export subsidies (including with respect to food aid)). Australia's notifications made over the review period are listed in Table A2.1.

2.4.2 Regional and preferential agreements

2.4.2.1 Regional trade agreements

2.17. As at end December 2014, Australia had nine RTAs in force with a total of 16 economies, namely: Brunei Darussalam; Canada; Cambodia; Chile; Indonesia; Korea (Rep. of); Lao PDR; Malaysia; Myanmar; New Zealand; Papua New Guinea; the Philippines; Singapore; Thailand; the United States; and Viet Nam. With respect to New Zealand, Thailand, Singapore and Malaysia, there are commitments both under the RTA between ASEAN, Australia and New Zealand (AANZFTA) as well as under Australia's bilateral RTAs with these respective countries. The main features of all of these RTAs, together with details of the status of their consideration by the WTO Committee on Regional Trade Agreements (CRTA), are detailed in Table A2.2. All RTAs have been notified to the WTO, with the exception of the partial scope RTA with Canada which dates back to the 1960s.[15]

2.18. Since 2011, two new RTAs have entered into force, with Malaysia and Korea (Rep. of), and a bilateral RTA has been signed with Japan. A Protocol on Investment to the Australia-New Zealand Closer Economic Relations Trade Agreement entered into force on 1 March 2013 under which Australia applies higher thresholds for mandatory screening of proposed investments by New Zealand investors (see below).[16] Additionally, in September 2013 the First Protocol to the Agreement Establishing the AANZFTA was signed. This amends the AANZFTA in the areas of rules of origin requirements and the transposition of schedules of tariff commitments.[17] Finally, negotiations on an RTA with China were concluded in November 2014.[18] While the implications for Australia of various existing and potential RTAs with North Asian economies have been assessed by the Centre for International Economics in Australia, there have been no independent reviews of trade agreements by the Productivity Commission since 2010.[19] A 2015 analysis of the impact of Australia's RTA with the United States points to its trade-diverting rather than trade-creating impact.[20]

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[14] WTO online information. Viewed at:
http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds458_e.htm;
http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds467_e.htm;
http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds441_e.htm;
http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds435_e.htm;
http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds434_e.htm.

[15] As noted in the Secretariat Report for Canada's TPR in 2007, preferential treatment under this agreement is very limited, as preferences have been eroded by subsequent unilateral and multilateral liberalization (WTO document WT/TPR/S/179/Rev.1, 4 June 2007).

[16] The text of the Protocol on Investment to the Australia-New Zealand Closer Economic Relations Trade Agreement 2013 (together with associated side letters and annexes) was viewed at: http://www.dfat.gov.au/fta/anzcerta/index.html and http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/24_November_2014/Terms_of_Reference.

[17] ASEAN online information. Viewed at: http://www.asean.org/news/asean-secretariat-news/item/asean-australia-and-new-zealand-sign-protocol-to-improve-trade-pact.

[18] An early announcement has been made to the WTO for this RTA.

[19] As reported in Australia's previous Review, the Productivity Commission undertook an examination, released in 2010, of the effectiveness of trade agreements according to various criteria. The Centre for International Economics released a model-based analysis of the impact of free trade agreements on Australia in 2014. This includes both existing RTAs to which Australia is and is not a party as well as potential RTAs (Rural Industries Research and Development Corporation, 2014).

[20] East Asia Forum online information, "The costs of Australia’s "free trade" agreement with America by Shiro Armstrong", 8 February 2015. Viewed at: http://www.eastasiaforum.org/2015/02/08/the-costs-of-australias-free-trade-agreement-with-america/; and Armstrong (2015).

2.19. As at December 2014, Australia was negotiating bilateral RTAs with India and Indonesia and was participating in four plurilateral RTA negotiations: the Trans-Pacific Partnership (TPP); the Australia-Gulf Cooperation Council (GCC) RTA; the Pacific Trade and Economic Partnership Agreement (PACER Plus); and, the Regional Comprehensive Economic Partnership (RCEP) negotiations. An early announcement has been made to the WTO in the case of the GCC.

2.20. Australia's bilateral RTA with Malaysia (MAFTA) entered into force on January 2013. Malaysia is Australia's ninth largest merchandise trading partner (counting the European Union as one). Under the Agreement, Australia eliminated all of its tariffs on imports from Malaysia on entry into force of the Agreement, while Malaysia's tariff liberalization commitments are being undertaken annually over a thirteen year period, ending in 2026 (at which point duties on all but 95 tariff lines will have been eliminated). The Agreement includes a side-letter on the MFN treatment of Malaysian imports of alcoholic beverages from Australia. Malaysia has also committed to not impose quantitative limitations on imports of certain vehicles imported from Australia or to impose additional charges on these imports. Australia's services commitments go beyond the scope of Australia's GATS commitments in various respects.[21] There are no provisions on government procurement in the RTA and government procurement of services is explicitly excluded from its scope. The Agreement contains provisions on competition policy and intellectual property rights as well as side-letters on environmental issues and labour provisions.[22]

2.21. The Korea-Australia Free Trade Agreement (KAFTA) was signed in April 2014 and entered into force on 12 December 2014. Korea (Rep. of) is Australia's fifth largest trading partner. This Agreement was notified to the WTO on 22 December 2014.[23] Under the Agreement almost all of Australia's tariffs on Korean exports will be phased-out over an eight year period.[24] The Republic of Korea will implement tariff liberalization over a 20-year period. Once the Agreement is fully implemented, 100% of Australia's tariff lines will be duty free under the Agreement, and 98.4% of the Republic of Korea's. The Agreement also incorporates services commitments which in many cases go beyond the scope of those scheduled under the GATS as well as government procurement commitments. As noted by the DFAT, among the key benefits of KAFTA for Australia will be: new market access for Australian suppliers of legal, accounting and telecommunication services as well as guaranteed access in other services sectors[25]; improved market access for exporters of agricultural products[26]; and new commercial opportunities for the Australian film and television industry. The Agreement also contains provisions on intellectual property rights, competition policy, electronic commerce, labour and the environment as well as provisions for investor-state dispute settlement.[27]

[21] For a more detailed description of the services commitments taken under the RTA between Australia and Malaysia, as well as a comparison between its GATS and RTA commitments, see WTO document WT/REG340/1, 14 April 2014 (section 4.5.1 and Table 4.3).

[22] For a more detailed description of these provisions see WT/REG340/1, 14 April 2014, sections 5.9, 5.10, 5.12 and 5.13.

[23] WTO document WT/REG359/N/1 and S/C/N/786, 22 December 2014.

[24] The Korean authorities expect that major Korean exports to Australia will increase as a result (these export items include: automobiles, automotive components, heavy equipment for construction, synthetic resin and steel products). Additionally, Korean companies are expected to benefit from reduced tariffs on promising export items such as, *inter alia*, automobile bumpers; optical fibre cables; filters for air purifiers; foods and cosmetics (Ministry of Trade, Industry and Energy of Korea Press Release, 8 April 2014. Viewed at: http://www.motie.go.kr/language/eng/news/news_list.jsp?tableNm=E_01_01).

[25] As reported by DFAT key outcomes are that: Australian law firms will be able to establish representative office in the Republic of Korea and advise on Australian and public international law; within two years, enter into cooperative agreements with local firms; and, within five years, establish joint ventures and hire local lawyers. Australian accountants will be able to establish offices in the Republic of Korea to provide consultancy services on international and Australian accounting laws; and within five years will be able to work in, and invest in, Korean accounting firms. Within two years, telecommunications providers will be able to own up to 100% of the voting shares of a facilities-based telecommunications supplier in the Republic of Korea. Australian financial services providers will be able to supply specified financial services on a cross-border basis, including investment advice and portfolio management services for investment funds, as well as a range of insurance and insurance-related services (DFAT online information. Viewed at: https://www.dfat.gov.au/fta/kafta/downloads/outcomes-at-a-glance.pdf).

[26] As noted by DFAT key outcomes on agriculture include: an elimination of the Republic of Korea's 40% tariff on beef progressively over 15 years; duty-free quotas for cheese, butter and infant formula; and, the elimination of high tariffs on many dairy products between three and 20 years.

[27] The full text of the KAFTA was viewed at: https://www.dfat.gov.au/fta/kafta/.

2.22. The Japan-Australia Economic Partnership Agreement (JAEPA) was signed in July 2014, but has not yet entered into force. Japan is Australia's second largest trading partner. An advance notification for this Agreement has been submitted to the WTO. Under the Agreement Australia's tariffs on Japanese exports will be phased-out over an eight-year period. Japan will implement tariff liberalization over a 18-year period. By the time the Agreement is fully implemented, 100%[28] of Australia's tariff lines will be duty-free under the Agreement, and 88.7% of Japan's. As with the KAFTA, the Agreement also incorporates services and government procurement commitments as well as chapters on intellectual property rights, electronic commerce and competition policy.[29] Among Australia's anticipated benefits from the Agreement are reduced tariffs for its agricultural exports and elimination of tariffs on its manufacturing, energy and resource exports by the time the Agreement is fully implemented, as well as services commitments which are equal to, or better than, the best commitments Japan has made in any of its other trade agreements. The JAEPA does not contain provisions for investor-state dispute settlement.[30]

2.4.2.2 Preferential trade agreements

2.23. Australia offers non-reciprocal trade preferences to developing countries and least developed countries (LDCs) under the Australian System of Tariff Preferences (ASTP) as well as to Forum Island economies under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA).[31]

2.24. All imports from LDCs, East Timor and participants in the SPARTECA benefit from duty free and quota-free access to the Australian market. Fifty-six developing countries are entitled to so-called "DC" rates of duty on 3,143 tariff lines; they involve a 5% margin of preference over the MFN rate, when the MFN rate is 5% or higher. Where the applied MFN rate is less than 5%, the DC rate is 0%. Around 90 developing countries are entitled to "DCS" rates of duty on 801 tariff lines. Finally, Singapore; the Republic of Korea; Hong Kong, China; and Chinese Taipei are eligible for preferential tariffs (so-called DCT duty rates) on 182 tariff lines. The countries eligible for these different duty rates are listed in Schedule 1 to the Customs Tariff (see also section 3, Table 3.2).

2.25. The authorities indicated that around $A 473 million in customs duty was foregone between January 2011 and July 2014 as a result of Australia's non-reciprocal preference schemes.

2.5 Other Agreements

2.26. Australia continues to pursue regional trade and investment liberalization through the Asia Pacific Economic Cooperation Forum (APEC). Under the Bogor Declaration, APEC members made a voluntary commitment to achieving free and open trade and investment by 2020 (2010 for developed economies) through unilateral, regional and multilateral liberalization. Each year, the 21-member economies present Individual Action Plans (IAPs) that set out measures, taken or intended, to achieve this goal. In November 2014, APEC Ministers adopted a road map and launched a collective study to achieve a Free Trade Area of the Asia-Pacific (FTAAP).[32]

2.27. Over the review period, Australia's trade and investment relations with Papua New Guinea have been strengthened through the signature of a Joint Declaration for a New Papua New Guinea-Australia Partnership in May 2013 which, *inter alia*, contains a commitment to support free trade and rules-based investment processes.[33] This was followed by an economic cooperation agreement signed between the two countries in March 2014. As reported by the authorities, the objective of the latter agreement is to move away from aid/donor-characterised

[28] Australia retains the specific component ($A 12,000 per vehicle) of the compound tariff for eight used car tariff lines.
[29] More detailed information on each of these provisions was viewed at: http://www.dfat.gov.au/jaepa.
[30] DFAT online information. Viewed at: https://www.dfat.gov.au/fta/jaepa/snapshot/downloads/jaepa-snapshot.pdf.
[31] Forum Island economies are: Cook Islands; Fiji; Kiribati; Marshall Islands; Federated States of Micronesia; Nauru; Niue; Papua New Guinea; Samoa; Solomon Islands; Tonga; Tuvalu; and Vanuatu.
[32] APEC online information. Viewed at: http://www.apec.org/Meeting-Papers/Ministerial-Statements/Annual/2014/2014-amm.aspx.
[33] DFAT online information. Viewed at: http://www.dfat.gov.au/geo/png/joint-declaration-10052013.html.

relations and to create an economic and strategic partnership.[34] Australia has various other agreements in place to promote trade and investment (Table A2.3).

2.6 Framework for Business and Investment

2.28. Australia performs well in various international rankings relating to the environment for business, trade and investment. It was ranked in 10th place out of 189 economies in the World Bank's Doing Business report for 2015[35], and in 22nd place out of 144 economies in the World Economic Forum's 2015 Global Competitiveness Index.[36] There have been no major changes to Australia's ranking in these indexes over the review period. The World Bank has reported on the various reforms undertaken since 2011 to improve the business environment, which relate to obtaining credit, resolving insolvency and employing workers.[37] Concerns have been expressed by the business community about the relatively high cost of labour in Australia and the need for a more flexible approach to granting visas so as to engage skilled and semi-skilled foreign workers where needed. Concerns have also been raised regarding high levels of regulatory burden, particularly in the areas of industrial relations, employment, occupational health and safety, and compliance with various tax payment requirements.[38] Transport costs and shortcomings have also been identified as an impediment to trade and the operational efficiency of businesses.

2.29. A key development over the review period which should, *inter alia*, have a positive impact on the environment for investing and doing business in Australia, has been the various initiatives undertaken by the Commonwealth Government to cut red tape and promote efficiency and effectiveness in developing and implementing regulations.

2.30. The Commonwealth Government is engaged in a major new deregulatory initiative which aims to cut $A 1 billion in red tape every year. Two parliamentary repeal days were held in 2014 to cut unnecessary and costly legislation and regulation. The first of these repeal days was held in March resulting in the abolition of over 10,000 unnecessary or counter productive regulations or redundant Acts of Parliament. The second was held in October, during which nearly 1,000 additional pieces of legislation and regulation were repealed. The total net deregulatory savings from these two rounds has been estimated at over $A 2.1 billion.

2.31. Australia has also implemented reforms to its Regulatory Impact Analysis (RIA) Framework in order to limit the flow of new regulations. For several years, policy-makers have been required under this Framework to draw up a Regulation Impact Statement (RIS) before a decision is taken either to introduce or abolish a regulation. In March 2014, the Commonwealth Government made changes to RIS requirements designed to support the Government's red tape reduction target (see above). Key changes introduced were that all Cabinet Submissions now require a RIS and all RISs must quantify the regulatory costs to business, community organizations and/or individuals of new regulations and identify offsetting regulatory costs.[39] Agencies are encouraged to issue an early RIS assessment to assist consultation.[40] The Office of Best Practice Regulation (OBPR) is charged with administering the RIA requirements.

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[34] Department of Foreign Affairs and Trade (2014).

[35] It is particularly well ranked for: obtaining credit (4th place in this sub-category) and the ease of starting a business (7th place). It is ranked less favourably for: protecting minority investors (71st place); obtaining electricity (55th place); and registering property (53rd place) (World Bank, 2014).

[36] Australia received particularly high rankings for its level of financial market development, health, and education (World Economic Forum, 2014).

[37] These include: the adoption of a new national legal regime governing the enforceability of security interests in personal property and implementing a unified collateral registry (Doing Business 2013 report (DB2013)); improving its credit information system through the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (DB2014); clarification of the priority of claims of unsecured creditors over all shareholders' claims and introduction of further regulation of the profession of insolvency practitioners (DB2012); introduction of the severance payment obligation and reemployment consideration applicable in cases of redundancy dismissals. Annual leave was increased and averaging of hours is now allowed in shorter periods of time. In addition, notice period applicable in case of redundancy dismissals was decreased (DB2011) (World Bank, 2014).

[38] Australian Industry Group (2014).

[39] Previously there was a threshold test for both Cabinet, Ministerial or other decisions. Additionally, the proposal had to be regulatory in nature and have more than a minor impact on business or the not-for-profit sector.

[40] New RIS procedures are set out in Department of the Prime Minister and Cabinet (2014).

2.32. In October 2014, the Commonwealth Government also announced the creation of a New Regulator Performance Framework.[41] This will establish a set of performance measures to assess the performance of regulators and their engagement with stakeholders. The Commonwealth Government released a draft Framework in 2014 and has allowed a period of time for public comment; it is now considering inputs with a view to issuing a final Framework before the end of the year.[42]

2.33. Under the Australian Jobs Act 2013 (which entered into force on 27 December 2013) and its accompanying Australian Jobs (Australian Industry Participation) Rule 2014, proponents of major projects in Australia with a capital expenditure of $A 500 million or more, are required to prepare and implement an Australian Industry Participation (AIP) plan. This should outline how such projects will provide full, fair and reasonable opportunities for Australian industry to supply goods and services.[43]

2.34. Australia encourages foreign investment consistent with its national interest. To ensure that national interests are protected, Australia continues to apply a screening process under the framework of the Foreign Acquisitions and Takeovers Act 1975 and the 2013 Foreign Investment Policy. The concept of "national interest" is not defined under the Act or Policy and is interpreted on a case-by-case basis, *inter alia*, taking into account a range of factors, typically including: national security; competition; the impact on other Government policies (including taxation); the impact on the economy and the community; and, the character of the investor.[44] Screening of residential real estate applications are considered in light of the principle that foreign investment should serve to increase the housing stock in Australia. As noted by the authorities at the time of Australia's previous Review, the Commonwealth Government prefers a flexible approach to hard-and-fast rules, since rigid laws that prohibit a class of investments too often stops valuable investments. The case-by-case approach is deemed to maximise investment flows while protecting Australia's national interest.[45]

2.35. The screening process applies to: proposed investments by foreign private investors involving the acquisition of a substantial interest (of 15% or more) in any business that is valued at over $A 252 million. However, as a result of RTA commitments, higher monetary thresholds (of $A 1,094 million) apply to investments in non-sensitive sectors by investors incorporated in United States (since 2005); New Zealand (since 2013); Chile (since 2014); and the Republic of Korea (since 2014).[46] These higher thresholds will also apply to Japan from 15 January 2015. Additionally for these RTA partners, screening is not applied to investments in financial sector companies, which are subject to a parallel approval process under separate legislation (section 4.5.5).[47] Thresholds are indexed annually on 1 January.

[41] Commonwealth Government online information. Viewed at: http://www.cuttingredtape.gov.au/parl-sec/media/new-regulator-performance-framework.

[42] The draft Framework was largely based on a Regulator Audit Framework released by the Productivity Commission in March 2014. These documents were viewed at: http://www.cuttingredtape.gov.au/sites/default/files/documents/DRAFT_Regulator_Performance_Framework.docx and Productivity Commission (2014b).

[43] Department of Industry online information. Viewed at: http://www.industry.gov.au/industry/AustralianIndustryParticipation/Pages/AIP-plans-required-Jobs-Act-2013.aspx.

[44] Greater detail on how these factors are taken in account is set out in the Foreign Investment Policy. Viewed at: http://www.firb.gov.au/content/policy.asp?NavID=1. This Policy (Annex 2) also contains the Government's policy statement on foreign investment in agriculture and the national interest considerations taken into account in this specific sector, namely: the quality and availability of Australia's agricultural resources, including water; land access and use; agricultural production and productivity; Australia's capacity to remain a reliable supplier of agricultural production, both to the Australian community and its trading partners; biodiversity; and employment and prosperity in Australia's local and regional communities.

[45] WTO document WT/TPR/M/244/Add.1, 16 May 2011.

[46] Sensitive sectors are: media; telecommunications; transport (including airports, port facilities, rail infrastructure, international and domestic aviation and shipping services provided either within, or to and from, Australia); the supply of training or human resources or the development, manufacture or supply of military goods, equipment or technology able to be used for a military purpose; the development, manufacture or supply or provision of services relating to encryption and security technologies and communication systems; and the extraction of (or holding of rights to extract) uranium or plutonium or the operation of nuclear facilities. In these sectors the general threshold of $A 252 million applies.

[47] FIRB online information. Viewed at: http://www.firb.gov.au/content/monetary_thresholds/monetary_thresholds.asp.

2.36. The screening process also applies to: (a) all vacant non-residential land; (b) all investments of 5% or more in the media sector[48]; (c) all proposed direct investments, new business proposals and acquisitions of land made by foreign government investors regardless of their value; (d) proposed investments by foreign private persons in developed commercial real estate valued at $A 55 million or more; and (e) proposed investments by foreign persons in residential real estate (with some exceptions).[49] In 2013, a revised definition of foreign government investor was introduced in order to provide more clarity. Additionally, foreign government investors which are Authorized Deposit-Taking Institutions (ADIs) are no longer required to notify the Government when they take security over an asset as part of a lending agreement.

2.37. Proposals for such investments are sent to the Foreign Investment Review Board (FIRB) which makes recommendations, within set timeframes, to the Treasurer who may approve; approve with conditions or reject the application.[50] As at the time of Australia's previous review, the vast majority of applications are approved, often with conditions attached. No proposals were refused in 2012-13 (Table 2.1).

Table 2.1 Applications decided, 2010/11-2012/13

Outcome	2010-11		2011-12		2012-13	
	Number	$A billion	Number	$A billion	Number	$A billion
Approved unconditionally	4,606	145.7	4,900	137.5	5,535	108.7
Approved with conditions	5,687	31.0	5,803	33.2	7,196	27.0
Total approved	**10,293**	**176.7**	**10,703**	**170.7**	**12,731**	**135.7**
Rejected	43	8.8	13	0.2	0	0
Total decided	**10,336**	**185.5**	**10,716**	**170.8**	**12,731**	**135.7**

Source: Foreign Investment Review Board (2014), *Annual Report 2012-13*. Viewed at: www.firb.gov.au.

2.38. In 2012-13, both in volume and value terms, approvals were dominated by real estate applications, followed by mineral exploration and development and then services (Table 2.2). In the same year the biggest source countries for approved proposed investments were: the United States ($A 20.6 billion); Switzerland ($A 18.4 billion); China ($A 15.8 billion), Canada ($A 14.4 billion); and the United Kingdom ($A 6.8 billion).

Table 2.2 Total approvals, by industry sector, 2012/13

Industry	Number of approvals	Proposed investment ($A billion)
Agriculture, forestry, and fishing	91	2.86
Finance and insurance	36	2.92
Manufacturing	44	6.51
Mineral exploration and development	289	45.14
Resource processing	7	0.42
Services	154	25.91
Tourism	1	0.02
Real estate	12,025	51.91

Source: Foreign Investment Review Board (2014), *Annual Report 2012-13*. Viewed at: www.firb.gov.au.

2.39. In response to increased community concern about foreign investment in agriculture, the Government has stated that it will lower the existing foreign investment screening threshold for purchases of agricultural land and will introduce a foreign ownership register. The Parliamentary Standing Committee on Economics has also recently undertaken an inquiry into Australia's foreign

[48] The media sector refers to daily newspapers, television, and radio (including internet sites that broadcast or represent these forms of media).

[49] FIRB online information. Viewed at: http://www.firb.gov.au/content/real_estate/residential/approval_exemption.asp.

[50] As noted by the FIRB, where proposals raise national interest concerns that could lead to prohibition, the FIRB and its Secretariat, the Treasury's Foreign Investment and Trade Policy Division work with the applicant to see how concerns may be mitigated or managed. In 2012-13 all conditional approvals were in the real estate sector; conditions imposed included those related to the period during which development must commence, requiring temporary residents to reside in and then sell established dwellings when they cease to reside in them, and reporting requirements.

investment policy on residential real estate, amid concerns about housing affordability for Australians.[51] In its report, released in November 2014, the Committee noted shortcomings both in terms of data collection and monitoring of compliance with policy requirements. It recommended that the current framework for foreign investment in residential real estate should be maintained and supplemented by new data collection, audit, compliance, and enforcement processes, financed by administrative fees. It also advocated stronger penalties as well as policy amendments requiring temporary residents to divest an established property within three months if it ceases to be their primary residence.[52]

2.40. Additional foreign investment restrictions, including foreign equity caps, are maintained in specific sectors (Table 2.3). As noted in section 4.5.7.2, investment restrictions in air carrier Qantas were removed in 2014 bringing FDI restrictions on this airline in line with those applied to all others.

Table 2.3 Foreign investment restrictions, 2014

Sector / activity	Restrictions
Airports	49% foreign ownership limit for airports; 5% airline ownership limit for certain airports; and 15% cross-ownership limits between Sydney airport and Melbourne, Brisbane, and Perth airports (see section 4.5.7.2).
Civil aviation	Aggregate foreign investment in Australia's international airlines is limited to 49%, with any one foreign holding capped at 35% (see section 4.5.7.2).
Residential real estate	All foreign investment in residential real estate (except by New Zealand citizens) should increase Australia's housing stock. Temporary residents (on visas for more than 12 months) may purchase one existing home to live in while resident in Australia but are required to sell it upon expiration of their visa.
Shipping	For a ship to be registered in Australia, it must be majority Australian-owned, unless it is designated as chartered by an Australian operator (see section 4.5.7.1).
Telecommunications	35% foreign ownership in Telstra. Individual foreign investors may only own up to 5% (see section 4.5.6.1).

Source: Australia's Foreign Investment Policy. Viewed at: http://www.firb.gov.au/content/policy.asp?NavID=1.

2.41. Australia maintains bilateral investment promotion and protection agreements (IPPAs) or bilateral investment treaties (BITs) with 22 economies (Table 2.4); since 2011, no new agreements have entered into force. The IPPAs/BITs grant MFN treatment for foreign investment, provide nationalization/expropriation guarantees, and establish dispute settlement mechanisms.[53] An investor-state dispute has been lodged against the Australian Government over tobacco plain packaging requirements under a bilateral investment treaty between Australia and Hong Kong, China.

2.42. Double-taxation avoidance (DTA) treaties, based on the OECD Model Tax Convention on Income and Capital, are in force with several countries (Table 2.4); three new DTAs have entered into force over the review period (with Chile, Switzerland and Turkey) and two existing DTAs (with India and Malaysia) have been amended. Australia has also signed several tax information exchange agreements (TIEAs), the vast majority of which have entered into force over the review period (Table 2.4). A TIEA with Uruguay was signed in 2012 and TIEAs with Brunei and Guatemala were signed in 2013; these have yet to enter into force. Australia observes the notification and transparency provisions of the OECD Code on Liberalization of Capital Movements, and subscribes to the OECD Declaration on International Investment and Multinational Enterprises as well as the OECD Guidelines for Multinational Enterprises. It is a signatory to the United Nations Convention

[51] Its terms of reference were to examine: the benefits of foreign investment in residential property; whether such foreign investment is directly increasing the supply of new housing and bringing benefits to the local building industry and its suppliers; how Australia's foreign investment framework compares with international experience; and whether the administration of Australia's foreign investment policy relating to residential property can be enhanced.

[52] Parliament of Australia online information. Viewed at: http://www.aph.gov.au/Parliamentary_Business/Committees/House/Economics/Foreign_investment_in_real_estate.

[53] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) and member of the International Centre for the Settlement of Investment Disputes (ICSID).

Table 2.4 Foreign investment-related treaties and agreements in force

(Date of entry into force)

IPPAs/ BITS	Argentina (1997); Chile (1999); China (1988) Czech Republic (1994); Egypt (2002); Hong Kong, China (1993); Hungary (1992); India (2000); Indonesia (1993); Lao, PDR (1995); Lithuania (2002); Mexico (2007); Pakistan (1998); Papua New Guinea (1991); Peru (1997); Philippines (1995); Poland (1992); Romania (1994); Sri Lanka (2007); Turkey (2010); Uruguay (2003); and Viet Nam (1991).
DTAs	Argentina (1999); Austria (1988); Belgium (1979[a]); Canada (1981[a]); Chile (2013); China (1990); Czech Republic (1995); Denmark (1981); Fiji (1990); Finland (2007); France (2009); Germany (1975); Hungary (1992); India (1991[a]); Indonesia (1992); Ireland (1983); Italy (1985); Japan (2008); Kiribati (1991); Korea, Republic of (1984); Malaysia (1981[a]); Malta (1985); Mexico (2003); Netherlands (1976[a]); New Zealand (2010); Norway (2007); Papua New Guinea (1989); Philippines (1980); Poland (1992); Romania (2001); Russian Federation (2003); Singapore (1969[a]); Slovakia (1999); South Africa (1999[a]); Spain (1992); Sri Lanka (1991); Sweden (1981); Switzerland (2014); Chinese Taipei (1996); Thailand (1989); Turkey (2013); United Kingdom (2003); United States (2003); and Viet Nam (1992[a]).
TIEAs	Andorra (2012); Anguilla (2011); Antigua and Barbuda (2009); Aruba (2011); Bahamas (2011); Bahrain, Kingdom of (2012); Belize (2011); Bermuda (2007); British Virgin Islands (2009/2010); Cayman Islands (2011); Cook Islands (2011); Costa Rica (2013); Dominica (2011); Gibraltar (2010); Grenada (2012); Guernsey (2010/2011); Isle of Man (2009/2010); Jersey (2010); Liberia (2012); Lichtenstein (2012); Macao, China (2011); Marshall Islands (2011); Mauritius (2011/2013); Monaco (2011); Montserrat (2011); Netherlands Antilles (2008); Samoa (2011/2012); San Marino (2011); St. Kitts and Nevis (2011); St. Lucia (2011); St. Vincent and the Grenadines (2011); Turks and Caicos Islands (2011); and Vanuatu (2011).

a These DTAs have subsequently been amended.

Source: DFAT Australian Treaties Database. Viewed at: www.dfat.gov.au/treaties/; and The Treasury online information. Viewed at: http://treasury.gov.au/Policy-Topics/Taxation/Tax-Treaties/HTML.

3 TRADE POLICIES AND PRACTICES BY MEASURE[1]

3.1 Overview

3.1. Since its previous Trade Policy Review in 2011, Australia has maintained the openness of its trade regime, which is to a large extent due to the exemplary transparency in trade and related policy. While no major unilateral liberalization has been undertaken, there have been policy changes in various areas, including: tariff concessions, biosecurity, anti-dumping and countervailing actions, and intellectual property rights.

3.2. The tariff remains one of Australia's main trade policy instruments, albeit a minor source of tax revenue. As a result of the introduction of the HS2012 tariff nomenclature (177 more lines), the average applied MFN tariff rate dropped slightly, from 3.1% in 2010 to 3% in 2014. Unilateral reductions were implemented at the beginning of 2015. The average applied MFN tariff in 2014 for industrial products is 3.3%, while that for agricultural imports is 1.4%. Some 96% of applied MFN tariff rates are currently in the range zero to 5%. In line with long-standing, though decreasing, sectoral support to textiles, clothing and footwear (TCF) and passenger motor vehicles (PMV) products, the applied MFN tariff rates on the latter remain considerably higher than the average. The tariff structure has remained unchanged and involves seven rates (four *ad valorem,* one specific, one compound, and one alternate). It is characterized by tariff escalation, which means that effective rates of tariff protection can be considerably higher than nominal rates. Some 99.7% of tariff rates are *ad valorem*, which contributes to the transparency of the tariff. Nevertheless, the few non-*ad valorem* rates tend to conceal relatively high tariff rates, particularly those on used vehicles (although such rates seem to be rarely applied). The fact that 96.6% of tariff lines are bound imparts a high degree of predictability to the tariff. However, the simple average of bound MFN rates (9.9%) considerably exceeds the average applied MFN rate, providing the authorities with extensive scope for increasing applied tariffs within bindings, although there has been no such increase during the review period. While tariff-rate quotas have remained in place for five cheese items, they are apparently applied in a flexible/liberal manner. Tariff quotas on non-manufactured tobacco have never been applied. The list containing the range of goods and user categories subject to concessional rates of tariff concessions to support local industry has been streamlined. During the review period, trade facilitation efforts included: simplification of Australia's duty concessions scheme; enhanced international cooperation; efforts to ratify the WTO Trade Facilitation Agreement; and the commitment of funds to assist partner countries in this area. As regards customs valuation, the legislation was amended to ensure consistency with the WTO Agreement and transfer pricing policy practices have been clarified.

3.3. Import prohibitions and restrictions in the form of generally strict quarantine or technical requirements have remained in place to preserve, *inter alia,* human, animal or plant life or health, the environment, safety, or security. These are considered necessary to meet Australia's relevant appropriate level of protection (ALOP). During the period under review, reforms to create a modern and responsive system that facilitates trade while managing biosecurity risks was pursued, including the procedure for passing legislation leading to a repeal of the Quarantine Act of 1908. Whereas technical standards and many other regulations are, by and large, subject to cost-benefit analysis, this is still not the case with SPS measures. The share of national standards that are identical or "modified adoptions" of international standards remains at 38% (or 97% of applied standards). No new mutual recognition agreements (MRAs), a trade facilitation measure, were signed. During the review period, significant changes have been made to the legislative, institutional and procedural frameworks on anti-dumping and countervailing measures. Recourse to anti-dumping and countervailing action has been increasing, with most initiations and measures relating to items originating in Asia. Two safeguard investigations (processed fruit, canned tomatoes) were initiated, but no safeguard measures were adopted during the review period.

3.4. Australia remains an observer to the WTO Committee on Government Procurement (GPA) and is working towards possibly acceding to the GPA. Comprehensive chapters on government procurement in a number of its regional trade agreements (RTAs) reflect its commitment to respect principles of transparency and non-discrimination in the conduct of its government procurement. Nonetheless, Australia has continued to use government procurement as an

[1] This Chapter refers to several indicators, including effective rate of combined assistance, used by the Productivity Commission (section 2.2) for assessing support provided to different economic activities. For details on the definition, methodology, and scope of these indicators, see Productivity Commission (2014c).

instrument of economic policy aimed at fostering industrial development in certain sensitive areas that are exempt from mandatory rules applying to procurement above certain thresholds. Procurement rules were amended, *inter alia*, to redefine procurement methods and adjust legal terminology. The target of sourcing at least 10% of purchase value from small- and medium-sized enterprises (SMEs), as well as preference margins for local suppliers and local-content requirements by certain state governments, have been maintained or revised but are applied in line with RTA commitments.

3.5. Export controls or quantitative restrictions affect certain primary and therapeutic goods to ensure, *inter alia,* adequate domestic supply, and to enforce standards. A permit requirement for wheat exports was repealed. The Rice Marketing Board for the State of New South Wales, an export monopoly, was the only state-trading entity operating during the review period. Export assistance, consisting of direct grants (e.g. through export market development grants) and tax concessions (e.g. Tradex), has been maintained and, in certain areas, focussed on Asian markets. In addition to local-content requirements, termed "Australian activity", export finance is, *inter alia,* conditional upon "national interest" criteria. Export credit terms would appear to be in line with OECD guidelines.

3.6. Support for domestic production and trade has been provided through tax and non-tax incentives, with increased emphasis on R&D spending as well as regulatory restrictions on competition. Some industry-specific programmes (e.g. steel, TCF) were either ended or amended during the review period. The special Luxury Car Tax, which affects both domestic and foreign cars but seems to fall disproportionately on imports, has been retained. The effective rate of combined assistance remains relatively high for motor vehicles and parts, TCF, and forestry and logging.[2] The state remains involved in the economy through government trading enterprises (GTEs) providing services in key infrastructure sectors (e.g. water, electricity, ports, rail, urban transport), though not always on a fully commercial basis. Efforts to streamline state participation in areas where Commonwealth Government involvement is necessary included "bonus" payments to state governments that sell public assets and use the proceeds for infrastructure projects.

3.7. Australia has further strengthened protection of intellectual property rights by passing new legislation, considered as its biggest IP system overhaul in twenty years, by amending existing legislation in several areas and expanding its international commitments. The competition policy framework, which remains characterized by a long list of special regimes and exemptions, including at state or territory level, will be comprehensively reviewed with a revised compliance and enforcement policy being released in 2013. A recent legislative amendment is aimed at strengthening protection in the area of consumer credit.

3.2 Measures Directly Affecting Imports

3.2.1 Registration and documentation requirements

3.8. During the review period, minimum import documentation requirements remained unchanged. These are: a full import declaration (FID), which is required for goods with a value above $A 1,000; an invoice, bill of lading/airway bill; and any other papers such as packing list, insurance documents, etc. relating to the shipment.[3] Import permits are also required for certain goods subject to controls or restrictions (sections 3.2.5, 3.2.6, and 3.2.7). The Integrated Cargo System (ICS), a single window for the vast majority of international trade-related transactions, continues to provide an interface for industry to connect electronically for coordinated customs and quarantine clearance. Some transactions may require separate contact with permit-issuing agencies and some may require the presentation of the permit at customs in hard copy. Opportunities are continuing to be explored on a case-by-case basis for higher volume and higher risk permit management processes to be developed to facilitate electronic clearance. Virtually all customs brokers are connected to the Customs electronic systems, while individual importers are

[2] The effective rate of assistance (ERA) measures the net subsidy equivalent (NSE) of combined tariff, budgetary, and agricultural pricing and/or regulatory assistance to a particular industry in proportion to that industry's unassisted net output (or unassisted value added). It can provide an indication of the extent to which assistance to an industry allows it to attract and hold economic resources (Productivity Commission, 2014c).

[3] For further information, see WT/TPR/S/244/Rev.1, 18 May 2011; and Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/faq/ClearingCustoms.asp.

also able to connect via the internet and obtain a digital certificate to enable secure communication with the system. In 2013/14, 99.6% (99.3% in 2009/10) of Customs entries in Australia were processed electronically. Self-assessment of duty continues to be the norm, with compliance addressed by post-audit regimes. Regular audit checks are undertaken to ensure accuracy of import declarations against the commercial documents and the physical cargo.

3.9. During the review period, action was taken to regulate and facilitate trade by simplifying duty concessions for industry (section 3.2.2.6); reforming international trade remedies and setting up a new Anti-Dumping Commission (section 3.2.6.1); participating in regional trade agreements and multilateral fora (section 2.4.2.1); enhancing international cooperation and data-sharing; and seconding United States Customs and Border Protection Services to enhance international targeting and risk assessment of shipments of common interest.[4] The ratification of the WTO Trade Facilitation Agreement is to be concluded by mid-2015 (section 2.1). Under the Enhanced Trade Solutions (Program) 2015, work to create a single window for clients and develop a user-friendly and comprehensive trusted trader/authorised economic operator programme continued; the latter is to be operational by July 2015. Strengthening the supply chain against criminal infiltration by passing new legislation (Customs and AusCheck Legislation Amendment (Organised Crime and Other Measures) Act 2013) and several other measures, has been part of the work in this area. Illicit tobacco remains a key risk focus for the Australian Customs and Border Protection Service (ACBPS) which combats tobacco smuggling, *inter alia*, through collaboration with government, industry and international partners.[5] Between 2010/11 and 2012/2013, illicit tobacco detection in sea cargo, cigarette sticks seized, and duty evaded increased by 41.2%, 143.9%, and 11.8%, respectively. Action was also taken to enforce import prohibitions on products of illegal logging as well as to simplify the seizure process for goods infringing intellectual property rights (sections 3.2.5 and 3.4.6.3).

3.10. Since 2007, Australia's annual Time Release Studies (TRS) have consistently shown that its border agencies are not an impediment to trade.[6] According to these studies, a high level of facilitation is maintained, and interventions are effectively and efficiently targeting high risk consignments. In 2014 a National Border Targeting Centre was established to provide a nationally coordinated approach to identifying high-risk passengers and cargo. During the review period, the proportion of goods released by the time a vessel arrives into port increased due to timely reporting (from 57% in 2008 to 74% in 2012). In 2012, the average arrival to clearance times for sea and air cargo were 0.2 days (0.9 in 2010) and 8.4 hours (4.5 in 2010)[7], respectively. The 2012 TRS showed that more than 66% of sea cargo and more than 80% of air cargo is now fully risk-assessed and unimpeded by the time it is physically available for delivery. Impediments range from incomplete reporting to goods that require inspection or biosecurity treatment (section 3.2.7.2.2). Australia remains committed to assisting partner countries in their trade facilitation efforts, and has committed AU$6 million over three years to the World Bank's Trade Facilitation Support Program.

3.11. In 2013 Australia was ranked in 46th place out of 189 economies in the ease of trading across borders.[8] Importing a standard container of goods required 7 documents, took 8 days and cost US$1,170, as compared to an OECD high income members' average of 4 documents, 10 days, and US$1,090, respectively; exporting the same container required 5 documents, took 9 days and US$1,150, as compared to an OECD high income members' average of 4 documents, 11 days, and US$1,070, respectively.

[4] Australian Customs and Border Protection Service (2013a).
[5] Australian Customs and Border Protection Service (2013a).
[6] For further information, see WT/TPR/S/244/Rev.1, 18 May 2011; and Australian Customs and Border Protection Service (2012).
[7] Due to significant increases in the number of consignments that physically cross the Australian border, performance may diminish. The short timeframes that characterise the air cargo environment limit the opportunities to significantly improve performance (Australian Customs and Border Protection Service, 2012).
[8] World Bank (2013).

3.2.2 Tariffs

3.2.2.1 Features

3.12. Since January 2012, Australia's tariff classification system has been based on the HS2012 nomenclature.[9] It is applied at the HS eight-digit level and has 6,185 lines, 177 lines more than the previous (HS2007) customs tariff. Australia continues to submit its customs tariff and trade data regularly to the WTO Integrated Data Base.[10] The customs tariff comprises MFN and several preferential rates granted under bilateral and plurilateral agreements as well as unilateral concession schemes (sections 2.4.2 and 3.2.2.5).

3.2.2.2 Applied MFN tariff

3.13. On average, Australia's applied MFN tariffs remain relatively low. No customs duty rates were changed during the review period. Nevertheless, Australia's average applied MFN tariff rate dropped slightly, from 3.1% (2010) to 3% (2014) (Table 3.1)[11] due to splitting or combining of tariff lines when the HS2012 nomenclature was introduced. Tariffs on apparel and certain finished textile articles were further reduced to 5% on 1 January 2015. MFN applied tariff rates on 54 items contained in the September 2012 APEC List of Environmental Goods that directly and positively contribute to green growth and sustainable development objectives remain subject to tariffs of 5% or less.[12] In 2012/13 2.49% of the Commonwealth Government's total tax receipts (cash) were from customs tariffs.[13]

3.14. In accordance with the indexation provisions in section 19 of the Customs Tariff Act 1995 and section 6A of the Excise Tariff Act 1921, the rates of excise duties (section 3.4.1.1) on certain spirits, and beer were last increased on 1 August 2013.[14] In accordance with section 19AB of the Customs Tariff Act 1995 tobacco is no longer indexed in line with the CPI; it is now indexed in line with the average weekly ordinary time earnings (AWOTE) on 1 March and 1 September each year with the first increase having occurred on 1 March 2014.

3.2.2.2.1 Structure

3.15. During the review period, the structure of the customs tariff remained unchanged. In 2014, around 99.7% (6,168 lines) of the tariff lines were subject to four *ad valorem* rates (zero, 4%, 5%, and 10%), the same as in 2010; this ensures a high degree of tariff transparency. Some 47.6% (46.2% in 2010) of tariff lines now carry a zero rate (Table 3.1, Chart 3.1), nearly half (48.3%) are subject to a rate of 5%, and 3.7% remain at 10%.

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[9] The fourth review amendments to the Harmonized System concentrate primarily on environmental and social issues that are of global concern. The 2012 Harmonized System revisions contain approximately 800 amendments to the Customs Tariff Act 1995 affecting 43 of the 98 chapters in the classification, through either note changes or classification changes or both. Extensive revisions affected Chapters 3, 9, 16, 27, 29, 61-62, and 96. Australian Customs and Border Protection Notice No. 2011/12, "2012 Harmonized System Changes". Viewed at: http://www.customs.gov.au/webdata/resources/files/ACNHS2012Final.pdf.

[10] WTO document G/MA/IDB/2/Rev.40, 16 October 2014.

[11] As the calculation of import duty in Australia is based on the f.o.b. value, the actual tariff imposed is lower than in economies that calculate duty on the c.i.f. value.

[12] APEC online information. Viewed at: http://www.apec.org/Meeting-Papers/Leaders-Declarations/2012/2012_aelm/2012_aelm_annexC.aspx.

[13] Taxes on international trade as a percentage of all Australian governments' tax revenue, stood at 2% (Table 3.5). Customs duties constituted around 99.9% (99.8% in 2010) of taxes on international trade; export fees and charges on selected agricultural products accounted for the remaining 0.1%.

[14] The new rates of customs and excise duty listed are calculated by multiplying the previous rates by an indexation factor, which is calculated by dividing the most recent CPI number by the previous highest December or June quarter number occurring after December 1983. Accordingly, the December 2012 index number (102) has been divided by the June 2013 index number (102.80) to establish an indexation factor of 1.008. As this factor is more than one, rates of customs and excise duty have been increased by the application of this factor (Australian Customs and Border Protection Notice No. 2013/31, "Indexation of certain customs and excise duty rates", 1 August 2013. Viewed at: http://www.customs.gov.au/webdata/resources/files/ACN.pdf).

Table 3.1 Australian tariff structure, 2010 and 2014

(%)

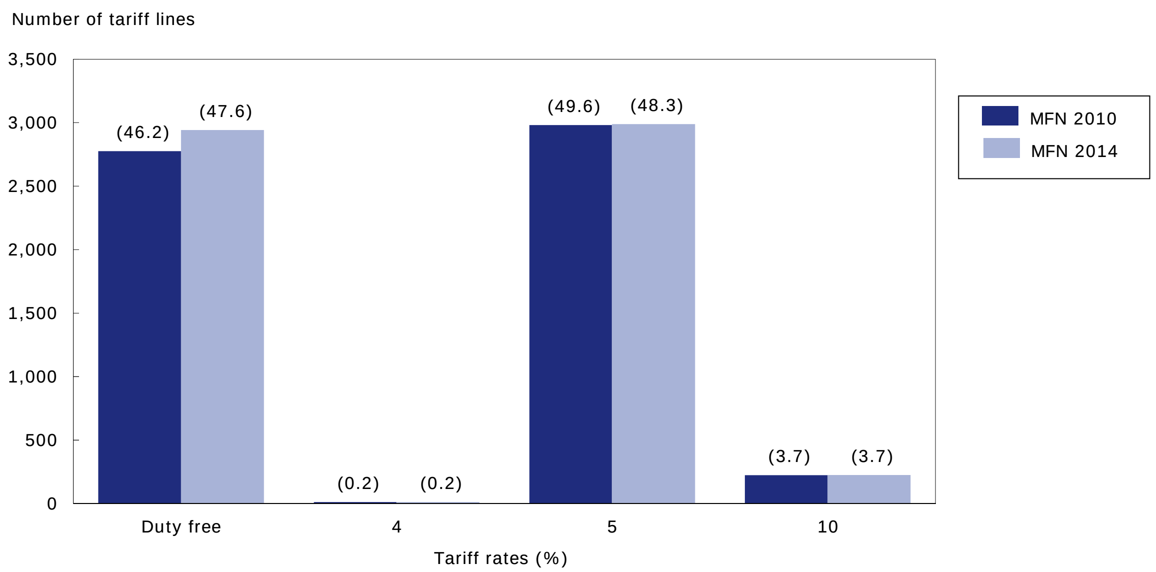
		MFN applied		Final bound[a]
		2010	2014	
1.	Bound tariff lines (% of all tariff lines)	96.5	96.6	96.6
2.	Simple average rate	3.1	3.0	9.9
	Agricultural products (HS01-24)	1.4	1.4	3.1
	Industrial products (HS25-97)	3.4	3.3	11.2
	WTO agricultural products	1.6	1.4	3.8
	WTO non-agricultural products	3.3	3.3	10.9
	Passenger motor vehicles	41.7	41.7	..[b]
	(excluding AVEs of non-*ad valorem* rates)	5.0	5.0	..[b]
3.	Domestic tariff "peaks" (% of all tariff lines)[c]	3.9	3.9	5.4
4.	International tariff "peaks" (% of all tariff lines)[d]	0.2	0.2	12.8
5.	Overall standard deviation of tariff rates	6.5	6.4	10.9
6.	Coefficient of variation of tariff rates	2.1	2.1	1.1
7.	Duty free tariff lines (% of all tariff lines)	46.2	47.6	20.3
8.	Non-*ad valorem* tariffs (% of all tariff lines)	0.3	0.3	0.9
9.	Nuisance applied rates (% of all tariff lines)[e]	0.0	0.0	9.1

a Based on 2014 tariff schedule. Implementation of final bound rates was reached in 2000.
b Tariff lines where an AVE is used under the MFN applied are unbound.
c Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
d International tariff peaks are defined as those exceeding 15%.
e Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: 2010 tariff is based on HS07 nomenclature consisting of 6,008 tariff lines; and 2014 tariff is based on HS12 nomenclature consisting of 6,185 tariff lines. Calculations include AVEs provided by the authorities for non-*ad valorem* rates. AVEs are the same for 2010 and 2014.

Source: WTO Secretariat calculations, based on data provided by the Australian authorities.

Chart 3.1 Distribution of MFN applied tariff rates, 2010 and 2014



Note: Figures in parentheses denote the share of total lines. Figures for 2010 are based on HS07 nomenclature, and for 2014 on HS12. Totals do not add up to 100% due the exclusion of non-*ad valorem* rates, representing 0.3%, for both years.

Source: WTO Secretariat calculations, based on data provided by the Australian authorities.

3.16. A few (0.3%) tariff lines remain subject to non-*ad valorem* rates, which tend to conceal relatively high tariff rates. These involve a specific rate of $A 1.22/kg applied to five tariff lines (cheese and curd), an alternate rate of 5% or $A 0.45/kg, whichever is lower, applied to four tariff lines (fruit juices), and a compound rate of 5% (10% in 2006) plus $A 12,000 per unit applied to eight items (used or second-hand vehicles), which, according to the authorities, has rarely been applied since 2011.[15] Average *ad valorem* equivalents (AVEs) for the period under review continued to range from 10.2% to 27.1% for specific rates, up to 5% for alternate rates, and from 89.5% to 215.4% for compound rates (including the 5 percentage points *ad valorem* component).[16] These AVEs are the highest applied tariff rates in place.

3.2.2.2.2 Tariff dispersion and escalation

3.17. Despite a low overall average tariff rate and large share of duty-free items, tariff peaks in some sectors remain a potential distortion and thus a source of inefficiency. In particular, while agriculture continues to face relatively low tariff rates (1.4%, under the WTO definition of agriculture, Table 3.1), average rates for non-agriculture items, notably textiles and clothing (8.4%) and PMVs (8.6%) (Table A3.1) remain significantly higher despite recent unilateral reductions, thus reflecting sensitivities in these sectors.[17] Domestic "tariff peaks" continue to affect 3.9% of tariff lines (3.7% excluding AVEs).

3.18. Overall, the tariff shows a tendency to escalate, with the average for unprocessed, semi-processed, and fully-processed goods rising from 0.4% to 2.9% and 3.7% (Table A3.1). The outcome is that the level of effective protection increases as goods undergo further processing.[18] The textiles and clothing sector shows the most significant tariff escalation (Chart 3.2); in 2014, the average tariff for fully-processed textiles and clothing and leather products remained unchanged at 6.3% but high compared with other product categories, which range from 2.3% to 3.7%. The average tariff for semi-processed products remained at 2.9% during the period. Tariff escalation is a potential impediment to the efficient allocation of resources; it also constitutes an obstacle to local processing of primary and semi-finished goods produced in exporting countries, thereby impeding the industrialization of these developing countries whose exports are not eligible for preferential duty free access to Australia's market.

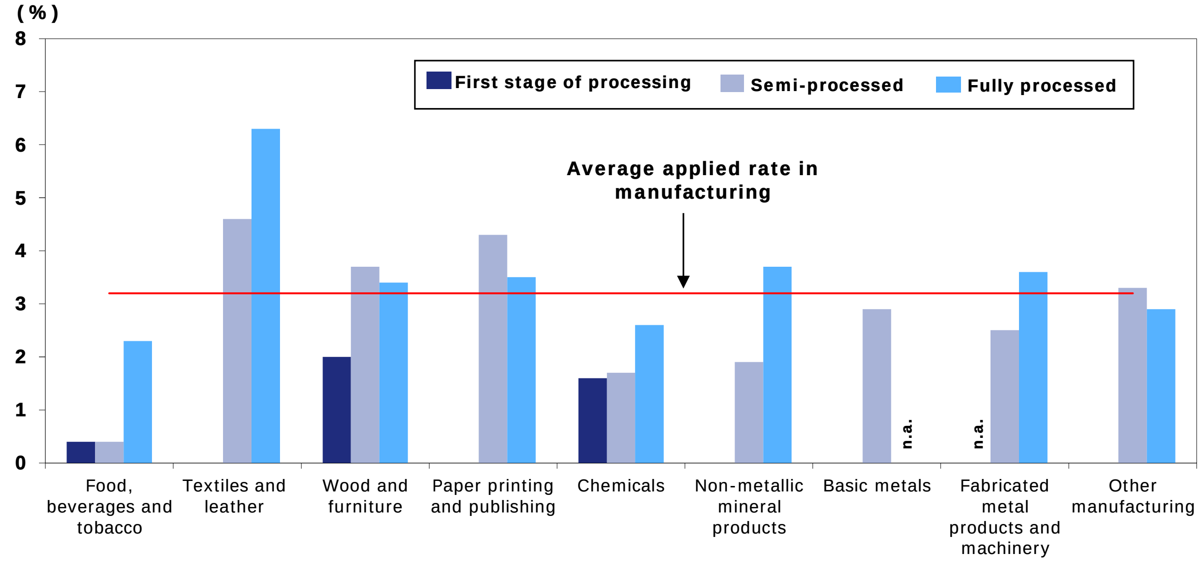
[15] Item 37 (replacing Item 59 as from 1 March 2013) of Schedule 4 of the Customs Tariff allows for the waiving of the $A 12,000 duty component on second-hand cars, provided the Department of Infrastructure, Transport and Regional Development has issued a Vehicle Import Approval (VIA). A vehicle must have a VIA to be imported. Vehicles falling under this category include those imported under the Registered Automotive Workshop Scheme (RAWS), which caters for specialist and enthusiast used imported vehicles not available in Australia in full volumes by mainstream manufacturers (Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/site/page4371.asp#2ndHandVechicle).

[16] The *ad valorem* equivalents (AVEs) are computed on the basis of unit values for imports of the items concerned over the period 2006-08. The authorities requested the Secretariat to use the AVEs submitted in 2010 for the calculations in 2014.

[17] The rate on new cars is 5%, while the rate rises to 41.7% when duties on used cars form part of the calculation.

[18] The effective rate of protection (ERP) measures the protection provided by the entire structure of tariffs, taking into account those levied on inputs as well as those on outputs. It is defined as $ERP = (V_D - V_W)/V_W$, where V_D is the value added in the given sector at domestic prices, which includes tariffs, and V_W is value added at world prices. If the nominal tariff on the final product is t, the share of each imported input i in the total value of the final product is a_i, and the nominal tariff on each imported input is t_i, then the effective rate of protection can be written as: $ERP = (t - \Sigma a_i t_i)/(1 - \Sigma a_i)$. Thus, if t = 5%, t_i = 2.5% for all inputs, and $\Sigma a_i = 0.6$, the ERP is nearly 8.75%.

Chart 3.2 Tariff escalation, by two-digit ISIC industry, 2014



n.a. Not applicable.

Note: Calculations include AVEs for non-*ad valorem* rates, provided by the authorities.

Source: WTO Secretariat calculations, based on data provided by the Australian authorities.

3.2.2.3 Bound tariff

3.19. Australia's tariff Schedule of Concessions has remained based on the Harmonized Commodity Description and Coding System 2002 (see below). According to its HS12 version supplied by the Australian authorities, in 2014 96.6% (96.5% in HS07 version) of tariff lines were bound. Bindings cover 100% of agricultural tariff lines and 96.2% of non-agricultural products (WTO definitions).[19] Bound rates range from zero to 29% (processed potatoes) for agriculture, and from zero to 55% (clothing) for non-agricultural products. Australia's bound rates currently exceed applied MFN rates by nearly seven percentage points (Chart 3.3); maximum gaps of up to 55 percentage points affect clothing items. Differences between bound and applied rates provide scope for Australia to raise applied tariffs, especially in sensitive sectors, although this flexibility has not been used during the review period.

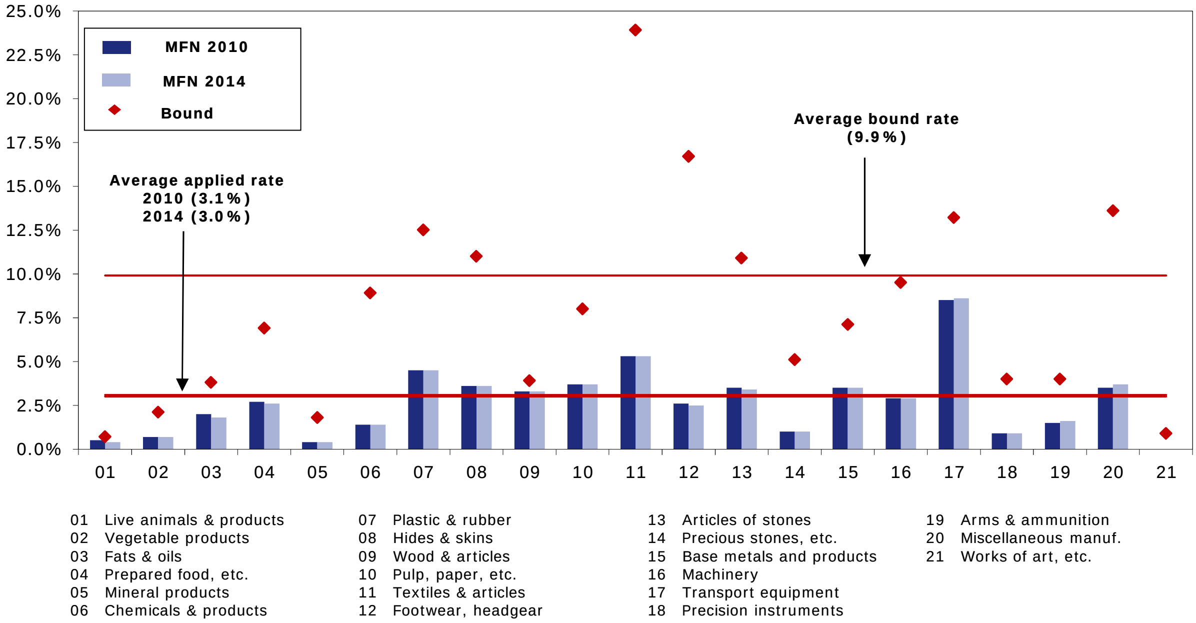
3.20. During the review period Australia has remained covered by waivers from Article II of GATT 1994 to implement domestically the HS2002 (since 2002), HS2007 (since December 2006) and HS2012 (since November 2011) changes, pending incorporation of such changes into its Schedule of Concessions.[20] Its HS 1996 and HS2002 changes were certified on 8 April 2013 (WT/Let/880, WT/Let/881).[21] Concerning the process of incorporating HS2007 changes to its WTO Schedule of Concessions, Australia was one of two Members that had submitted the relevant files within the agreed original deadline in 2007. As of November 2014 Switzerland and the United States were maintaining (unspecified) reservations on Australia's HS2007 schedule.

[19] The 215 eight-digit HS12 unbound lines include yarns, textiles, clothing, leather, rubber products, tools/articles of base metals, products of iron and steel, ceramic products, glassware, machinery, transport equipment, photographic equipment, and other electrical components and equipment.

[20] WTO documents WT/L/873, 14 December 2012; WT/L/874, 14 December 2012; WT/L/902, 27 November 2013; and G/MA/W/23/Rev.10, 13 May 2014.

[21] WTO document G/MA/W/23/Rev.10, 13 May 2014.

Chart 3.3 Average applied MFN and bound tariff rates, by HS section, 2010 and 2014



Note: Calculations include AVEs for non-*ad valorem* rates provided by the authorities. 2010 averages are based on HS07 nomenclature, 2014 average on HS12. Sections 7, 8, 11, 12, 13, 15, 16, 17, 18, and 20 are not fully bound.

Source: WTO Secretariat calculations, based on data provided by the Australian authorities.

3.2.2.4 Tariff-rate quotas

3.21. Tariff-rate quotas (TRQs) involving specific rates apply to most types of cheese and curd imports[22]; the TRQ on unmanufactured tobacco has never been implemented as the customs duty rate for this item is set at zero. The out-of-quota (above 11,500 tonnes) and in-quota rates for cheese remain at $A 1,220 per tonne and $A 96 per tonne, respectively. Since 1995, quota allocation has been based on historical import performance within the quota for the previous 23 months (excluding quota transfers); the quota may be accorded upon application to Customs. New importers are able to obtain an allocation only on transfer from an existing holder of a tariff quota share. Since 2008/09 the TRQ fill-in ratio has exceeded 99%[23]; this is indicative of steady strong demand for cheese and curd as well as minimal impediments to accessing the quota, but also indicative that the quota is effectively a barrier to imports of cheese from those countries subject to the quota.

3.22. Cheese and curd import arrangements are being considered in the context of the Doha Round negotiations on agriculture with this position remaining unchanged since 2011. Preferential imports from LDCs, partners covered by RTAs (e.g. New Zealand, Singapore, Thailand, the United States, Chile, Malaysia, and ASEAN), and the South Pacific Forum island countries are exempt from this TRQ (Section 3.2.2.5). Developing countries are subject to a reduced out-of-quota tariff for the lines covered by the cheese and curd tariff quota, at $A 1,220 per tonne less 5%.

3.2.2.5 Tariff preferences

3.23. Australia maintains numerous unilateral preferential and regional trade agreements (section 2.4.2). Tariff- and TRQ-free access is provided to goods originating in the 50 LDCs, Papua New Guinea, New Zealand, and Singapore. However, bilateral tariff reductions resulting

[22] Camembert, brie, roquefort, stilton, and goat-milk cheeses are exempt from the quota scheme.
[23] WTO documents WT/TPR/S/244/Rev.1, 18 May 2011 and G/AG/N/AUS/86, 5 September 2012; and Australian Customs and Border Protection Notice No. 2013/32, "Cheese and Curd Quota Scheme - Allocations for 2013-2014", 23 July 2013. Viewed at: http://www.customs.gov.au/webdata/resources/files/2013ACNadviceofQuotaallocationinPDF.pdf.

from recently signed RTAs have led to lower tariffs for some developed countries than those granted to around 90 developing economies entitled to benefits from Australia's Generalized System of Preferences (GSP) (Table 3.2).

Table 3.2 Summary analysis of Australian preferential tariffs, 2014

(Number and %)

	Number of preferential lines[a]	Total		WTO agriculture		WTO non-agriculture	
		Average (%)	Dutiable rates (%)	Average (%)	Dutiable rates (%)	Average (%)	Dutiable rates (%)
MFN		**3.0**	**52.4**	**1.4**	**27.0**	**3.3**	**56.4**
Canada (CANATA)	519	2.6	44.9	1.3	24.1	2.8	48.1
Chile (ACIFTA)	2,655	0.6	9.4	0.0	0.5	0.7	10.8
Malaysia (MAFTA)	805	2.8	49.2	1.1	23.6	3.0	53.3
New Zealand (ANZCERTA)	3,242	0.0	0.0	0.0	0.0	0.0	0.0
Papua New Guinea (PATCRA)	3,242	0.0	0.0	0.0	0.0	0.0	0.0
Singapore (SAFTA)	3,242	0.0	0.0	0.0	0.0	0.0	0.0
Thailand (TAFTA)	3,242	0.2	3.7	0.0	0.0	0.2	4.2
United States (AUSFTA)	3,242	0.7	9.5	0.0	0.0	0.8	11.0
SPARTECA[b]	3,242	0.2	0.1	0.0	0.0	0.2	0.1
ASEAN-Australia-New Zealand FTA							
Brunei Darussalam	3,039	0.3	3.4	0.0	0.2	0.3	3.9
Myanmar	3,039	0.3	3.4	0.0	0.2	0.3	3.9
Cambodia	3,039	0.3	3.4	0.0	0.2	0.3	3.9
Lao, PDR	3,039	0.3	3.4	0.0	0.2	0.3	3.9
New Zealand	3,039	0.3	3.4	0.0	0.2	0.3	3.9
Philippines	3,039	0.3	3.4	0.0	0.2	0.3	3.9
Singapore	3,039	0.3	3.4	0.0	0.2	0.3	3.9
Viet Nam	3,039	0.3	3.4	0.0	0.2	0.3	3.9
Indonesia	3,020	0.3	3.8	0.0	0.2	0.4	4.4
Malaysia	3,039	0.3	3.5	0.0	0.2	0.3	4.0
Thailand	3,020	0.3	3.8	0.0	0.2	0.4	4.4
GSP-DC[c]	3,143	0.5	5.4	0.1	0.6	0.5	6.2
GSP-DCS[d]	801	2.8	49.3	1.1	23.6	3.0	53.3
GSP-DCT[e]	182	2.9	49.8	1.3	23.9	3.1	53.8
LDCs	3,242	0.0	0.0	0.0	0.0	0.0	0.0

a The number of preferential lines includes only lines on which the rates are lower than the corresponding MFN applied rate. The 2014 MFN tariff consists of 6,185 tariff lines of which 2,943 lines bear a duty free rate.

b Forum Islands - South Pacific Regional Trade and Economic Cooperation Agreement.

c GSP scheme for 48 developing countries.

d GSP scheme for around 90 developing countries.

e GSP scheme for Chinese Taipei; Hong Kong, China; the Republic of Korea; and Singapore.

Source: WTO Secretariat calculations, based on information provided by the Australian authorities; and Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/webdata/resources/files/SCH1W.pdf.

3.2.2.6 Tariff concessions and other schemes

3.24. Australia has a number of tariff concessions to support local industry. Total revenue forgone through these measures peaked in 2011/12 and then dropped gradually (Table 3.3) primarily due to reduced imports of mining-related capital equipment and the significant strength of the Australian dollar against overseas currencies. This assistance continued to be delivered mainly through the Tariff Concession Scheme (TCS) and the Enhanced Project By-Law Scheme (EPBS) (sections 3.2.2.6.2 and 3.2.2.6.3).

3.25. During the review period, Schedule 4 of the Customs Tariff Act 1995, which lists the range of goods and user categories subject to concessional rates of import duty, was updated by: repealing redundant and rarely used concessions; rewording the concessions in plain English; and consolidating items of similar coverage under specific headings, for ease of use.[24] The number of concessions was reduced from 100 items to 57 and the number of prescribed by-laws from 150 to 74. The new Schedule 4 came into effect on 1 March 2013 with minimal disruption to industry. There are 14 government agencies with policy responsibility for various items. Complexities create burdens on business with costs being passed on to consumers; they may also result in inappropriate use of concessions.

Table 3.3 Duty forgone through tariff concession arrangements, 2006/07-2013/14

($A million)

Industry assistance measure	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14[a]
Tariff Concession Scheme	1,225.0	1,408.8	1,589.1	1,466.5	1,603.1	1,840.6	1,804.2	1,082.0
Tradex	80.1	80.0	68.0	51.2	39.3	41.3	43.8	26.7
Enhanced Project By-Law	53.6	44.5	131.2	132.9	61.1	70.3	88.0	106.7
Cheese and Curd Quota Scheme	13.1	13.0	12.9	12.6	13.6	13.2	13.1	9.6
Textile Clothing and Footwear Policy By-Law	13.7	11.8	11.5	7.3	4.9	4.3	3.4	2.2
Certain Inputs to Manufacture	N/A	N/A	N/A	N/A	0.3	5.2	1.7	2.0
Other concessions	125.7	175.6	154.0	149.1	135.8	143.3	138.8	86.0
Total	**1,511.3**	**1,733.8**	**1,966.6**	**1,819.7**	**1,858.2**	**2,118.3**	**2,093.0**	**1,315.1**

a Year to date January 2014.

Source: Information provided by the Australian authorities.

3.2.2.6.1 Tariff deferral – customs warehouses

3.26. The duty deferral facility allows imported goods to be stored in a Customs licensed warehouse. These goods (referred to as "under bond") are under Customs control until the owner is ready to either export them or enter them for domestic consumption, at which point the customs duty is paid.[25]

3.2.2.6.2 Tariff concessions

3.27. No changes have been made to Australia's TCS policy objectives, legislation and procedures since 2010. The TCS, listed as item 50 of Schedule 4 of the Customs Tariff Act 1995 (section 3.2.2.6), is available for imports for which substitutable goods were not produced in Australia at the time a Tariff Concession Order (TCO) application was lodged.[26] On the other hand, a TCO under the TCS is open to all importers who import goods that fall under the TCO.[27] Products that do not qualify for a TCO include foodstuffs, most textiles and clothing, certain motor vehicles and parts, jewellery, and furniture, as local industry produces these goods. A local manufacturer may object to the granting of a TCO and may request revocation of an existing TCO. A total of 212 TCOs were revoked between 2010 and mid-2014 upon proof that the Australian-made goods concerned could be substituted for imported goods; in 2013/14, the most common types of goods covered by revoked TCOs were steel, aluminium, mining machinery, agricultural chemicals, dinnerware and luggage. At end June 2014 there were 15,010 active TCOs, compared to 13,500 in June 2010.

[24] Australian Customs and Border Protection Service (2013a and 2013b).

[25] Australian Customs Service factsheet, "Customs Warehouses Deferment of Duty", August 2007. Viewed at: http://www.customs.gov.au/webdata/resources/files/fscustomswarehousedeferduty.pdf.

[26] In respect of goods that are the subject of a TCO application or of a TCO, substitutable goods are Australian-made goods that have a use that corresponds with the use (including a design use) of the goods that are the subject of the application or of the TCO (Australian Customs and Border Protection Service factsheet, "Tariff Concession System", February 2010. Viewed at: http://www.customs.gov.au/webdata/resources/files/commer01.pdf).

[27] Australian Customs and Border Protection Service (2013b).

3.2.2.6.3 Other tariff concession schemes

3.28. At present other duty reduction or exemption arrangements include: the Enhanced Project By-Law Scheme (EPBS), clothing and footwear policy by-laws, the Trade and Export Concession Scheme (Tradex) (section 3.3.4.2), the Certain Inputs to Manufacture (CIM) programme (section 3.3.4.4), and the Space Concession Programme.[28]

3.29. The EPBS provides duty free entry for eligible capital equipment and machinery for projects in agriculture, food processing, food packaging, manufacturing, mining, resource processing, gas supply, power supply, and water supply industries. These goods must not be produced in Australia, or the imports need to be more advanced, more efficient or more productive than those made in Australia. Total expenditure on capital goods for eligible projects must be no less than $A 10 million. In addition, an EPBS applicant is required to develop and implement an Australian Industry Participation Plan (AIP), which outlines how the applicant will provide a "full", "fair", and "reasonable" opportunity for Australian industry to participate in the project. In this way, according to the authorities, Australian industry is provided the same opportunities as global suppliers in all aspects of the project, it is treated on an equal and transparent basis, and tenders are not structured in a way that might rule Australian industry out.[29] The authorities indicated that an AIP Plan does not require the use of local suppliers as it is expected that buyers will make purchasing decisions based on value-for-money considerations. Since 1 July 2012, summaries of AIP Plans have been published on-line to increase transparency. Companies receiving over $A 20 million from the Clean Energy Finance Corporation (section 4.3.2) may be required to prepare and report on an AIP Plan as an investment condition. Between 1 July 2013 and 17 April 2014, certain EPBS projects were required to employ an Australian Industry Opportunity Officer (AIOO) to work with Australian industry to gain access to global supply chains.

3.30. Since 2010, approximately 43 EPBS applications have been approved; of these, 22 have subsequently had an AIP Plan Implementation Report approved to access the duty concession.[30] Projects in the mining, manufacturing and resource-processing sectors have been the main users of the EPBS. Between 2010/11 and 2013/14 the total tariff concession benefit from these EPBS amounted to around $A 327.1 million, an average of $A 81.8 million per year (Table 3.3).

3.2.3 Other charges affecting imports

3.31. In addition to fees for cargo handling, customs clearance, and post-clearance compliance activities, imported as well as domestic goods are subject to internal indirect taxes (section 3.4.1.1). Customs fees and charges remain imposed on a cost-recovery basis rather than on import values. Fees and charges relating to quarantine processes were last amended in 2014 and are also imposed on a cost-recovery basis.

3.2.4 Customs valuation and rules of origin

3.2.4.1 Customs valuation

3.32. Goods are valued under six different methods in a sequence established in domestic legislation[31]; the most common is the transaction value method, which is used for around 98% of imports. Australian valuation legislation allows for the inclusion of royalties and commissions in line with requirements under Article 8 of the WTO Agreement on Customs Valuation, and foreign inland freight and foreign inland insurance in the dutiable value of goods; the authorities consider that this practice is permitted under the WTO Agreement. The "production assist costs" provisions (i.e. the definitions of "purchaser's material costs", "purchaser's subsidiary costs", "purchaser's tooling costs", and "purchaser's work costs" in section 154(1) of the Customs Act 1901) have been

[28] For further details on these schemes, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011; and AusIndustry online information. Viewed at: http://www.ausindustry.gov.au/programs/import-export/Pages/default.aspx and http://www.ausindustry.gov.au/programs/manufacturing/Pages/default.aspx.

[29] AusIndustry online information. Viewed at: http://www.ausindustry.gov.au/programs/import-export/epbs/Pages/default.aspx.

[30] Department of Industry (2014b).

[31] These valuation methods are: the transaction value; the identical goods value; the similar goods value; the deductive goods value (consisting of the contemporary sales, later sales, and derived sales methods); the computed goods value; and the fall-back method.

amended to ensure that the legislation is consistent with the WTO Agreement; these amendments were included in the Customs Amendment (Miscellaneous Measures) Act 2012 and entered in force on 31 March 2013. The total understated revenue (under-invoicing) for 2009/10 was $A 128.9 million; more recent data was not made available.

3.33. In April 2013, the Australian Customs and Border Protection Service (Customs) issued an update of its Transfer Pricing Policy Practice Statement.[32] This Statement outlines Customs policies in relation to transfer pricing and provides procedural guidelines for applicants seeking a prospective transfer pricing valuation advice (VA), including advice on how importers can support their transfer pricing valuation advice applications and demonstrate that related party dealings have not influenced the price of imported goods. The authorities indicated that Customs has a valuation advice programme in respect of the valuation of dutiable imports and the Australian Taxation Office has an Advance Pricing Agreement (APA) programme, which allows taxpayers and the Commissioner to prospectively agree on the arm's length prices of goods or services. The information in a transfer pricing study (or APA) may support an importer's application for a VA if it is relevant to the circumstances surrounding the future sale of goods for import. Conversely, the use of a transfer pricing study might not be relevant or adequate in examining the circumstances surrounding a sale in the valuation of dutiable imports.

3.2.4.2 Rules of origin

3.34. Australia's approach to non-preferential rules of origin (ROOs) remains unchanged since its previous Review; however, changes were made to preferential ROOs in its RTAs. The most common rules in these RTAs are those of: wholly-obtained; change in tariff classification (CTC); regional value content (RVC); and the process rule (for chemicals).[33] The ROOs in Australia's RTA with Singapore are based on an RVC measure, while the ROOs in its RTAs with New Zealand, the United States, Thailand, and Chile are essentially based on the CTC methodology, reinforced and enhanced where necessary with RVC and process-rule requirements or options. In Australia's RTA with ASEAN and New Zealand and the RTA with Malaysia, "alternative and co-equal" product-specific rules exist for most tariff lines, offering exporters the choice of a CTC-based rule or an RVC-based equivalent. Around 83% of tariff lines are covered by these "alternative and co-equal" rules, while approximately 11% of lines offer only one option — either a CTC-based or RVC rule. The remaining lines are covered by wholly obtained requirements for agricultural goods and special rules for waste and scrap goods. Other provisions relating to ROOs include final process of manufacture requirements, rules governing consignment, and *de minimis* provisions. The objective of the different types of ROOs is to properly limit preferential rates of duty to goods that either wholly originate in the preference-receiving country, or that have undergone substantial transformation in that country.

3.35. According to a 2014 Productivity Commission report, the most frequent rules for determining origin are now based on a CTC test but there is considerable variability in how such rules are combined with other product-specific/individual rules and how they are applied.[34] The number of product-specific rules of origin in Australia's preferential agreements can be substantial and, moreover, varies between agreements. For example, the number of individual rules varies from a single three-tiered rule in the Singapore-Australia trade agreement to some 5,200 separate rules listed in the Korea-Australia agreement. The range and variable application of rules adds to the compliance costs for firms engaging in trade. Recent studies suggest that the costs associated with these requirements could be as high as 25% of the value of goods traded within ASEAN. It appears that the authorities' views in this area differ from the findings of the Productivity Commission report.

[32] Australian Customs and Border Protection Service, Practice Statement No. B_IND08, "Valuation - Transfer Pricing Policy", 12 April 2013. Viewed at: http://www.customs.gov.au/webdata/resources/files/ACN2013TransferPricingPracticeStatementFINALFINAL.pdf.

[33] For further details on these rules, see WTO document WT/TPR/S/178/Rev.1, 1 May 2007; and Australian Customs and Border Protection Service, "Service Practice Statement", 27 February 2009. Viewed at: http://www.customs.gov.au/webdata/resources/files/PS200913-Rules_Of_Origin.pdf.

[34] Productivity Commission (2014c).

3.2.5 Import prohibitions, restrictions, and licensing

3.36. Import prohibitions or restrictions are applied for various reasons, including public health or safety concerns, animal and plant life, environmental conservation, security, and international commitments. No automatic import licensing requirement is imposed. Non-automatic licensing requirements have been in place to enforce import prohibitions, restrictions, and controls (Table 3.4) with import permits required on an *ad hoc* or defined-period basis. Import prohibitions or stringent quarantine/permit/inspection procedures (section 3.2.7) currently apply to more than 150 agricultural/livestock products (e.g. cereals, fresh fruit, vegetables, meat, poultry products) and other items (e.g. used machinery) considered to have the potential to introduce contamination or disease. Following a commitment by the Commonwealth Government to clamp down on the import of products sourced from illegally-logged timber, the Illegal Logging Prohibition Act 2012, which came into effect on 29 November 2012, treats timber and timber products that have been illegally logged and imported into Australia as a prohibited import.[35] Since 2011 Australia has submitted to the WTO its Replies to the Questionnaire on Import Licensing Procedures on an annual basis; its latest submission was in October 2013.[36] It also submitted a first-time notification on restrictions in force as of 16 October 2012 pursuant to the Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1).[37]

Table 3.4 Prohibited and restricted imports, 2014

Goods	Reason	Policy agency/permit-issuing agency
Prohibited		
Diamonds (from Côte d'Ivoire)	International commitment	n.a.
Dogs (dangerous breeds, and related advertising matter)	Public health or safety concerns	n.a.
Living tissues and cells (viable material) derived from human embryo clones[a]	Public health or safety concerns	n.a.
Suicide devices	Community protection	n.a.
Restricted		
Anabolic and androgenic substances	Public health or safety concerns	Office of Chemical Safety
Antibiotics	Public health or safety concerns	Office of Chemical Safety
ANZAC and related advertising materials	National symbol	Department for Veterans' Affairs
Asbestos	Public health or safety concerns	Safety, Rehabilitation, and Compensation Commission; Seafarers Safety, Rehabilitation, and Compensation Authority; state/territory Workcover Authority; Department of Employment
Australian flag and coats of arms	National symbol	Department of Prime Minister and Cabinet; Australian Customs and Border Protection Service
Cat and dog fur products	Animal welfare	Australian Customs and Border Protection Service
Ceramic ware (glazed)	Public health or safety concerns	No import permit required; testing certificate required[b]
Cetaceans (whales, dolphins, and porpoises)	Environmental conservation	Department of the Environment
Chemical weapons	International commitment (Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and their Destruction (CWC))	Australian Safeguards and Non-Proliferation Office
Chewing tobacco and oral snuff	Public health or safety concerns	No import permit required; written permission required[c]

[35] Australian Customs and Border Protection Service (2013a).
[36] WTO document G/LIC/N/3/AUS/6, 18 December 2013.
[37] WTO document G/MA/QR/N/AUS/1, 30 October 2012.

Goods	Reason	Policy agency/permit-issuing agency
Cigarettes lighters	Public health or safety concerns	No import permit required; certificate of compliance or written permission required[d]
Cosmetics (toxic materials)	Public health or safety concerns	Australian Customs and Border Protection Service
Credit cards (counterfeit)	Community protection	Australian Customs and Border Protection Service
Crowd control equipment	Community protection	Australian Customs and Border Protection Service
Cultural heritage goods (general)	Cultural heritage	No import permit required; export permit from the relevant authority in the exporting country required
Cultural heritage goods from Papua New Guinea (PNG)	International commitments	No import permit required; export permit from the Trustees of the PNG Public Museum and Art Gallery required
Diamonds (Kimberley Process)	International commitments	Kimberly Process certificate issued by the relevant authority in the exporting country
Dog collars (protrusion)	Animal welfare	Australian Customs and Border Protection Service
Drugs and narcotics (listed in Schedule 4 of the Customs (Prohibited Imports) Regulations)	Public health or safety concerns, International commitments (Single Convention on Narcotic Drugs 1961, the Convention on Psychotropic Substances 1971, and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988)	Office of Chemical Safety
Endangered animal and plant species	International commitment (Convention on International Trade in Endangered Species (CITES))	Department of the Environment
Erasers	Public health or safety concerns	Australian Customs and Border Protection Service
Explosives, plastic	Community protection	Attorney-General's Department
Firearms and ammunition	Community protection	Australian Customs and Border Protection Service
Fish/toothfish	Environmental conservation	Australian Fisheries Management Authority
Fly swatters/mosquito bats (electronic)	Public health or safety concerns	Australian Competition and Consumer Commission
Growth hormones and substances of human or animal origin	Public health or safety concerns	Therapeutic Goods Administration
Hazardous waste	International commitments (Basel Convention, OECD Council Decision C(92)39)	Department of the Environment
Hydroflurocarbons (HFCs)	Environmental conservation	Department of the Environment
Incandescent lamps	Energy saving	Department of Industry
Kava	Public health or safety concerns	Office of Chemical Safety
Knives and daggers	Community protection	Written Police Certification or written permission[e]
Laser pointers	Community protection	Australian Customs and Border Protection Service
Money boxes (toxic material)	Public health or safety concerns	Australian Customs and Border Protection Service
Ozone-depleting substances/synthetic greenhouse gases	Environmental conservation/international commitment (Ozone Protection and Synthetic Greenhouse Gas Management Act 1989)	Department of the Environment

Goods	Reason	Policy agency / permit-issuing agency
Pencils and paintbrushes (toxic materials)	Public health or safety concerns	Australian Customs and Border Protection Service
Pesticides and other hazardous chemicals	Public health or safety concerns	Department of Agriculture
Polychlorinated biphenyls, terphenyls, and polyphenyls	Public health or safety concerns	Australian Customs and Border Protection Service
Pornography and other objectionable material	Community protection	Australian Classification
Radioactive substances	Community protection/international commitments	Australian Radiation Protection and Nuclear Safety Agency
Security-sensitive ammonium nitrate	Public health or safety concerns	Relevant state/territory regulator
Tablet presses	Public health or safety concerns	Australian Customs and Border Protection Service
Therapeutic drugs and substances	Public health or safety concerns	Therapeutic Goods Administration
Tobacco (unmanufactured leaf)	Domestic regulation	Australian Taxation Office
Toys (toxic material)	Public health and safety concerns	Australian Customs and Border Protection Service
Trade Practices Act goods	Domestic regulation	Australian Competition and Consumer Commission
Weapons	Community protection	Australian Customs and Border Protection Service
Woolpacks and woolpack caps	Domestic regulation	Department of Agriculture

n.a. Not applicable.

a This prohibition applies unless the Minister or an authorised person has granted permission in writing. To-date, there have been no applications to import these items. In the event of an application, a submission will be prepared for the Minister's consideration.
b Testing certificate from the Australian Government National Measurement Institute or a testing agency approved by the National Association of Testing Authorities Australia.
c Written permission from the Minister of Competition Policy and Consumer Affairs.
d Certificate of compliance from the supplier or a recognised overseas testing laboratory; or a written permission from the Minister of Competition Policy and Consumer Affairs.
e Daggers require written Police Certification from the relevant Police Firearms Registry. Other knives require written permission from the Minister for Immigration and Border Protection.

Source: Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/site/page4369.asp.

3.37. The 2009 Post Import Permission Scheme (last amended in 2011) gives Customs the discretion to grant post import permission for certain classes of controlled goods including specific drugs, chemicals, consumer items, firearms and knives, asbestos products, and items bearing Australian national symbols. If the permission is not sought or it is not granted within 30 days of application, then Customs may seize the goods in question.[38] The system gives Customs flexibility to deal with importers who were genuinely unaware of the need for, or unable to obtain, import permission prior to importation.

3.2.6 Contingency measures

3.2.6.1 Anti-dumping and countervailing measures

3.38. During the review period, changes have been made to the legislative, institutional and procedural framework on anti-dumping and countervailing measures under the Streamlining the Anti-Dumping System Policy announced on 22 June 2011. This represents the most significant reform to Australia's anti-dumping regime in more than a decade.[39] Its purpose is to strengthen the anti-dumping system by: improving access; increasing consistency with other anti-dumping

[38] Australian Customs Service Notice No. 2009/03, "Introduction of the Post Import Permission Scheme", 16 January 2009. Viewed at: http://www.customs.gov.au/webdata/resources/notices/acn0903.pdf.
[39] Australian Customs and Border Protection Service (2011); and Australian Industry Group online information. Viewed at: http://www.aigroup.com.au/traderemedies/anti-dumping.

administrations; improving the efficiency and effectiveness of the system; and enhancing compliance mechanisms. The Streamlining Policy took into account the recommendations of a 2009 Productivity Commission report, and involved implementing a number of elements such as: the establishment of an International Trade Remedies Forum; the establishment of an International Trade Remedies Advisor for SMEs; increasing staffing of the International Trade Remedies Branch; increased compliance activity; greater transparency; and legislative amendment.[40] The first tranche of legislation implementing these reforms came into effect in late 2011, while further legislative amendments to finalise this set of reforms took effect in mid-2013.[41] Legislation to implement the second to fourth tranches of measures from Streamlining Policy came into effect in June 2013.[42] Following a further review into the arrangements for assessing and investigating anti-dumping matters (tranche five), a new Anti-Dumping Commission to administer Australia's anti-dumping system was established on 1 July 2013 within the Australian Customs and Border Protection Service[43]; further legislation, which entered into force on 27 March 2014, transferred the Commission to the Department of Industry.[44] In January 2014, the sixth tranche of legislative reforms entered into force and included: the removal, in certain circumstances, of the need for the Minister to consider the lesser-duty rule; clarification on the application of retrospective duties provisions; and the introduction of a new type of anti-circumvention inquiry to address "sales at a loss" cases.[45]

3.39. Anti-dumping and countervailing measures continue to be subject to a five-year sunset clause, but their duration may be extended. Investigations are now conducted by the Commission (previously by Customs) and parties may seek review of a range of anti-dumping decisions. In light of the unique convergence in business practices and bilateral application of competition legislation between Australia and New Zealand, imports from New Zealand covered by the ANZCERTA remain excluded from anti-dumping actions and are dealt with under competition laws[46]; competition legislation has never been resorted to in this regard.

3.40. With 267 cases (217 in 2010) initiated between 1995 and 2013, Australia was one of the world's major users of anti-dumping measures (fourth in 2013).[47] Between 2010 and end-2013, Australia initiated 57 anti-dumping investigations. As of 30 June 2014, 40 anti-dumping measures in the form of duties were in force on 21 products, mainly several types of steel items (13 cases), pineapples (4 cases), and polyvinyl chloride (3 cases).[48] Ten of these measures were extensions of existing measures beyond their five-year sunset period. Action affected mostly products originating in Asia (33, mainly China (11), and Korea (Rep. of) (7)), but also the United States (3) and the European Union (3).

3.41. Between 2010 and 2013, Australia initiated six countervailing investigations.[49] As of 30 June 2014 seven definitive countervailing duties were levied on aluminium extrusions,

[40] The Productivity Commission's concerns with the system focussed on: the lack of consideration of wider impacts; maintaining the currency of measures; extensions of measures; appeal arrangements; alignment of the subsidies provisions with the Subsidies and Countervailing Agreement; and transparency in the decision-making process and outcomes (WTO document WT/TPR/S/244/Rev.1, 18 May 2011).

[41] Anti-Dumping Commission online information. Viewed at: http://www.adcommission.gov.au/aboutus/news.asp.

[42] Anti-Dumping Commission online information. Viewed at: http://www.adcommission.gov.au/aboutus/news.asp.

[43] Australian Customs and Border Protection Service (2013a).

[44] Anti-Dumping Commission, Anti-Dumping Notice No. 2014/24, 27 March 2014. http://www.adcommission.gov.au/notices-reports/acdn/documents/ADN2014-24-TransferoftheAnti-DumpingCommissiontotheDepartmentofIndustry_000.pdf.

[45] Anti-Dumping Commission, Anti-Dumping Notice No. 2013/108, 20 December 2013. Viewed at: http://www.adcommission.gov.au/notices-reports/acdn/documents/131220-ADN2013-108-UpdatestoAnti-DumpingSystem-January2014.pdf.

[46] Under the ANZCERTA, both countries have precluded anti-dumping action against goods that are the produce or manufacture of the other. However, actions may be taken in cases of alleged dumping by a third country whose exports were dumped into Australia or New Zealand and are causing or threatening to cause material injury to industry.

[47] WTO online information. Viewed at: http://www.wto.org/english/tratop_e/adp_e/adp.e.htm.

[48] WTO documents G/ADP/N/244/AUS, 18 September 2013; G/ADP/N/252/AUS, 17 March 2014; and, G/ADP/N/259/AUS, 1 September 2014.

[49] WTO online information. Viewed at: http://www.wto.org/english/tratop_e/scm_e.htm; and WTO documents G/SCM/N/259/AUS, 18 September 2013; and G/SCM/N/267/AUS, 27 March 2014.

aluminium road wheels, hollow structural sections, aluminium zinc coated steel, zinc coated steel, and hot rolled plate steel from China, as well as biodiesel from the United States.[50]

3.2.6.2 Safeguards

3.42. Australia has no specific legislation for the imposition of safeguard measures and there has been no development in this regard during the review period.[51] The Productivity Commission remains the investigating authority. Following consideration by the Commowealth Government, the Treasurer may refer matters to the Productivity Commission for inquiry. Australia notified the WTO's Committee on Safeguards that it initiated two separate safeguard investigations on processed fruit (citrus, pears, apricots, peaches and mixtures) and canned tomatoes in June and July 2013 respectively; by December 2013 the investigations had been terminated without the adoption of any measures following the Productivity Commission's findings that safeguard measures were not justified.[52]

3.43. RTAs (such as, for example, the Thailand-Australia Free Trade Agreement) may have additional safeguard processes covering preferential trade where the injury caused by increased imports is due to the tariff reductions under the particular RTA; these "transitional safeguards" or "bilateral safeguards" are not global safeguards.[53] The process for invoking these safeguards is essentially the same as for WTO safeguards; no safeguards of this type were used during the review period. No global safeguard measures apply to products originating from Singapore, New Zealand, Thailand, and the United States or from developing country WTO Members, provided certain conditions are met.[54]

3.2.7 Standards and other technical requirements

3.2.7.1 Standards, testing, and certification

3.44. Under the Commonwealth system, the authority to develop, enact, and enforce technical regulations (mandatory standards) is shared between the Commonwealth (the Australian Central Government) and the constituent state and territory governments.[55] A 1992 Commonwealth/State Agreement on Mutual Recognition allows a product that is in conformity with requirements of at least one State or Territory (i.e. legally saleable) to be sold throughout Australia.[56] The Australian Competition and Consumer Commission (ACCC) is the agency responsible for consumer product safety policy development for Australia; the state and territory agencies, with the ACCC, have been responsible for the enforcement of those mandatory product safety regulations (section 3.2.7.1.1).

3.45. The institutional framework for standards and conformity assessment remains unchanged. It consists of four main bodies: Standards Australia, a not-for-profit company encompassing 75 of Australia's leading industry, government and consumer organisations is responsible for the formulation of standards; the National Association of Testing Authorities (NATA), and the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) (section 3.2.7.1.3), the two main accreditation bodies[57]; and the National Measurement Institute (NMI), the government body responsible for physical, chemical, and biological measurement and metrology. The current five-year long Memoranda of Understanding (MOU) between Commonwealth Government (Department of Innovation, Industry, Science and Research (DIISR)) with Standards Australia and

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[50] WTO document G/SCM/N/274/AUS, 1 September 2014.

[51] Procedures for safeguard investigations are contained in *Gazette* No. S297, 25 June 1998. Also see WTO documents G/SG/N/1/AUS/2, 2 July 1998; and G/SG/N/1/AUS/2/Suppl.1, 16 December 2005.

[52] WTO documents: G/SG/N/6/AUS/3, 28 June 2013; G/SG/N/6/AUS/4, 3 July 2013; and, G/SG/N/9/AUS/3 and G/SG/N/9/AUS/4, 6 January 2014.

[53] Department of Foreign Affairs and Trade online information. Viewed at: http://www.dfat.gov.au/trade/negotiations/trade_remedies.html. For further details on TAFTA safeguards, see WTO document WT/TPR/S/178/Rev.1, 1 May 2007.

[54] For further details, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[55] For more information, see WTO documents G/TBT/2/Add.8/Rev.1, 29 May 2001; and WT/TPR/S/244/Rev.1, 18 May 2011.

[56] Commonwealth Mutual Recognition Act 1992.Viewed at: http://www.comlaw.gov.au/Details/C2013C00485.

[57] The Department of Agriculture, Fisheries and Forestry (DAFF) provides inspection and certification services for food imports.

NATA, largely the continuation of the previous MOUs, were signed on 17 and 21 May 2013 respectively.[58] The MOU with Standards Australia still requires the development of new or amended standards and setting of priorities to be transparent and well-founded, and ensuring the primary decision criterion is of net benefit to the community as a whole.[59] The authorities also indicated that the MOU stipulates that no Australian standard may contravene WTO requirements, national standards should not be used as non-tariff barriers, and no new Australian standard can be developed where an acceptable international standard already exists. The Accreditation Board for Standards Development Organisations (ABSDO) accredits other standards development organizations to make Australian standards; six organizations other than Standards Australia are now accredited to establish Australian standards.[60]

3.2.7.1.1 Voluntary and mandatory standards

3.46. Voluntary standards are often made mandatory (or regulatory) by reference in technical regulations. By 30 June 2014, Standards Australia had published 6,888 standards (6,953 in November 2010)[61], of which approximately one-third (the same as in 2010) have become mandatory; 35% (as in 2010) of Standards Australia's catalogue are joint Australian/New Zealand standards.

3.47. Since 1 January 2011, only the Commonwealth Government has had the power to introduce mandatory product safety standards and information standards. At November 2014, mandatory product safety standards (including some on labelling) affected 42 consumer items, and 22 unsafe goods were banned. These requirements, whose coverage remains virtually unchanged, apply to the entire Commonwealth territory upon imposition decided by the Commonwealth Minister.[62]

3.48. The ACCC conducts regular product safety surveillance activities to monitor compliance levels with all mandatory standards and bans, and to remedy identified breaches. Since July 2010 it has undertaken surveillance operations for 51 of the mandatory standards and bans. Surveillance activities on over 800,000 products across the standards and bans were undertaken to identify and remove non-compliant products from the marketplace. These activities included the commissioning of independent laboratory testing of products against construction and performance requirements contained in the mandatory standards. Since July 2010, the ACCC, together with state and territory counterparts, has removed over 200,000 products from sale for breaches of, or suspected non-compliance with, mandatory standards and bans. Non-compliance ranged from very low technical breaches to serious breaches involving significant hazards to consumers. Surveillance actions resulted in a range of remedial measures (including product recall, withdrawal from sale, product modification, re-labelling, etc.) or enforcement measures (prosecutions, injunctions, court orders, enforceable undertakings, and administrative actions).

3.2.7.1.2 National, international, and aligned standards

3.49. Australia's policy remains that standards should be compatible with relevant international or internationally-accepted standards or practices, with a view to minimizing impediments to trade. In particular, mandatory standards should be consistent with Australia's international obligations. However, in the absence of a suitable international standard, national standards are developed, with transparency and consensus being two key requirements. At 30 June 2014, 38% of national standards were identical or slightly modified adoptions of international standards (the same as at

[58] Department of Industry online information. Viewed at: http://www.innovation.gov.au/INDUSTRY/TRADEPOLICIES/TECHNICALBARRIERSTOTRADE/Pages/StandardsandConformance.aspx.

[59] Net benefit takes into account the costs and benefits related to: public health and safety; social and community impact; environmental impact; competition; and economic impact (Standards Australia online information. Viewed at: http://www.standards.org.au/StandardsDevelopment/What_is_a_Standard/Pages/Net-Benefit.aspx).

[60] ABSDO online information. Viewed at: http://www.absdo.org.au/Home.aspx and http://www.absdo.org.au/CaseStudies.aspx.

[61] This reduction of published standards is due to the list's clean-up of old standards that takes place every five years.

[62] For the full list of products covered by bans and mandatory general consumer product safety standards requirements, see ACCC online information. Viewed at: http://www.productsafety.gov.au/content/index.phtml/itemId/970715 and http://www.productsafety.gov.au/content/index.phtml/itemId/970773.

end-November 2010); however, it is estimated that 97% (the same as in 2010) of applied standards are identical or modified adoptions where an international standard exists. International equivalence remains high in, *inter alia*, electronic and IT products. In December 2014, 71% of motor vehicle safety, anti-theft and emission standards were aligned with the United Nations (UN) 1958 Agreement on technical standards for automotive and parts regulations; a further 13% were modified for adoption, while 16%, comprising 10 standards, were not aligned. The majority of standards that were not aligned relate to heavy vehicles and/or topics not covered by UN regulations. In addition, 29 UN regulations have previously been formally applied under the 1958 Agreement. In 2014, another 2 UN regulations were applied as part of an accelerated process to harmonise with UN regulations, with 15 more UN regulations expected to be applied in 2015.

3.2.7.1.3 Accreditation and quality management standards

3.50. In July 2014, there were 3,300 (2,961 in November 2010) NATA-accredited laboratories and facilities.[63] At the same time there were 53 (45 in 2010) certification bodies accredited by JAS-ANZ to issue certificates in Australia in line with international and national standards, such as the ISO 9001, ISO 14001, AS/NZS 4801 and ISO 22000, and HACCP (Hazard Assessment Critical Control Point) food safety standards. The use of quality management system standards such as ISO 9001 and ISO 14001 has been increasing: between 2010 and 2014, the number of Australian companies with ISO 9001 certification increased from 9,312 to 10,890; and companies certified to ISO 14001 increased from 1,629 to 3,129.

3.2.7.1.4 International cooperation

3.51. Since its last Review, Australia has not signed any new mutual recognition agreements (MRAs), which contribute to trade facilitation. In addition to the non-treaty 1996 Trans-Tasman Mutual Recognition Agreement (in force since May 1998) and the Mutual Recognition Arrangement for Measurement Standards of the International Committee for Weights and Measures (CIPM MRA) (October 1999), it maintains treaty-status MRAs on Conformity Assessment with the European Union (1998), the European Free Trade Association (EFTA) (2000), Singapore (2001), and Canada (2006), as well as a voluntary MRA with Thailand (2000).[64] An Amending Agreement to the EU-Australia MRA was signed on 23 February 2012 and came into force on 1 January 2013. It simplifies the existing MRA's administrative arrangements, introduces greater flexibility into the Agreement, removes the rule-of-origin restriction from all but two of the Sectoral Annexes, and allows the Joint Committee administering the Agreement to amend the Sectoral Annexes in a timelier manner in response to regulatory and industry developments.[65] In the context of APEC, Australia is a party to the MRAs on Conformity Assessment of Telecommunications Equipment (1999), Conformity Assessment of Electrical and Electronic Equipment (1999) and Conformity Assessment of Foods and Food Products (1997). NATA and JAS-ANZ have developed an extensive network of multilateral/mutual agreements (MLAs/MRAs) through international and regional fora; NATA through the International Laboratory Accreditation Cooperation (ILAC) and the Asia-Pacific Laboratory Accreditation Cooperation (APLAC), and JAS-ANZ through the International Accreditation Forum (IAF) and the Pacific Accreditation Cooperation (PAC)).

3.52. In the area of legal metrology, as well as the CIPM MRA, NMI is helping to establish mutual confidence within the global legal metrology environment by participating in the OIML Mutual Acceptance Agreement (MAA) for pattern approval of measuring instruments. In addition, Australia has bilateral MRAs on type approval test reports with equivalent bodies in the Netherlands, New Zealand, and the United Kingdom. The MRA between Australia and New Zealand was re-issued in February 2012 in the form of a cooperative arrangement rather than an MRA, and now covers trade measurement functions, training and information sharing as well as acceptance of pattern approval reports.

[63] For more information on NATA accreditation, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[64] For more information on MRAs in force, see DIISR online information. Viewed at: http://www.innovation.gov.au/Industry/TradePolicies/MRA/Pages/default.aspx.

[65] Amending Agreement http://www.info.dfat.gov.au/Info/Treaties/treaties.nsf/AllDocIDs/259539D4D22A26BFCA257990000AAE15.

3.2.7.1.5 Transparency

3.53. Notices of technical regulations are generally published in the Commonwealth of Australia *Gazette* as well as on the websites of bodies such as the Food Standards Australia New Zealand (FSANZ). Additionally, standards and conformity assessment procedures are notified widely by e-mail alerts, in national newspapers, in-house journals and other relevant Commonwealth, state, and territory government publications. Notices on voluntary standards are also published in the journal of Standards Australia, *The Australian Standard*, while information on conformity assessment procedures is published in the quarterly NATA newsletter, *NATA News*.

3.54. Between 2010 and 2013, Australia made 31 notifications under the WTO Agreement on Technical Barriers to Trade; the majority being under Article 2.9 of the Agreement (29). In more than half of these cases (24) the submission allowed for a comment period of 60 days or more, while in six cases the period was less than this (45-59 days) and in one case it was less than 45 days.[66] During the review period, TBT-related specific trade concerns involved Australia's plain packaging measure, and its response to the 2010 Independent Review of the Water Efficiency Labelling and Standards (WELS) scheme consultation paper (raised by Korea, Rep. of.).[67]

3.2.7.2 Sanitary and phytosanitary regulations

3.55. Australia, a major exporter of agricultural commodities and agri-food products, has maintained its generally strict sanitary and phytosanitary (SPS) regime, which the authorities consider proportionate and matching their relevant appropriate level of protection (ALOP, section 3.2.7.2.3). The authorities maintain that SPS measures are based on science and aim to reduce the risk of exotic pests and diseases to a very low level acceptable to Australia (but not zero).[68] During the review period, there have been no complaints related to Australia's SPS regime at the WTO; in the past Australia had been criticized by certain trading partners on the grounds that it was unduly stringent and therefore protectionist.[69] Although the role of the Eminent Scientists Group (ESG) (a high-level review group tasked with providing external scientific and economic scrutiny of significant import risk analyses) was strengthened in the past so far no unified analytical framework has been used to assess the costs and benefits of SPS measures for stakeholders along the supply chain, such as domestic consumers, producers and governments, or foreign suppliers or, where relevant, foreign consumers and governments.[70] Trade effects are part of the assessment but are not its sole focus. The authorities consider that the WTO SPS Agreement provisions do not require such analysis, and that the only direction as to relevant economic consequences to be taken into account in a risk assessment is found in Article 5.3 of the Agreement.[71] Australia's import risk assessments (section 3.2.3.2.3) address the issue of economic consequences for relevant stakeholders.

3.2.7.2.1 Food standards-setting

3.56. Since its previous Review, Australia has maintained many quarantine controls and food standards that are stricter than relevant standards promulgated by international bodies (e.g. CODEX Alimentarius Commission). FSANZ[72], a bi-national independent statutory authority, develops food standards and, if appropriate, joint codes of practice with industry, covering the content and labelling of food sold in Australia and New Zealand (section 3.2.7.3). FSANZ is required to take account of international standards, including those set by Codex, when developing

[66] WTO documents G/TBT/29, 8 March 2011; G/TBT/31, 2 March 2012; G/TBT/33, 27 February 2013; and G/TBT/34, 7 March 2014.

[67] WTO documents WT/TPR/OV/15, 29 November 2012; and WT/TPR/OV/16, 31 January 2014

[68] Department of Agriculture, Fisheries and Forestry online information. Viewed at: http://www.daff.gov.au/market-access-trade/sps. See also WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[69] At end-December 2009, 4 out of 15 WTO panels established to examine SPS-related dispute cases were on complaints against Australia (WTO documents G/SPS/53, 3 May 2010; WT/TPR/S/244/Rev.1, 18 May 2011; and G/SPS/W/273, 12 December 2013; and WTO online information. Viewed at: http://www.wto.org/english/tratop_e/dispu_e/dispu_agreements_index_e.htm?id=A19#selected_agreement).

[70] For more information, see also WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[71] In addition to Article 5.3, Article 5.6 of the SPS Agreement states that in establishing SPS measures to achieve the ALOP, Members shall ensure that the measures are not more trade-restrictive than required.

[72] Food Standards Australia New Zealand online information. Viewed at: http://www.foodstandards.gov.au/Pages/default.aspx.

standards. Where FSANZ has developed standards not based on international standards, it has notified the WTO through the appropriate mechanisms. All domestic and imported food products marketed in Australia must comply with relevant food standards as regulated in the Australia New Zealand Food Standards Code (the Code). From 1 July 2011 to 30 June 2014, variations to the Code arising from 52 applications and proposals were gazetted and registered as legislative instruments on the Federal Register of Legislative Instruments. Maximum residue limits (MRLs) for a number of agricultural and veterinary chemicals were revised on several occasions during the review period. Between 2010 and September 2014, Australia submitted 42 notifications concerning MRLs.

3.57. The Code also regulates food derived from Genetically Modified (GM) plants, animals or micro-organisms, as well as the labelling of GM foods. Imported foods using biotechnology may be sold in Australia only after assessment and approval by FSANZ. As at 1 July 2014, FSANZ had completed assessments of 63 (45 in November 2010) commodities produced from gene technology. A further four were withdrawn by the applicants before FSANZ completed the assessment process; by July 2014 it was assessing the safety of food from one GM commodity.[73] FSANZ has also assessed and approved numerous enzymes sourced from GM micro-organisms. Imports of live and viable genetically modified organisms (GMOs) require authorization under the Gene Technology Act 2000, which regulates particular dealings with GMOs in addition to permissions for use in food. All dealings involving release (DIR) of a GMO into the environment must be licensed by the Gene Technology Regulator, an independent statutory office-holder, unless otherwise authorized under the Act. All licence applications are subject to case-by-case scientific risk assessment and risk management. As at 30 June 2014, seventeen accredited organizations held the 54 DIR licences in force, of which 9 were for commercial release of GMOs (cotton, canola and a vaccine), 3 for vaccine trials, and 42 for limited and controlled trials of GM crop varieties.[74]

3.2.7.2.2 Biosecurity

3.58. During the review period, Australia pursued reforms towards developing a modern and responsive system that facilitates trade while managing biosecurity risks offshore, at the border and onshore in line with the recommendations of a 2008 independent review.[75] An Intergovernmental Agreement on Biosecurity aimed at helping avoid unnecessary duplication and improve the efficiency of resource-use across jurisdictions, was signed by the Prime Minister and all state and territory First Ministers — excluding Tasmania — in January 2012.[76] The Department of Agriculture worked with state and territory departments and research organisations to establish a national capacity for biosecurity benefit–cost analysis to support decision-making in managing incursions of pests and diseases. New legislation was prepared to replace the more than century-old Quarantine Act 1908 and ensure the transition from non-risk-based rigid intervention targets to a flexible risk-return approach. The Biosecurity Bill 2012 and Inspector-General of Biosecurity Bill 2012 were introduced into Parliament on 28 November 2012 but as The House of Representatives was dissolved on 5 August 2013, the Bills lapsed; they were also notified to the WTO Committee on Sanitary and Phytosanitary Measures in July 2012 and Australia provided responses to the questions raised by Members.[77] On 7 July 2014 the Minister for Agriculture announced plans to progress with a Biosecurity Bill 2014, introduced to Parliament on 27 November 2014 and notified to the WTO.[78] The objective of the Bill is to simplify and streamline biosecurity laws whilst still ensuring the high standard of protection of Australia's human, environmental and animal health expected by the community. Subject to the passing of the Biosecurity Bill a repeal of the Quarantine Act of 1908 would not affect the validity of existing import risk analyses (IRAs) (section 3.7.2.3), nor would it require a biosecurity impact risk Analysis to be completed where an Import Risk Analysis already exists. Import permits issued under the Quarantine Act would remain valid for the duration of the permit. An amount of

[73] Food Standards Australia New Zealand online information. Viewed at: http://www.foodstandards.gov.au/consumer/gmfood/applications/Pages/default.aspx.

[74] Department of Health/Office of the Gene Technology Regulator (2013).

[75] Department of Agriculture, Fisheries and Forestry (2012); Department of Agriculture online information. Viewed at: http://www.daff.gov.au/bsg/biosecurity-reform/new-biosecurity-legislation; and WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[76] OECD (2013a).

[77] WTO documents G/SPS/N/AUS/298, 7 July 2012; G/SPS/GEN/1213, 23 January 2013; G/SPS/N/AUS/319, 28 May 2013; and G/SPS/R/71, 28 August 2013.

[78] WTO document G/SPS/N/AUS/298/Add.4, 2 December 2014.

$A 20 million is to be delivered over four years, starting in 2014/15, to strengthen biosecurity and quarantine arrangements.[79]

3.2.7.2.3 Import risk analyses (IRAs)

3.59. During the review period, Australia conducted science-based risk assessments, including IRAs, under a regulated process involving a specified timeframe for completion of an assessment (within either 24 months or 30 months). It also developed recommendations on import conditions that would meet Australia's ALOP.[80] Plant and animal IRAs under the regulated process completed during the review period 2011-15, included de-crowned pineapples from Malaysia, ginger from Fiji and table grapes from China. Assessing risk may also take the form of a non-regulated analysis of existing import policy. Between 2011 and August 2014, a number of non-regulated risk analyses were undertaken, including: freshwater ornamental finfish, island cabbage leaves from the Cook Islands, Fiji, Samoa, Tonga, and Vanuatu, mangoes from Pakistan, apples from New Zealand, zoo perissodactyls (including zebras, rhinoceroses and tapirs), transmissible spongiform encephalopathies through veterinary vaccines and other *in vivo* veterinary products, commercial rabbits from certain member states of the EU, queen honey bees from approved countries, lychees from Chinese Taipei and Viet Nam, table grapes from China and Korea (Rep. of), mangoes from India, taro corms from all countries, mangosteens from Indonesia, Californian table grapes to Western Australia, Lilium spp. cut flowers from Chinese Taipei, published tests to detect pathogens in veterinary vaccines, horses, laboratory mouse embryos, from all countries, zoo elephants, dogs and cats from approved countries, and bluetongue virus risks. Regulated risk analyses, non-regulated risk analyses and reviews of existing policy released as drafts but not yet finalised between 2011 and August 2014, include: potatoes for processing from New Zealand; table grapes from Japan; salacca (snakefruit) from Indonesia; apples from the United States ("stop the clock" mechanism invoked); beef and beef products for human consumption ("stop the clock" mechanism invoked); hatching eggs of domestic hens and turkeys – avian paramyxovirus 2 and 3, ornamental finfish; and review of gamma irradiation as a treatment to address pathogens of animal biosecurity concern.

3.60. During the review period, the Department of Agriculture revised health certification requirements for goldfish and import conditions for ruminant genetic material from Europe to better manage the risk of various viruses. Numerous reviews of plant and timber products reduced intervention on low-risk commodities and some highly processed products by, *inter alia*, removing the need for an import permit. According to a trading partner Australia's ongoing process to align its bovine spongiform encephalopathy (BSE) import conditions with the relevant World Organization for Animal Health (OIE) standards was delayed; by January 2014 Australia had not provided any scientific justification for the delay in finalizing its risk assessment.[81] The authorities indicated that the Australian BSE food safety policy requires all countries exporting, or seeking to export, beef or beef products to Australia to have a food safety risk assessment undertaken by FSANZ.[82] FSANZ has assessed eight countries and assessments of another four countries are in progress.

3.61. Australia is currently undertaking an examination of its IRA to minimize the risk of exotic pests and disease incursions. The examination will consider transparency and consultation during the IRA process, the use of external scientific and economic expertise and consideration of regional differences in animal or plant health status during the IRA process. The examination was notified to the SPS Committee in July 2014, and trading partners were invited to comment.[83]

3.2.7.2.4 Quarantine

3.62. Due to differences in the status of animal and plant health across Australia, different quarantine measures may be imposed within the country. The quarantine system is regulated by

[79] Commonwealth of Australia (2014b).

[80] For more information on Australia's procedures, see Department of Agriculture, Fisheries and Forestry (2012 and 2013); and WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[81] WTO document G/SPS/R/73, 15 January 2014.

[82] The FSANZ risk assessment consists of a desk assessment and an in-country verification assessment. It examines the effectiveness of BSE-related controls throughout the beef production chain in the applicant country including animal feeding practices, transportation, animal identification and traceability, slaughtering, and food safety and food recall systems.

[83] WTO document G/SPS/N/AUS/341, 15 July 2014.

Commonwealth, state and territory laws[84]; it applies to all humans, plants, animals, and associated products, including food products. Quarantine activities are pre-border, border, and post-border. The Department of Agriculture (replacing the Australian Quarantine and Inspection Service (AQIS))[85] is responsible for administering quarantine legislation on behalf of the Commonwealth; its quarantine functions include issuing import permits, inspections, directions for treatment, and clearances. The Department of Health (previously Department of Health and Ageing (DoHA)) performs risk assessments on all biological materials that are of human quarantine concern, and provides advice to the Department of Agriculture before an import permit is issued.

3.63. Food entering Australia is subject to the Imported Food Control Act 1992 and the Imported Food Control Regulations 1993. Imported food is inspected and controlled at the border under the risk-based Imported Food Inspection Scheme, which is administered by the Department of Agriculture.[86] FSANZ provides advice on foods that pose a medium to high risk, and the Department of Agriculture then uses this to determine risk management measures for imported foods. A review of advice provided on imported risk foods is currently underway and is due for completion in late 2015.

3.64. Since March 2010, Australia has implemented a new policy for beef imports allowing all countries, including those which have experienced cases of BSE, to apply to export beef to Australia.[87] Canada, the United States, Japan, and the Netherlands have all applied to the Department of Agriculture. The IRAs for beef from the first three were put on hold as a result of the Department of Agriculture invoking the "stop the clock" provision of the Quarantine Regulations 2000.[88] At present, only fresh beef from New Zealand and Vanuatu may be exported to Australia. These countries are also permitted to export heat-treated and shelf-stable beef products to Australia. Other countries that have been assessed by FSANZ under the revised BSE policy, and that are permitted to export heat-treated shelf stable beef products to Australia, are: Brazil; Chile; Croatia; Latvia; Lithuania; Mexico; and the Netherlands. Argentina and Turkey are currently also allowed to export heat-treated and shelf-stable beef products to Australia, but this is under transitional arrangements while the countries are assessed by FSANZ under the revised policy. Importation of these products into Australia must be in accordance with import permit requirements and the relevant BSE certification requirements.

3.65. Following damage to Japan's Fukushima Dai-ichi nuclear facility in early March 2011, the Department of Agriculture implemented a precautionary monitoring programme at the border; before potentially contaminated foods could be released for distribution and sale, samples were tested for the presence of radionuclides.[89] The test results were assessed against the relevant international Codex Alimentarius standard. Foods monitored for radionuclides have included milk and milk products; rice and cereals; seafood, seaweed; fruit; vegetables; tea; and dried mushrooms from several prefectures in Japan. Upon advice from the Australian Radiation

[84] For more information, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[85] In 2013, the AQIS brand was retired and replaced with that of the Department of Agriculture (previously Department of Agriculture, Fisheries and Forestry (DAFF)) without any further implications for the legal basis or competent authority under which audits, inspections and certifications are undertaken. AQIS was the Australian government agency responsible for enforcing Australian quarantine laws (WTO document G/SPS/R/71, 28 August 2013).

[86] Food Standards Australia New Zealand online information. Viewed at: http://www.foodstandards.gov.au/consumer/importedfoods/Pages/default.aspx.

[87] Countries must complete the Australian Questionnaire to Assess BSE Risk and submit it to FSANZ for a country BSE food safety risk assessment. The risk assessment includes a desk assessment of the through chain controls for BSE as well as an in-country verification visit that ensures controls are implemented effectively. Countries being assigned a Category 1 or Category 2 status by this FSANZ process can export their beef products to Australia subject to certification arrangements negotiated between the Department of Agriculture and the competent authority of the exporting country. To export fresh beef (chilled or frozen) to Australia, the exporting country must also apply to the Department of Agriculture for an IRA that assesses animal health status.

[88] Under the "stop the clock" the DAFF can pause an IRA in certain situations, for example when further information is needed to complete an IRA and is not provided by the other country (Department of Agriculture online information. Viewed at: http://www.daff.gov.au/biosecurity/import/food/bse_food_safety_requirements_for_beef#other and http://www.daff.gov.au/about/media-centre/beef_imports).

[89] Department of Agriculture Imported Food Notice 01-14, "Monitoring food imported from Japan for radionuclides", 23 January 2014. Viewed at: http://www.daff.gov.au/biosecurity/import/food/notices/2009/2014/ifn01.

Protection and Nuclear Safety Agency and a revised assessment by FSANZ, Australia stopped testing food from Japan on 23 January 2014.[90]

3.2.7.2.5 Transparency and technical assistance

3.66. Between 2010 and September 2014, Australia submitted 103 notifications to the WTO relating to Article 7 and Annex B of the SPS Agreement, 11 of which were emergency notifications.[91] Australia's last WTO notification on GMO/biotechnology matters was submitted in 2007 as all GM foods approved regulations since then have been considered consistent with international standards and not having a significant effect on trade.[92] Therefore, Australia did not consider it necessary to notify these regulatory changes to GM foods. For the same reason, Australia has not generally notified approvals of enzymes and other processing aids, additives or other minor changes to the Australia New Zealand Food Standards Code which they consider to be equivalent to the approval of a GM commodity. Draft IRA reports, as well as outcomes of the IRA process, are also notified to the WTO. Australia is also active in the three standard-setting organizations under the SPS Agreement: the FAO/WHO Codex Alimentarius Commission, the World Organization for Animal Health, and the International Plant Protection Convention. During the review period, SPS-related specific trade concerns involved Australia's non acceptance of OIE categorization for BSE (raised by India).[93]

3.67. Australia has continued to assist developing countries – particularly APEC members through capacity building activities under the APEC Food Safety Cooperation Forum (FSCF) – to adjust to, and comply with, sanitary and phytosanitary measures in their export markets and to improve their capacity to develop and implement their own SPS measures based on science.[94] As Co-Chair of the APEC FSCF, FSANZ has provided guidance and leadership, and has implemented a wide range of activities, on a cost-recovery basis, in areas such as: developing food laws; standards and enforcement systems; risk assessment and management; risk communication; food safety incidents management; and assessment of food safety capacity building needs. Recent capacity building activities included workshops on: educating SMEs on food safety standards; improving food inspection capacity based on risk analysis; and, food allergen management. In addition, under the current FSCF action plan, the FSCF is to promote alignment with relevant international standards and consistency with WTO obligations, focussing initially on two areas: export certificates and pesticide MRLs.

3.2.7.3 Labelling and packaging

3.68. Food labelling is also regulated under the Food Standards Code (section 3.2.7.2.1); all foods sold in Australia, including imported foods, must comply with the relevant regulations. Following a comprehensive independent review of food labelling law and policy and the release of an expert panel's report (Labelling Logic) on 28 January 2011, FSANZ was asked to work on a number of the panel's recommendations over a three-year period (2012-15). As of June 2014 FSANZ had completed work on: the voluntary declaration of potassium content; the development of a standard for nutrition; health and related claims on food labels; mandatory declaration of dietary fibre content; country-of-origin labelling; and the use of the Perceptible Information Principle as a guide for labelling presentation. Its work on amendments to Standard 1.2.11 for the extension of country-of-origin labelling to a number of unpackaged meats was partially completed.[95]

3.69. No changes were brought to GM-related labelling requirements. Since 2001 GM foods, ingredients, additives, or processing aids that contain novel DNA or protein must be labelled with

[90] Food Standards Australia and New Zealand online information, "Safety of food from Japan". Viewed at: http://www.foodstandards.gov.au/consumer/safety/foodjapan/Pages/default.aspx.

[91] WTO CRN online information. Viewed at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S003.aspx.

[92] Australia New Zealand Food Standards Code – Standard 1.5.2 (viewed at: http://www.comlaw.gov.au/Series/F2008B00628) and Food Standards Australia New Zealand, *Current GM applications and approvals* (viewed at: http://www.foodstandards.gov.au/consumer/gmfood/applications/pages/default.aspx).

[93] WTO document WT/TPR/OV/17, 24 November 2014.

[94] WTO documents G/SPS/GEN/717/Add.1, 11 October 2007; G/SPS/GEN/717/Add.2, 6 July 2010; and G/SPS/GEN/717/Add.3, 8 October 2012.

[95] Food Standards Australia New Zealand online information. Viewed at: http://www.foodstandards.gov.au/consumer/labelling/review/Pages/default.aspx.

the words "genetically modified".[96] GM foods that do not contain any novel DNA or protein or do not have altered characteristics do not require labelling. Flavours containing novel DNA or protein in a concentration of no more than 0.1% are also exempt from labelling. Labelling is also not required when there is no more than 1% (per ingredient) of an approved GM food unintentionally present as an ingredient or processing aid in a non-GM food.

3.70. Mandatory product information standards, including care labelling for clothing and textile products, as well as for a range of other consumer products including sunglasses, cosmetics and toiletries, and tobacco products, remain in force (section 3.2.7.1.1). Mandatory energy consumption labelling requirements affect appliances such as refrigerators, freezers, clothes washers/dryers, dishwashers, room air-conditioners, mains-pressure electric-storage water heaters, and motor vehicles. National, state, and territory information standards were rationalized and replaced with a single national set of standards as of 1 January 2011 as part of the implementation of the Australian Consumer Law (section 3.4.3.3). Between 2012 and 2013, five WTO Members (Ukraine, Honduras, Dominican Republic, Cuba, Indonesia) requested consultations with Australia with respect to certain laws and regulations relating to trade marks, geographical indications, and other plain packaging requirements on tobacco products and packaging (sections 2.4.1 and 3.4.6.1). WTO dispute settlement Panels were composed on 5 May 2014 in respect of each of these cases.

3.2.8 Government procurement

3.71. As of 14 November 2014 Australia, which has been one of five OECD members that is not a signatory to the Plurilateral WTO Agreement on Government Procurement (GPA) and followed the negotiations on the revised GPA (in force since April 2014), announced that it is working towards possibly acceding to the GPA.[97] It considers that the revised GPA is more in line with the principles underlying its government procurement regime and makes accession more beneficial. Implementation of the GPA would require, *inter alia*, the implementation of review procedures for suppliers that are effective, timely, transparent and non-discriminatory. Some changes would also be required to procedures for pre-qualification and limited tendering. DFAT has invited submissions from interested parties until 30 January 2015. Australia continues to be bound by principles and rules on transparency and non-discrimination in this area in the context of its RTAs (see below and section 2.4.2.1); the authorities confirm that these commitments are GPA-consistent and extended to all its trading partners through a broadly-based unilateral, non-discriminatory procurement policy at the central government (Commonwealth) level.

3.72. The Commonwealth government procurement market for goods and services is estimated at $A 48.9 billion or 3.1% of GDP (2013/14, data from Table 1.1). Between 2009/10 and 2012/13, Commonwealth government contracts for the purchase of goods and services (including expenditure by agencies covered at that period by the Financial Management & Accountability (FMA) Act 1997 and Commonwealth Authorities and Companies Act (CAC), see below) ranged from $A 32.6 billion (2010/11) to $A 48.9 billion (2013/14). In 2013/14, ten agencies were responsible for 87.8% (83.7% in 2008/09) of the total amount; 27.3% (55% in 2008/09) of this was defence- and/or military-related expenditure.[98] The same year, domestically-produced goods and services were estimated at 88.9% (82% in 2012/13) of the total amount spent. In 2013/14 the procurement profile remained dominated by services (more than 61% of total contract value) for example, management, business, professional and administrative services (29.8%); engineering and research and development services (6.3%); construction and maintenance (5.4%); transportation and storage and mail services (4.8%); healthcare services (4.1%); public politics and civic affairs services (3.9%); education and training services (2.5%); and utilities and public sector-related services (1.4%). These amounts do not cover procurement spending by state and territory governments, which at the time of the previous Review was seemingly higher than

[96] Food Standards Australia New Zealand online information. Viewed at: http://www.foodstandards.gov.au/consumer/gmfood/labelling/Pages/default.aspx.

[97] During the review period Australia has maintained its observer status at the WTO Committee on Government Procurement. In the past Australia considered the GPA to be largely inconsistent with its approach of low regulation and non-discrimination in the public sector (WTO document WT/TPR/S/244/Rev.1, 18 May 2011; and DFAT online information, "Australian accession: WTO Agreement on Government Procurement (GPA)". Viewed at: http://www.dfat.gov.au/trade/negotiations/wto-agreement-on-government-procurement.html).

[98] Department of Finance online information. Viewed at: http://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/.

Commonwealth government spending.[99] At the time of the previous Review, in many instances government trading enterprises (GTEs) (section 3.4.5) at central, state, and territory government level dominated the provision of infrastructure works, instead of opening up the provision of infrastructure and related services to competition, including to efficient private market entities. At present, data on the share of GTEs in public procurement is not publicly available.

3.73. The core principle of Australia's procurement framework remains value for money[100], which is supported by open competition, non-discrimination[101], efficiency, effectiveness, and economical use of resources in an ethical manner. At the Commonwealth level, the overall government procurement policy framework consists of three key elements: the 2012 Commonwealth Procurement Rules (CPRs) (replacing the Commonwealth Procurement Guidelines (CPGs)) last amended in 2014, which form the basis of Commonwealth procurement policy and are issued by the Finance Minister[102]; Resource Management Guidance, which is issued by the Department of Finance and provides advice on key changes and developments in procurement policy and/or helps agencies to implement the Government's procurement policy; and online guidance.[103] In 2012 the CPRs, *inter alia*, redefined the procurement methods, and addressed a 2010/11 recommendation of the Australian National Audit Office (ANAO) on Direct Source Procurement.[104] Open, Select, and Direct were termed as Open Tender, Prequalified Tender, and Limited Tender, respectively. The CPRs were amended on 1 July 2014 to change from Financial Management and Accountability Act 1997 and Commonwealth Authorities and Companies Act 1997 terminology to that of the Public Governance, Performance and Accountability Act 2013 (PGPA Act), which replaced the 1997 Acts.

3.74. As in the case of standards and SPS (section 3.2.7), each of Australia's three levels of government (Commonwealth, state and territory, and local) has its own procurement framework and policies. Under the PGPA Act and relevant regulations, each Commonwealth agency remains in charge of its own procurement. When conducting procurement above certain thresholds, all agencies are required to follow mandatory procurement procedures (i.e. CPR Division 2 – Additional rules for procurements at or above the relevant procurement threshold)[105], which provide for open, prequalified, and limited tendering.[106] However, procurement of, *inter alia*, real estate property or accommodation, R&D services, and motor vehicles[107] is exempt from mandatory

[99] In 2008/09, procurement by the Australian Capital Territory, the Northern Territory, Western Australia, South Australia, and Tasmania was $A 1.1 billion, $A 1.7 billion, $A 11.5 billion, $A 3.4 billion, and $A 1 billion, respectively. Recent data covering all state and territory government procurement were not available with the authorities. WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[100] The authorities indicated that this principle effectively entails a cost-benefit analysis.

[101] The exceptions to this non-discrimination principle are specific policies to assist small- and medium-size enterprises and, in limited circumstances, policies to assist indigenous Australians (WTO document WT/TPR/S/244/Rev.1, 18 May 2011; Department of Finance, 2012; and Department of Finance online information. Viewed at: http://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/).

[102] The last CPGs were issued by the Finance Minister in December 2008. For further details, see WTO document WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[103] Viewed at: http://www.finance.gov.au/procurement/procurement-policy-and-guidance/.

[104] Department of Finance online information. Viewed at: http://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/.

[105] These thresholds remain unchanged at $A 80,000 for procurement by non-corporate Commonwealth entities (former FMA Act bodies), other than construction services; and $A 400,000 for procurement by relevant Commonwealth companies (former CAC Act bodies), other than construction services. The threshold for procurement of construction services changed from $A 9 million to $A 7.5 million as of January 2014. For more information on the mandatory procedures, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011; Department of Finance (2012); Department of Finance online information. Viewed at: http://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/; and ComLaw online information. Viewed at: http://www.comlaw.gov.au/Details/F2014L00912/Download.

[106] Open tendering involves publishing a request for tender and accepting submissions from any potential suppliers who satisfy conditions for participation. Under the prequalified tender process, an invitation to tender is issued to selected potential suppliers, such as suppliers who have responded to an initial open approach to the market. Limited tendering is conducted for reasons such as that no submission was received, or no submission or potential supplier satisfied conditions of the tender.

[107] As at 31 May 2014 there were 6,522 passenger vehicles in the Government fleet of which 74% were Australian-made. As at 30 June 2013, there were 7,046 passenger vehicles in the Government fleet of which 64.1% were Australian-made, 25.6% were imported by an Australian manufacturer, and the rest (10.3%) imported by a non-Australian manufacturer. At the time of the previous Review, the Government's Green Car Challenge plan stipulated that by 2020, 50% of the Government fleet passenger vehicles would be

procurement procedures.[108] Under the Public Works Committee Act 1969, public works of $A 15 million and above must be referred to the Parliamentary Standing Committee on Public Works. AusTender, the Commonwealth Government's procurement information system, managed by the Department of Finance, provides multiple functions for searching data online (see below) including the breakdown of contracts (numbers of contracts and their values) under various procurement methods.[109] According to AusTender reporting data, between February 2012 and December 2014 limited tendering represented 56.1% of total procurement value while open and prequalified tendering accounted for 35% and 8.8%, respectively. However, during the same period open tendering represented 51.9% of procurement of goods and services above $A 80,000 while limited and prequalified tendering accounted for 39.4% and 8.7%, respectively.

3.75. The 2010 Fair Work Principles, which required Commonwealth entities to obtain information from tenderers about their compliance with their obligation to ensure fair, cooperative, and productive workplaces, were revoked on 1 July 2014.[110]

3.76. AusTender (see above) provides a single portal to advertise business opportunities and to report on the award of government procurement contracts. Agencies are required to publish standing offers and those contracts with a value of $A 10,000 or more on AusTender. Links to the procurement operations of State Governments can be accessed via AusTender's website (https://www.tenders.gov.au/).

3.77. Australia has maintained its target of sourcing at least 10% of purchases by value from SMEs.[111] In addition, for major procurement of information and communication technology (ICT) products and services with an expected contract value of $A 20 million or more, government agencies must ensure that tenders meet the minimum SME participation levels set at 10% of contract value for hardware, and 20% of contract value for software/services. Between 2008/09 and 2013/14, the average share of SMEs, in terms of the value of contracts, rose from 29% to 34.4%.[112] In 2013/14 SME participation was higher in: education and training services (63.6%); utilities and public sector-related services (59.2%); commercial and military and private vehicles and their accessories and components (50.5%); and financial and insurance services (49.5%).

3.78. Australia's RTAs with Chile, Korea (Rep. of), Singapore, and the United States all include specific government procurement commitments with respect to national treatment. During the review period, no changes were introduced to the Australia New Zealand Government Procurement Agreement (ANZGPA). The Australasian Procurement and Construction Council Inc. (APCC) commenced its five-yearly review of the ANZGPA on 19 March 2012. Minor changes of a formatting nature have been recommended and the APCC is in the process of revising the ANZGPA to include those changes. Australia effectively extends to all suppliers the same treatment which it has committed to under its RTA commitments on government procurement. No data on the share of goods, services, or public works procured by suppliers from New Zealand, Chile, Singapore, and the United States were available from the authorities.

3.79. According to the authorities, Australian states also adopt a "best value for money" procurement framework. Some states include in that framework incentives for local supplies or for the procurement of local goods, which vary from recognition of the benefits of local supply, such as timely after-sales service to the inclusion of a local economic benefits consideration in the selection criteria or a price preference for locally-produced goods. While various states incorporate "buy local"(section 4.4) and/or price preferences for local goods in their procurement policies, they maintain that they implement these preferences in a manner consistent with Australia's

Australian-made "value-for-money environmentally friendly" cars; this policy is no longer in place (section 4.4.1) (Department of Finance online information. Viewed at: http://www.finance.gov.au/procurement/previous_news.html; WTO document WT/TPR/S/244/Rev.1, 18 May 2011; Department of Finance, 2012; and Department of Finance online information. Viewed at: http://www.finance.gov.au/vehicle-leasing-and-fleet-management/FleetStatistics.html and http://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/

[108] Exemptions are listed in Appendix A of the 2012 CPRs (Department of Finance, 2012).

[109] AusTender online information. Viewed at: https://www.tenders.gov.au/?event=public.reports.list

[110] For more information about this matter see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[111] An SME is a domestic or New Zealand firm with fewer than 200 full-time employees.

[112] Department of Finance online information. Viewed at: http://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/.

international government procurement commitments.[113] In addition to their Buy Local Policy (see below), certain states maintain a 10% preference (e.g. Western Australia, Tasmania, and Northern Territory) or 20% preference (New South Wales, Queensland, and South Australia), in the form of a nominal increase on the tendered price, for procurement of domestic or New Zealand, United States, and Chilean goods and related services, to uphold industry development, social or economic objectives. Similar arrangements are proposed under the Australia-Japan Economic Partnership Agreement and the Australia-Korea Free Trade Agreement. Preference margins are not applied to purchases of services alone (i.e. unrelated to goods contracts). No detailed up-to-date information was available from the authorities on the content of this paragraph.

3.80. During the review period, Australia continued to help domestic suppliers to raise their participation in government procurement contracts through the Australian Industry Participation (AIP) National Framework (section 2.6) and the 2009 Boosting Australian Industry Participation policy.[114] Tenderers for government works are required to outline their use of Australian or overseas suppliers in cases where there is a whole-of-government requirement imposed by the Department of Finance[115]; in the context of AIP plans, they only apply to a select number of tenders. Companies bidding for selected large Commonwealth procurement projects (generally above $A 20 million) have been required to prepare and implement AIP plans (sections 3.2.2.6, 3.2.8, 4.3.2, and 4.4). Companies receiving over $A 20 million from the Clean Energy Finance Corporation (section 4.3.2) may be required to prepare and report on an AIP plan as a condition of investment. These initiatives, *inter alia,* aim to ensure that tender specifications do not have the effect of excluding Australian and New Zealand SMEs, and that they maximize the ability of domestic industry to win work at home and abroad. Further assistance is available through the Industry Capability Network (ICN).[116] Since 2010, 253 AIP plans for Commonwealth procurement have been approved. 50 contracts/head agreements have included the AIP plan requirement; the value of these contracts was $A 8.8 billion.

3.81. Buy Local procurement policies at state level remain in place.[117] The Local Jobs First plan (LJFP) of the Government of New South Wales continues to promote local industry preference in major projects by defining SMEs as local businesses with up to 500 workers (compared with 200 workers previously and in the rest of the country (see above)). The Victorian Industry Participation Policy (VIPP) is aimed at encouraging domestic supplier (including SMEs) participation in government procurement when awarding contracts of $A 1 million or more in regional Victoria, or $A 3 million or more in metropolitan Melbourne or for state-wide projects designated strategically significant by Victoria's Department of Innovation, Industry and Regional Development. As from 1 January 2013 new VIPP guidelines have introduced a "contestability assessment", greater detail on the opportunities for suppliers, an electronic VIPP plan with enhanced assistance features, and more robust monitoring and reporting requirements to demonstrate the local content outcomes of VIPP.[118] According to the authorities, both the LJFP and the VIPP have been designed to comply with Australia's existing commitments on government procurement.

[113] For example the Government of Western Australia maintains a long-standing Buy Local Policy, which was last revised in July 2013, to increase the regional price preference limits that apply to regional businesses tendering for State Government regional contracts to $A 250,000 for goods and services purchases, and $A 500,000 for housing and works purchases (State Supply Commission online information. Viewed at: http://www.ssc.wa.gov.au/files/guidelines/Buy%20Local%20Policy%20Addendum%20(1%20July%202013). The New South Wales Local Jobs First Plan provides price preference for Australian and New Zealand SME's content (European Commission, 2013).

[114] For more information, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[115] A whole-of-government approach is defined as "one where a government actively uses formal and/or informal networks across the different agencies within that government to coordinate the design and implementation of the range of interventions that the government's agencies will be making in order to increase the effectiveness of those interventions in achieving the desired objectives" (OECD, 2006).

[116] The ICN operates in Australia and New Zealand and assists businesses to maximize the opportunities that arise from purchasing requirements from both the government and private sectors.

[117] The authorities indicated that these policies are aimed at encouraging Government agencies, which may otherwise not consider local producers, particularly at the SME level, to do so before going to tender. They do not mandate that purchases be made only from local tender. For more information, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[118] Department of State Development, Business and Innovation online information. Viewed at: http://dsdbi.vic.gov.au/our-department/strategies-and-initiatives/victorian-industry-participation-policy.

3.82. A Procurement Coordinator remains in place to: provide external parties with an understanding of the Commonwealth procurement framework; handle certain complaints; monitor issues related to Commonwealth Government procurement; and, whenever necessary, report to the Minister for Finance on procurement matters. The Procurement Coordinator seeks public input on how government procurement can be enhanced through its blog site. The procurement consultation committee comprising industry, union, and community stakeholders has been discontinued. So far there has been neither a cost-benefit analysis of the effectiveness of government procurement as an instrument of economic policy nor an evaluation of the cost-effectiveness of the existing domestic preference policies.

3.83. The Trade Practices Amendment (Cartel Conduct and Other Measures) Act 2009 covers, *inter alia*, criminal liability for cartel conduct, including arrangements between competitors involving bid-rigging (section 3.4.3.1.2). Major construction contracts are identified as vulnerable to supplier misconduct. Between 2011 and 30 June 2014, ACCC Federal Court action resulted in penalties of $A 59.15 million on 10 companies for a series of cartel cases involving, *inter alia*, bid-rigging in the supply of land cables, construction, and automotive parts.

3.2.9 Local-content requirements

3.84. Local-content requirements remain in place in government procurement arrangements for motor vehicles (section 3.2.8)[119], in export finance, guarantees, and insurance provided by the Export Finance and Insurance Corporation (EFIC) (section 3.3.5), and in foreign investment requirements in the broadcasting services sector (section 4.5.6.2). According to the authorities, EFIC requirements relate to "local/Australian activity".

3.85. During the review period, Australia has not made any notifications of TRIMs under the WTO Agreement on Trade-Related Investment Measures, thereby indicating the absence of such measures.

3.3 Measures Directly Affecting Exports

3.3.1 Registration and documentation

3.86. All goods intended for export with a value of $A 2,000 or more must be registered with Customs, unless exempted.[120] Most export declarations are submitted through the Integrated Cargo System (ICS), the electronic cargo reporting tool. Any goods that require a permit for export must be reported on an export declaration regardless of value. Customs may undertake compliance examinations on behalf of permit-issuing agencies.

3.3.2 Export prohibitions, restrictions, and licensing

3.87. During the review period the list of prohibited or restricted items has remained unchanged. Exports of acetic anhydride to Afghanistan remain prohibited, as are exports of certain cultural and heritage goods, and suicide devices.[121] Exports of some other goods are prohibited in compliance, *inter alia*, with international commitments, unless permission or a licence is granted.[122] In light of Australia's reliance on agri-food exports, export controls on certain agricultural and food products are operated by certain public-sector entities with a view, *inter alia,* to ensuring importing country requirements are met (e.g. volume limitations or quota allocation of certain cheeses and beef to

[119] Under the Australian Government's fleet arrangements, government-procured motor vehicles must be either made in Australia by manufacturers that have a local operation in vehicle assembly or component production (Ford, Holden, Toyota), or imported passenger motor vehicles marketed by an Australian-based manufacturer (Department of Finance online information. Viewed at: http://www.finance.gov.au/vehicle-leasing-and-fleet-management/fleet-guidance-and-related-material.html).

[120] For information on exempted goods, see Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/site/page5847.asp; and WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[121] Acetic anhydride is used, *inter alia,* for the synthesis of heroin.

[122] Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/site/page4381.asp; and WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

the European Union and the United States, trade and product descriptions), and to maintain food safety and quality standards.[123]

3.88. On 10 December 2012 the prohibition on wheat exports (unless undertaken by accredited exporters) was repealed (sections 3.4.3.1 and 4.2.2.1).[124] More specifically, the 2008 Wheat Export Marketing Act was amended in 2012, *inter alia*, to repeal the regulation prohibiting exports of bulk wheat from the Customs (Prohibited Exports) Regulations 1958. Export controls on wood and woodchips are for the purpose of protecting environmental and heritage values. As from 1 January 2010, no restrictions have applied on merino sheep exports.

3.3.3 State trading

3.89. According to Australia's latest WTO notification on state trading in 2014, the Rice Marketing Board for the State of New South Wales, which has export monopoly rights, was the only state trading entity operating during the review period.[125] According to its WTO notifications, Australia exported 19,000 tonnes of milled equivalent rice in 2009/10, 132,000 tonnes in 2010/11, 584,000 tonnes in 2012/13, and 531,000 tonnes in 2013/14.[126] There are still a relatively large number of other public entities, with or without monopoly or exclusive trading rights, involved in the production and trade in goods and services, at Commonwealth, state or territory level (section 3.4.5).

3.3.4 Export assistance

3.3.4.1 Export Market Development Grants (EMDG) scheme

3.90. The EMDG scheme is Australia's main financial assistance programme and targets mainly small but also medium-sized enterprises across all sectors of the economy. It was provided with increased funding of $A 50 million, to be distributed over four years beginning in 2013, to help boost business competitiveness.[127] Grants partially reimburse expenditure (up to 50% above a threshold) on specific export promotion activities to any overseas market except New Zealand, Iran, and the Democratic People's Republic of Korea. As from April 2014 the minimum required level of export-promotion expenditure stands at $A 15,000 (previously $A 20,000), the maximum number of grants an applicant can receive is 8 (previously 7), the maximum grant payable is $A 150,000, and the maximum amount claimable for intellectual property expenses is $A 50,000.[128] For the 2013/14 financial year only, additional costs of grant administration above the 5% cap could be met from departmental appropriations. The scheme is operational until the 2015/16 grant year (2016/17 financial year).

3.91. Administered by Austrade, the EMDG distributed grants worth $A 113.6 million to 2,445 exporters in 2013/14, a decrease of 11.3% in grant numbers and 5.6% in grant payments

[123] For example, the Department of Agriculture issues permits and government certificates to control the export of specific primary produce including meat products, dairy, seafood, grains, eggs, horticulture, skins and hides, wool and inedible meat products. The Therapeutic Goods Administration (TGA), under the Department of Health, grants certificates for export only for medicines for human use (i.e. those containing substances, quantities of substances or labels without mandatory warning statements required for listing for supply in Australia). TGA also issues permits for export of human blood, human blood-derived products, and medicines/drugs (or their ingredients), that are on Australian Customs Prohibited Exports Regulations. Export permits of animal origin ingredients used in formulations of medicines for human use are issued by the TGA. In addition, the Australian Grape and Wine Authority issues export licences for wine and brandy, and Horticulture Australia Limited grants export licences for horticultural products (currently applicable to oranges to any destination and citrus to the United States). (Australian Customs and Border Protection Service, undated).

[124] Australian Customs and Border Protection Notice No. 2012/71, "Repeal of Regulation 9AAA-export of bulk wheat", 12 December 2012. Viewed at: http://www.customs.gov.au/webdata/resources/files/Wheatrepeal9AAAACN2012-71.pdf.

[125] WTO documents G/STR/N/14/AUS/Rev.1, 20 March 2013; and, G/STR/N/15/AUS, 7 July 2014. For more information on the extent of past government involvement in the Australian economy, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[126] These figures differ from those at the UNSD Comtrade Database for item HS10.06.

[127] Liberal Party (2013).

[128] Export Market Development Grants Amendment Bill 2014 passed on 26 March 2014 and given Royal Assent on 9 April 2014 (viewed at: http://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/3060392/upload_binary/3060392.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/3060392%22).

compared with 2012/13.[129] The same year 74% of recipients were small businesses, with annual income of $A 5 million or less; EMDG recipients generated exports worth $A 2.8 billion. Budgeted funding for the EMDG for 2013/14 was $A 137.9 million or 10% more than in 2012/13. EMDG grants are mostly used by the services industries, followed by manufacturing and primary industries.[130] The top six countries targeted by EMDG recipients in recent years have been the United States, the United Kingdom, China, Singapore, Germany, and Canada.

3.92. At the time of the previous Review, according to an independent 2008 review, the EMDG scheme was both effective and efficient in, *inter alia*, supporting the development of Australia's exports and raising labour productivity.[131] The next Review is to take place in the first six months of 2015.

3.3.4.2 Trade and Export Concession Scheme (Tradex)

3.93. During the review period, Australia has maintained its up-front duty and goods and services tax (GST) exemptions for eligible imported goods intended for direct export, or which are used, lost, or wasted in the processing of exports under the Tradex scheme (last amended in 2008).[132] Between 2010/11 and 2012/13, the operation of the scheme, which is administered by AusIndustry, resulted in total forgone duty estimated at $A 124.4 million; the amount of duty forgone in 2012/13 rose by about 11.4% compared to 2010/11 (Table 3.3, section 3.2.2.6), due to increased usage of the scheme by a major car manufacturer during that period. The main beneficiaries of the scheme were the automotive industry, medical equipment manufacturers, and clothing and leather goods wholesalers.

3.3.4.3 Duty drawback scheme

3.94. During the period under review the duty drawback scheme has remained virtually unchanged. On 9 November 2012, Customs introduced additional controls in the Customs Regulations 1926 regarding the claiming of a duty drawback on imported duty paid on tobacco and tobacco products for export. These controls imposed additional conditions for exporters to comply with, including the introduction of a temporary refund provision (applications until 30 April 2013) for branded tobacco products that do not meet Australia's new plain packaging requirements (sections 3.2.7.3 and 3.4.6.2.2).[133] Drawback claims can be lodged electronically via the ICS. Duty drawbacks are processed on the basis of self-assessment with the amount of duty drawback calculated by the claimant using one of three calculation methods.[134] Under all methods the amount of a claim for drawback of import duty must not exceed the amount of import duty paid on the exported goods. This is ensured by direct matching of imports and exports, or by analysis of duty paid by entity or via formulas provided in the regulations. Exporters may obtain a refund of customs duties (not GST) paid on imported goods if these goods were treated, processed, or incorporated into other goods for export, or are exported unused after import.[135] According to Customs data, the value of drawbacks paid in 2013/14 was $A 62.7 million, compared with $A 69.5 million in 2012/13. The main beneficiaries of duty drawback have been the automotive,

[129] Austrade online information. Viewed at: http://www.austrade.gov.au/Export/Export-Grants/Publications/EMDG-Update; and Australian Trade Commission (undated).
[130] Karanikolas (2014).
[131] For more information about this review, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.
[132] AusIndustry online information. Viewed at: http://www.ausindustry.gov.au/programs/import-export/tradex/Pages/default.aspx.
[133] Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/site/tobacco.asp; and Australian Customs and Border Protection Service factsheet, "Export Concessions Duty Drawback Scheme", November 2012. http://www.customs.gov.au/webdata/resources/files/ExportConcessionsDutyDrawbackSchemeNov2012.pdf.
[134] The three calculation methods are: the shipment-by-shipment basis method (when imports directly relate to exports); the representative or averaging shipment basis method (for high-volume low-value goods), where a representative shipment for a period is picked as a sample of the values of identical items, the averaging of shipments is costed over time and must not result in an overclaim; and the imputation method (when import documents are generally unavailable), where the basis on which to calculate duty drawback can be 30% of the purchase price of the goods whenever these goods are fully imported and have been purchased in Australia by the exporter (Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/webdata/resources/files/ExportConcessionsDutyDrawbackSchemeNov2012.pdf).
[135] Australian Customs and Border Protection Service factsheet, "Export Concessions Duty Drawback Scheme", November 2012. Viewed at: http://www.customs.gov.au/site/page4382.asp.

tobacco and alcohol industries. No data on the export value involved was available from the authorities.

3.3.4.4 Other schemes

3.95. The Certain Inputs to Manufacture (CIM) scheme provides duty free entry for raw materials and intermediate chemicals, plastic and paper goods, and metal minerals used in manufacturing which is directed towards "import replacement" and export enhancement.[136] CIM remains unchanged but at the time of the previous Review it was indicated that it could be subject to review in the next five years. Duty forgone under the CIM between 2010/11 and 2013/14 (January) was $A 9.2 million. The main beneficiaries have remained the chemicals and plastics sectors (Table 3.3, section 3.2.2.6).

3.96. The TradeStart network remains in place despite the intention to close it down at the end of 2009/10. It is an extension of Austrade programmes delivered in partnership with state, territory and local governments, industry associations, and chambers of commerce. The network assists SME exporters in regional and outer metropolitan areas to achieve long term success in international markets by providing local assistance and a direct link to Austrade's services and overseas network. For the period 2014-18 a total of $A 11 million has been committed by Austrade to assist SMEs, particularly those located in rural Australia, to achieve sustainable export activity. This, together with co-funding from partners, has enabled the TradeStart programme to establish 27 offices throughout Australia.

3.3.5 Export finance, guarantees, and insurance

3.97. The Export Finance and Insurance Corporation (EFIC) continued providing various finance, insurance, and guarantee facilities to support Australian companies (including SMEs) exporting or investing in emerging and frontier markets overseas. It is a self-funding statutory authority which, according to the authorities, operates in accordance with commercial principles. EFIC's mandate is to fill "gaps" in the provision of financial support as these market segments are not always comprehensively serviced by Australian banks — in part due to the effort and complexities involved in banking transactions with smaller clients, in challenging markets, or for unique assets or new technologies. EFIC's support includes: direct loans (to buyers); export finance guarantees (to banks financing contracts with buyers); documentary credit guarantees (to banks confirming letters of credit); and payments insurance (against non-payment by the buyer). The terms and conditions of such products are subject to OECD guidelines.[137]

3.98. The level of official support depends on the degree of local/national content ("Australian activity" or "Australian content") involved: export contracts with over 50% local content may receive support for up to 85% of the eligible contract value (ECV) (sum of the imported components into the buyer's country, i.e. Australian plus third country activities plus the local cost which must be the lower of 30% of ECV or the local cost amount).[138] Where the "Australian activity" involved is less than 50%, the level of support would normally be limited to the degree of "Australian activity". Although permitted by the EFIC Act, the EFIC does not normally provide short-term (less than 360 days) credit insurance due to sufficient private market capacity. Other means of support that are not subject to OECD guidelines include: contract bonds (to buyers to cover advance payment, seller's performance and warranty of products sold), working capital guarantees (to banks), and political risk insurance (to banks and/or Australian companies investing abroad).[139]

[136] WTO document WT/TPR/S/244/Rev.1, 18 May 2011. According to the authorities "import replacement" means that certain eligible goods can be imported duty free, if their use as inputs has a substantial and demonstrable performance advantage over substitutable domestic goods. For more details about the scheme, see AusIndustry online information. Viewed at: http://www.ausindustry.gov.au/programs/manufacturing/cim/Pages/default.aspx.

[137] The OECD Arrangement on Officially Supported Export Credits is aimed, *inter alia*, at preserving a level playing field in officially supported export products.

[138] EFIC online information. Viewed at: http://www.efic.gov.au/ABOUT/GOVERNANCE/Pages/Australiancontentguidelines.aspx.

[139] The OECD guidelines apply to all official support provided by or on behalf of the Government for export of goods and/or services which have a repayment term of two years or more.

3.99. The Minister for Trade can direct or approve EFIC's entry into transactions considered to be in the "national interest"[140]; the Government is responsible for the financial consequences of national interest transactions although EFIC manages these facilities on behalf of the Commonwealth.[141] EFIC's obligations to third parties are ultimately guaranteed by the Government; although this guarantee has never been used, it is potentially an additional element of assistance for exporters.

3.100. In January 2013 EFIC was to apply a new "market failure" test to determine the eligibility for support and direct more resources to SMEs seeking to expand into Asian markets.[142] The proposed test was not implemented by the current Government which announced that EFIC's focus will be on SMEs seeking to capitalize on global trade opportunities.

3.101. According to a 2012 Productivity Commission report, the bulk of exports takes place without EFIC assistance. EFIC's support goes to a relatively small number of large firms (often on a repeat basis), and EFIC's commercial account operations have yielded a low rate of return, with some facilities subsidised by taxpayers.[143]

3.102. The authorities indicated that EFIC's annual profit for financial year 2013/14 was $A 24 million, up from $A 23 million in 2013/12. During 2012/13, EFIC, one of the smallest export credit agencies within the OECD, supported exports and overseas investment totalling $A 2.1 billion, below the previous four years' performance.[144] These figures cover both the commercial account and the national interest account. In 2012/13, the mining sector continued to be the main sector supported, accounting for 44.4% of total EFIC signings (in terms of value), followed by construction (27%), wholesale trade (8.2%), agriculture/forestry/fishing (8%), and manufacturing (6.3%). Between 2009/10 and 2012/13, the commercial account operations profit dropped progressively from $A 38.3 million to $A 22.6 million; this was due, *inter alia*, to below budget origination income, unrealised foreign exchange losses and increased allowances for specific events. In 2013/14, EFIC provided 230 facilities, valued at $A 576.6 million, which supported over $A 2.1 billion of export contracts and overseas investments – broadly in line with 2013/12 results. SMEs accounted for around 90% of all facilities in terms of number of transactions; there were no transactions entered into on the "national interest" account during the year.

3.4 Measures Affecting Production and Trade

3.4.1 Taxation

3.103. Australia remains a relatively low-tax OECD country relying on direct taxes for more than 63% of its tax revenues (Table 3.5).[145] The value added tax (goods and services tax) is the main indirect tax component, followed by excise taxes. Taxes on international trade, albeit increasing, contributed a mere 2% to total tax revenues in 2012/13, and customs duties constituted 99.9% of these taxes on international trade.

[140] National interest transactions usually occur where the transaction size or risk exceeds EFIC's commercial parameters, and where the Minister for Trade and Investment considers them to be in the national interest. In 2013/14 the national interest account exposures of $A 867 million ($A 757.6 million in 2012/13) were almost all loans to sovereign countries or their agencies. The largest exposure continued to be to the Indonesian Government (Export Finance and Insurance Corporation, 2013).

[141] EFIC did not enter into any facilities on the national interest account during the years 2010/11, 2012/13 and 2013/14. Between 2009/10 and 2012/13 the operating profit of the national interest account grew progressively more than sevenfold to $A 14 million (Export Finance and Insurance Corporation, 2013).

[142] Productivity Commission (2013d).

[143] Productivity Commission (2013d).

[144] Export Finance and Insurance Corporation (2013).

[145] In 2009, Australia's total tax revenue as a percentage of GDP was 25.9% while the average total tax burden for OECD countries was over 33.8% (OECD, 2013d).

Table 3.5 Structure of tax revenue, 2009/10-2012/13

($A million and %)

	2009/10	2010/11	2011/12	2012/13
Total tax revenue ($A million)	**333,336**	**359,205**	**389,895**	**415,122**
	(% of total)			
Direct taxes	61.0	61.9	64.3	63.2
Taxes on income	56.0	56.9	59.2	58.2
Individuals	37.5	38.6	39.4	39.3
Enterprises[a]	18.2	18.0	19.4	18.7
Non-residents	0.3	0.3	0.3	0.3
Employment payroll taxes	5.0	5.0	5.1	5.0
General taxes	0.2	0.1	0.1	0.2
Other employer labour-force taxes	5.0	5.0	5.1	5.0
Indirect taxes	39.0	38.1	35.7	36.8
Taxes on provision of goods and services	26.6	25.6	24.2	23.4
General taxes (sale tax)	0.4	0.3	0.3	0.3
Goods and services tax (GST)	14.0	13.4	12.5	12.1
Excises and levies	7.6	7.4	6.8	6.4
Taxes on international trade	1.7	1.6	1.8	2.0
Taxes on gambling	1.5	1.4	1.4	1.3
Taxes on insurances	1.4	1.4	1.4	1.3
Taxes on property	9.5	9.3	8.6	8.7
Taxes on immovable property	5.6	5.5	5.3	5.2
Taxes on financial and capital transactions	4.0	3.8	3.3	3.4
Taxes on the use of goods and performance of activities	2.9	3.1	3.0	4.7
Motor vehicle taxes	2.1	2.1	2.0	2.1
Franchise taxes	0.0	0.0	0.0	0.0
Other	0.8	1.1	1.0	2.7

a Includes petroleum resource rent taxes.

Source: Australian Bureau of Statistics online information, "5506.0: Taxation Statistics 2012-13". Viewed at: http://www.abs.gov.au.

3.4.1.1 Indirect taxation

3.104. During the review period Australia's reliance on indirect taxes has remained lower than other OECD countries.[146] Since 2011, the rates of virtually all excises (except for some fuels until 2014) have been increased (Table 3.6). In order to provide a secure and growing source of revenue for Government investment in road funding, biannual indexation of fuel excise was re-introduced from 1 August 2014.[147] Alcohol excise rates are indexed according to the Consumer Price Index (CPI) in February and August each year to ensure that they are not eroded by inflation. Tobacco is indexed to the Average Weekly Ordinary Time Earnings in March and September each year. The luxury car tax threshold is indexed each income year, and the excise on petrol and diesel has remained fixed since March 2001. Australia currently levies the following indirect taxes:

- a 10% GST on the value added at each point in the production and distribution chain for most goods and services (as from July 2000)[148];

[146] In 2009, the GDP share of Australia's revenue from taxes on goods and services was 7.6%, while the OECD average was 10.7% (OECD, 2013d).

[147] Between 2014/15 and 2017/18 this will raise an additional $A 2.2 billion. The additional net revenue will be spent on roads (Commonwealth of Australia, 2014c, Statement 1: Budget Overview).

[148] The valuation basis for the GST on imported goods is the c.i.f. value plus customs duties and any wine tax. The Australian Taxation Office (ATO) operates a scheme that provides for the deferral of GST on imported goods (Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/site/page5349.asp). Most educational, eligible childcare and health services, as well as medical appliances, cars for certain disabled people, basic foodstuff (meat, fruit, and vegetables), imports under certain customs concessions, and exports are among the items exempt from GST (Australian Customs and Border Protection Service online information. Viewed at: http://www.customs.gov.au/site/page5343.asp).

- an additional luxury car tax (LCT) of 33% on vehicles with a retail value above a GST-inclusive and CPI-indexed threshold (for fuel-efficient cars (fuel consumption less than 7 litres per 100 km) above $A 75,375 (since 2009/10), for other vehicles $A 57,466 for 2010/11 and 2011/12, $A 59,133 for 2012/13, and $A 60,316 for 2013/14)[149];

- a 29% wine equalisation tax (WET) on the final wholesale sale price for grape wine, fruit wine, vegetable wine, perry, mead, sake, cider, and grape wine products including vermouth, marsala, wine cocktails, and creams (since July 2000)[150]; and

- excise taxes (excise and excise-equivalent customs duties) on the production/manufacture, import, sale or distribution of petroleum and other fuel products, certain alcohol (including ready-to-drink products, excluding wine), tobacco, crude oil, and greases and lubricants (Table 3.6).

Table 3.6 Excise rates, 2011 and 2014

($A)

Commodity	Rates applying from 1 February 2011	Current rates February 2014
Petroleum and other fuel products (per litre)		
Aviation gasoline	0.03556[a]	0.08869
Aviation kerosene	0.03556[a]	0.09835
Biodiesel	0.38143[a]	0.38143
Compressed natural gas (per kg)		0.1567
Diesel (other than biodiesel)	0.38143[a]	0.38143
Fuel ethanol	0.38143[a]	0.38143
Fuel oil	0.38143[a]	0.38143
Gasoline (other than for use as fuel in aircraft)	0.38143[a]	0.38143
Greases (per kg)	0.05449[a]	0.05449
Heating oil and kerosene (for burner use)	0.38143[a]	0.38143
Liquid aromatic hydrocarbons consisting principally of benzene, toluene or xylene or mixtures of them	0.38143[a]	0.38143
LNG (per kg)		0.1567
LPG		0.0750
Mineral turpentine	0.38143[a]	0.38143
Oils and lubricants, excluding greases (per litre)	0.05449[a]	0.05449
Petroleum condensate	0.38143[a]	0.38143
Petroleum products (other than blends) not elsewhere included	0.38143[a]	0.38143
Stabilized crude petroleum oil	0.38143[a]	0.38143
Topped crude petroleum oil	0.38143[a]	0.38143
White spirit	0.38143[a]	0.38143
Beer (per litre)[b]		
Individual container <48 litres		
Low strength	36.71[c]	39.75
Mid strength	42.78[c]	46.30
High strength	42.78[c]	46.30
Individual container >48 litres		
Low strength	7.33[c]	7.94
Mid strength	23.01[c]	24.90
High strength	30.11[c]	32.60
Other beer (produced for non-commercial purposes using commercial facilities or equipment)[b]		
Low strength	2.58[c]	2.79
High strength	2.98[c]	3.23
Other beverages, not exceeding 10% alcohol content		
Other beverages, not exceeding 10% alcohol content	72.46[c]	78.44

[149] No data on the sales of domestic or foreign luxury cars were available from the authorities (Australian Taxation Office online information. Viewed at: http://www.ato.gov.au/Rates/Luxury-car-tax-rate-and-thresholds/#).

[150] Australian Taxation Office online information. Viewed at: http://www.ato.gov.au/Business/Wine-equalisation-tax/.

Commodity	Rates applying from 1 February 2011	Current rates February 2014
Spirits; other beverages exceeding 10% alcohol content		
Brandy	67.66[c]	73.25
Other beverages, exceeding 10% alcohol content; and spirits not elsewhere included	72.46[c]	78.44
Tobacco, cigars, and cigarettes		
Cigarettes, cigars, and tobacco (per stick)[d]	0.33633[e]	0.40197
Tobacco products (per kg)	420.43[e]	502.48

a Rates applying from 1 July 2006.
b Rate applied per litre of alcohol on the amount by which the alcohol content (by volume) exceeds 1.15%.
c Rates applying from 1 July 2010.
d Rate applied per stick to cigarettes, cigars and tobaccos with tobacco content of 0.8 grams or less.
e Rates applying from 1 February 2011.

Source: WTO document WT/TPR/S/244/Rev.1, 18 May 2011; and Australian Taxation Office online information. Viewed at: http://law.ato.gov.au/atolaw/view.htm?Docid=PAC/BL030002/1&PiT=99991231235958.

3.4.1.2 Direct taxation

3.105. Since 2011, no major changes have been made to Australia's direct tax system. The progressive personal income tax rates continued to range from zero to 45% for taxable income over $A 180,000 (plus a 2% Medicare levy (increased from 1.5% in the 2013/14 Budget)).[151] In the 2014/15 Budget, a "Temporary Budget Repair Levy" was introduced at a rate of 2% on taxable income over $A 180,000 for the period 1 July 2014 to 30 June 2017 (section 1.3.2).

3.106. Currently, a flat rate of 30% applies to corporate income taxes; while the rate is higher than for some neighbouring countries, it is not out of line with individual rates in OECD countries though higher than their average.[152]

3.107. A 46.5% Fringe Benefits Tax (FBT) continued to be levied on the value of certain fringe benefits employers provide to their employees, such as a right (including a property right), privilege, service or facility (e.g. the provision of company cars, subsidized accommodation and travel, entertainment, and the like).[153] The FBT is to increase to 49% from 1 April 2015, and remain at this rate for two years until 31 March 2017, due to the introduction of the Temporary Budget Repair Levy (sections 1.3.2 and 1.4.1).

3.108. A Petroleum Resource Rent Tax (PRRT) of 40% on the taxable profit made from an entity's participation/interest in a project remains in place.[154] On 1 July 2012 the PRRT was extended to all onshore oil and gas projects and to the North West Shelf Project.

3.109. A 22.5% Mineral Resources Rent Tax (MRRT) on the "super profits" from the mining of iron ore and coal was introduced on 1 July 2012. By December 2013, it had not raised anywhere near what was predicted and allegedly had a negative impact on investment in mining projects and significant compliance costs, hence it was repealed on 30 September 2014.[155]

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[151] Medicare is Australia's health care scheme, which is funded by revenue collected through this levy based on taxable income (Australian Taxation Office online information. Viewed at: http://www.ato.gov.au/Individuals/Income-and-deductions/How-much-income-tax-you-pay/Individual-income-tax-rates/).

[152] In 2013, the OECD average was estimated at 25.32% (KPMG online information. Viewed at: http://www.kpmg.com/global/en/services/tax/tax-tools-and-resources/pages/corporate-tax-rates-table.aspx; and Australian Taxation Office online information. Viewed at: http://www.ato.gov.au/Rates/Company-tax/).

[153] Australian Taxation Office online information. Viewed at: http://www.ato.gov.au/Rates/FBT/.

[154] Australian Taxation Office online information. Viewed at: http://www.ato.gov.au/Business/Petroleum-resource-rent-tax/In-detail/PRRT-in-detail/Work-out-PRRT/How-to-work-out-PRRT/.

[155] Minister for Finance online information. Viewed at: http://www.financeminister.gov.au/media/2014/0909-repeal.html.

3.4.1.3 Tax incentives appraisal

3.110. Australia's 2013 annual Tax Expenditures Statement (TES) identifies 355 (337 in 2009)[156] tax expenditures by the Commonwealth Government to benefit a specified activity or class of taxpayer: 108 pertain directly to business income, 25 to commodities (e.g. fuel, alcohol, beer, wine, and tobacco) and other goods (e.g. luxury cars) or broadcasting activities, 13 to natural resources, 29 to GST, and 8 to the Carbon Pricing Mechanism (2012/13, 2013/14), which was repealed on 1 July 2014.[157] These tax expenditures are available to domestic and foreign firms; according to the authorities very few tax expenditures relate directly to production and/or trade of goods and/or services. The estimated GDP share of total tax expenditures was to drop from 9% (2009/10) to a projected 8% (2014/15).[158] In 2013/14, assistance to all functions (economic and non-economic activities) in the form of various tax incentives was estimated at $A 126 billion ($A 111.7 billion in 2010/11), an amount equivalent to less than a third of total general government expenses (e.g. grants), which amounted to $A 398.5 billion. In 2013/14 the largest positive consumption tax expenditure continued to relate to the GST (the main indirect tax), while the largest negative tax expenditure involved customs duties.[159] The capital gains (main residence exemption – discount component) taxpayers remain the main recipients of tax expenditures, although the amounts involved dropped considerably from 2009/10 onwards. Tax expenditures are reviewed by the Commonwealth Government where relevant during the preparation of its annual budget and in other policy development processes. While there is no systematic independent evaluation of tax expenditures, the Productivity Commission may, for example, review tax expenditures relevant to the terms of reference for its various inquiries; it appears that no such inquiry was undertaken during the period under review.

3.4.2 Production assistance

3.111. Since its previous Review, Australia has continued to provide wide-ranging assistance to production, not just in the form of tariff concessions and other tax incentives (sections 3.2.2.6, 3.3.4, and 3.4.1.3), but also in the form of grants and concessional loans, which are not generally included in its assistance estimates, and regulatory restrictions on competition in certain activities (section 3.4.3.1). Concessional loans are available under the Clean Energy Finance Corporation, the Export Finance and Insurance Commission, the Farm Finance Concessional Loan Scheme, the Drought Concessional Loan Scheme and the Infrastructure Growth Package programmes (sections 1.2.1, 3.3.5, 4.2.2.2 and 4.3.2 and 4.5.7). Between 2011 and mid-2014 the Department of Industry provided $A 25 million in concessional loans. Assistance generally benefits the industry receiving it and, if well targeted and designed, can deliver wider community benefits, but can come at a cost to other industries, taxpayers, consumers, and competitors.[160] There is no legislative requirement for conducting programme evaluations in order to assess their cost-effectiveness in achieving their stated objectives. Nevertheless, the Government committed to giving broader consideration to the effectiveness of existing tax incentives for innovation and industry-funded research in the forthcoming White Paper on Australia's Tax Reform (section 1.4.1).

3.112. Australia's latest notification to the WTO Committee on Subsidies and Countervailing Measures (September 2013) listed 30 federal programmes in support of environmental protection, forestry, innovation, PMV, TCF, steel, and workforce training activities, as well as 38 programmes

[156] The authorities indicated that comparisons between different editions of the TES need careful interpretation as the number of tax expenditures reported may differ due to changes to benchmarks, etc. rather than policy changes.

[157] The Tax Expenditures Statement describes concessions, benefits, incentives and charges provided through the tax system (termed as tax expenditures) to taxpayers by the Australian Government and, where possible, their estimated value involving tax exemptions, deductions or offsets, concessional tax rates and deferrals of tax liability (Treasury, 2013).

[158] The authorities indicated, *inter alia*, that comparing total tax expenditures as a proportion of GDP in different years may not accurately reflect government policy as changes in this proportion are affected by external issues such as the impact of the housing market on capital gains from housing (noting that the biggest Australian Government tax expenditure relates to the capital gains tax exemption for main residences) (Australian Government online information, "Budget 2013-14: Tables 3.20 and 3.21". Viewed at: http://www.budget.gov.au/2013-14/content/table_styles.htm).

[159] Positive tax expenditures reduce tax liabilities relative to the benchmark. Negative tax expenditures increase tax liabilities relative to the benchmark, i.e. they impose an additional charge rather than a benefit. (Treasury, 2013).

[160] Productivity Commission (2013d).

at state and territory level (Table A3.2). Australia maintains sunset clauses for several incentives notified to the WTO. Some of these programmes will terminate on a specific date or were concluded during the period under review, e.g. the Steel Transformation Plan (30 June 2016) and the TCF Restructuring Initiative Grant Scheme (30 June 2013). Support under the notified schemes is mainly delivered by means of grants to eligible firms. Other forms of assistance include: funding agreements; payments arrears; advance payments; tax waivers/refunds/exemptions; duty concessions; vouchers; and counselling services.[161]

3.113. According to the Productivity Commission, following a peak of $A 18.1 billion in 2010/11 assistance to domestic production of goods and services declined to $A 15.6 billion in 2012/13, in gross terms, comprising: $A 7.8 billion in gross tariff assistance, $A 4.4 billion of budgetary outlays and $A 3.4 billion in estimated tax concessions.[162] Between 2007/08 and 2012/13 support for R&D increased from 24% of total budgetary assistance to 38%, as support for small business remained steady around 22%. The share of industry-specific support (such as for the automotive, biotechnology, and textile, clothing, and footwear industries) fell from 24% to 21% and the share of export promotion dropped from 7% to 6%. In 2012/13, budgetary-assistance (i.e. outlays plus tax incentives) continued mostly to benefit the services sector (43%), and to a lesser extent manufacturing (21%) and the primary sector (14%). In 2012/13, the estimated budgetary assistance was higher for: property, professional, and administrative services (8.7%); finance and insurance (8.2%); motor vehicles and parts (5.9%); and sheep, beef cattle, and grain farming (5.8%). The same year, the effective rate (of combined) assistance (ERA) remained high for motor vehicles and parts (8.9%), and textiles, clothing, and footwear (8.1%).[163]

3.114. Australia has kept its domestic support expenditure in agriculture as measured by the Aggregate Measurement of Support (AMS) well below its final bound total commitment level; its final bound total AMS ceiling has been $A 471.86 million since 2000, and its level of support, as measured by the current total AMS, dropped during the review period, from $A 206.74 million (2007/08) to zero (2008/09).[164] In 2010/11, Australia did not provide any product-specific trade-distorting domestic support; non-product-specific AMS of $A 84.29 million was below the *de minimis* value and destined mainly for irrigation infrastructure operations. Therefore, virtually all of Australia's domestic support to agriculture is in the form of "Green Box" programmes, i.e. support that has minimal trade-distorting effects or effects on production.

3.115. The Fuel Tax Credits Scheme (section 4.3.2.3) aims to reduce the cost of some fuels by removing the incidence of excise and excise equivalent customs duty from the costs of fuels used as inputs for certain business activities. Excise credits on fuel products used for purposes other than as fuel were available to businesses at $A 55 million per year; similar credits rising from $A 445 million (2010/11) to $A 560 million (2013/14) per year applied to fuel oil, heating oil and kerosene.[165] Domestic producers of ethanol, biodiesel and renewable diesel used in transport also continued to receive a government subsidy, which for ethanol and biodiesel is to be gradually repealed (section 4.3.2.3).

[161] In addition to WTO-notified subsidies, the Department of Industry has some other programmes, including the tax exemption-related Venture Capital Limited Partnerships Program, and Early Stage Venture Capital Limited Partnership Program, and innovation funding related to the Clothing and Household Textile Building Innovative Capability Scheme, the Innovation Investment Fund (IIF), and the Pooled Development Funds (PDF). The following programmes were or about to expire/close: Commercialising Emerging Technologies (COMET) (in January 2010); the Insulation Industry Assistance Package (IIAP) (in July 2010); Re-tooling for Climate Change (in November 2010); the Green Building Fund (GBF) (in March 2011); TQUAL (tourism) Grants (in July 2013); the Innovation Investment Fund (IIF) (in 2014); the Ethanol Production Grants (EPG) (in June 2015); and, the Renewable Energy Equity Fund (REEF) (date unknown). WTO documents G/SCM/N/253/AUS, 11 September 2013; G/SCM/N/253/AUS/Suppl.1, 24 September 2013; and G/SCM/N/253/AUS/Corr.1, 24 September 2013. For extensive information on the ongoing programmes, see AusIndustry online information, "AusIndustry Program Summary as of November 2013". Viewed at: http://www.ausindustry.gov.au/programs/Documents/AusIndustryProgramSummary.pdf; and Productivity Commission (2013d).

[162] Productivity Commission (2014c).

[163] The ERA measures the net subsidy equivalent (NSE) of combined tariff, budgetary, and agricultural pricing and/or regulatory assistance to a particular industry in proportion to that industry's unassisted net output (or unassisted value added). It can provide an indication of the extent to which assistance to an industry allows it to attract and hold economic resources (Productivity Commission, 2014c).

[164] WTO documents G/AG/N/AUS/73, 13 July 2009; G/AG/N/AUS/76, 13 July 2010; G/AG/N/AUS/82, 17 August 2011; G/AG/N/AUS/88, 17 October 2013, and G/AG/N/AUS/89, 17 October 2013.

[165] Treasury (2013).

3.116. In October 2014 an Industry Innovation and Competitiveness Agenda was announced (section 1.4). It consists of six initiatives aimed at boosting Australian competitiveness over the next 18 months: encouraging employee share ownership; reforming the vocational education and training sector; promoting science, technology, engineering and mathematics skills in schools; enhancing the 457 and investor visa programme; and establishing Industry Growth Centres (food and agribusiness, mining equipment, technology and services, oil, gas and energy resources, medical technologies and pharmaceuticals, and advanced manufacturing sectors).[166] The proposed $A 188.5 million funded Industry Growth Centres are to help industry exploit new global markets and supply chains, invent and commercialize new products and services, and generate new jobs.[167] These centres, which will be led by industry, will bring together expertise from business and industry, the scientific and research communities and the university sector.

3.4.3 Competition and consumer policy

3.4.3.1 Competition policy[168]

3.4.3.1.1 General framework

3.117. During the period under review no major changes were brought to the competition policy framework. In December 2013 the Government announced the launch of a comprehensive review of competition laws and policy ("root and branch" review), the first in more than 20 years, to reinvigorate competition reform, broaden "durable benefits" (i.e. longstanding productivity gains), foster economic prosperity and enterprise, promote Australian businesses, attract investment, and establish a "footing for exports" (i.e. foster international competitiveness).[169] On 27 March 2014, the Government released the Terms of Reference of this review; an Issues Paper was issued on 14 April 2014 (open for submissions until 10 June 2014), a draft report was scheduled for release in September 2014, and the final report was to be delivered by March 2015. Australia's National Competition Policy (NCP) Framework explicitly recognizes that competitive markets generally serve the interests of consumers and the community by providing strong incentives for suppliers to operate efficiently, be price competitive and innovative, thereby improving export competitiveness. A key principle is that arrangements that detract from competition should be retained only if public interest benefits outweigh any anticompetitive detriment. As part of the NCP, under the Competition Principles Agreement (CPA), Commonwealth, state and territory governments have undertaken to review and reform legislation that restricts competition. The "root and branch" review outlined above will make recommendations about future pro-competitive legislative reforms.

3.118. The institutional setting for competition matters remained unchanged during the review period. National competition policy is the responsibility of the Department of the Treasury within the Commonwealth Government as well as the Premier's Department in each State and the Chief Minister's Department in each Territory. The Australian Competition and Consumer Commission (ACCC), an independent statutory authority, is charged, *inter alia*, with administering the Competition and Consumer Act 2010 (CCA) (section 3.4.3.1.2); the ACCC and the Australian Energy Regulator (AER) are responsible for regulating the electricity and gas, and the telecommunications and transport sectors, respectively. The National Competition Council (NCC), also an independent authority, assesses whether third-party access should be granted to major infrastructure under the CCA access provisions, with subsequent regulation of that access

[166] Prime Minister Media Release, "An action plan for Australia's future", 14 October 2014. Viewed at: https://www.pm.gov.au/media/2014-10-14/action-plan-australias-future.

[167] Austrade online information, "Australian Government launches Industry Innovation and Competitiveness Agenda", 15 October 2014. Viewed at: http://www.austrade.gov.au/about-austrade/news/latest-from-austrade/2014/australian-government-launches-industry-innovation-and-competitiveness-agenda.

[168] For more information about Australia's competition law and policy developments, see Australian Competition Law online information. Viewed at: http://www.australiancompetitionlaw.org/index.html; ACCC online information. Viewed at: http://www.accc.gov.au/; and WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[169] Joint Press Release, "Review of Competition Policy", by The Hon. Tony Abbott MP, Prime Minister, and The Hon. Bruce Billson MP, Minister for Small Business, 4 December 2013. Viewed at: http://www.apha.org.au/wp-content/uploads/2013/12/Terms-of-reference.pdf.

conducted by the ACCC or other state-based regulators. The Australian Competition Tribunal (ACT) may re-hear or re-consider these matters; it may affirm, set aside or vary the original decision.[170]

3.4.3.1.2 Legislative framework

3.119. Competition (and consumer protection) legislation is contained in the Competition and Consumer Act 2010 (CCA), which in January 2011 replaced the Trade Practices Act 1974 (TPA), and is intended to promote and preserve fair and free competition in the domestic market. During the review period competition-related legislative amendments included: the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Act 2011; the Carbon Credits (Consequential Amendments) Act 2011; the Clean Energy (Consequential Amendments) Act 2011; the Clean Energy Legislation (Carbon Tax Repeal) Act 2014; and the Australian Energy Market Amendment (National Energy Retail Law) Act 2011. The Competition and Consumer Legislation Amendment Act 2011, clarified the provisions of the Australian Consumer Law (section 3.4.3.3) concerning unconscionable conduct, and the mergers and acquisitions provisions to address creeping acquisitions, and provided for prohibition of the anticompetitive disclosure of pricing and other information. These amendments took effect on 1 January 2012 and 6 February 2012, respectively. On 6 March 2014 a Competition and Consumer Amendment (Misuse of Market Power) Bill 2014 was introduced into the Senate, and referred to its Economics Legislation Committee for inquiry and report by 4 December 2014. It proposes to amend the Competition and Consumer Act 2010 to enable the Federal Court of Australia to require a corporation to reduce its market share or power within two years where the corporation is found to have misused that market share or power.

3.120. The CCA prohibits cartel conduct by way of price-fixing, output restrictions, bid-rigging, and allocating customers, suppliers or territories as well as other anti-competitive conduct such as boycotts, misuse of market power, exclusive dealing, resale price maintenance, and agreements or mergers substantially lessening competition. The Competition and Consumer Amendment Act (No. 1) 2011, introduced prohibitions on anti-competitive price-signalling and information disclosures, which were applied to the banking sector; these reforms took effect on 6 June 2012 and there have been no enforcement actions to date. To foster more effective compliance with the CCA, four mandatory industry codes of conduct are in place: the 1998 Franchising Code of Conduct, the 2007 Oilcode, the 2007 Horticulture Code, and the 2009 Unit Pricing Code.[171] Conduct that may raise competition concerns (section 3.4.3.1.3) may be authorized on a case-by-case basis through an administrative process managed by the ACCC, and on condition that it is in the public interest.[172] In this regard, the ACCC has authorized voluntary industry codes, including the air conditioning and mechanical contractors' code, the fruit juice industry code, the Indigenous Australian art trader code, the jewellery trading code, the Medicines Australia's code of conduct, the pallet-hire industry code and the scanning code of practice.

3.4.3.1.3 CCA exemptions

3.121. The CCA covers virtually all business activities, including government business[173]; nevertheless, a long list of special regimes and exemptions derogating the CCA is maintained. Many of these exemptions are narrow and technical. Most arise at state and territorial levels of

[170] For more details about the ACT and its activities, see http://www.competitiontribunal.gov.au/.

[171] The Oilcode regulates the conduct of suppliers, distributors, and retailers in the downstream petroleum industry, while the Horticulture Code deals with the conduct of growers and traders of horticultural produce.

[172] In this context, public interest refers to conduct which enhances the welfare of Australians. For example, where there is market failure it may be the case that restrictions on competition could achieve a more efficient outcome, and thus higher welfare, than would be the case if the market was left unfettered. The recognition that, in certain circumstances, arrangements which restrict competition can nonetheless be in the public interest is reflected in the authorisation provisions of the Act. In some circumstances, in order to provide consumers with new or better goods/services, suppliers need to enter into arrangements that restrict competition and may breach the Act. The authorisation process involves a trade-off between the benefits of addressing market failure, or bringing together complementary assets and aligning incentives, and the costs of restricting competition. This trade-off can also be seen as balancing the public benefits from the proposed conduct for which authorisation is sought, against the public detriments arising from that conduct. This is distinct from "national interest", which is more likely to consider issues such as national security and protection of sovereignty.

[173] It also includes telecommunication-specific competition rules.

government where they seem difficult to reform.[174] They include specific postal mail delivery services and cargo-liner shipping conferences at the national level, and agricultural marketing boards, taxi services or pharmacies at state or territory level. Several deal with marketing arrangements for agricultural products by authorizing either the operation of monopolies (e.g. exports of rice grown in New South Wales) or joint action ostensibly to equalize bargaining power between producers and processors. On 2 December 2012, the Wheat Export Marketing Amendment Act 2012 changed the requirement for removal of the access test under which port terminal operators had to have access undertakings in place with the ACCC as a condition for exporting bulk wheat.[175] As of 30 September 2014 a mandatory port access code of conduct for bulk wheat exports triggered the automatic repeal of past wheat export legislation and assists farmers and exporters to access the infrastructure that delivers Australia's wheat to the rest of the world.[176]

3.122. Following recommendations by a 2005 Productivity Commission review, in 2006 the authorities decided to retain CCA provisions (Part X) on international cargo-liner shipping conferences, but to amend them to clarify objectives, remove discussion agreements from their scope, protect individual confidential service contracts between carriers and shippers, and introduce a range of penalties for breaches of its procedural provisions. These changes were proposed to expand somewhat the scope of the CCA into international shipping while maintaining the perceived benefits of seamless customer service in relation to the delivery of goods internationally, but no relevant legislative amendments have been put before Parliament so far.

3.123. Conditions in agreements licensing patents, design copyrights, and trade marks are also exempt from CCA provisions as long as they are limited to permitted topics. All legislation in Australia is subject to a Regulatory Impact Statement (RIS) review process, which requires a consideration of many factors including an assessment of competitive impacts (section 2.6).

3.124. Many of these exemptions to the CCA have previously been considered by the Productivity Commission in the form of inquiries. They are also subject to review as a part of the current process to review competition policy in Australia (section 3.4.3.1.1). The rationale behind each exemption is a decision by the government of the day rather than the ACCC. However in general terms, exemptions have been implemented to further a public policy issue that, at the time the exemption was implemented, was considered a more important issue to address than maintaining the status quo of the relevant competition provisions.

3.125. Certain prohibited anti-competitive practices in industries and professions can be authorized when public benefits are deemed to exceed detriments.[177] Businesses may obtain immunity by applying for an authorization or submitting notifications of exclusive dealing and collective bargaining to the ACCC.[178] In 2012/13, the ACCC issued 32 final authorisation decisions

[174] Some 12 Commonwealth and 69 state and territory Acts permit conduct that would normally contravene the CCA. Such conduct may be permitted if it is specifically authorized under those Acts, which cover, *inter alia,* farm produce, poultry meat, the sugar industry, grain marketing, rice marketing, tobacco products, wine grapes marketing, liquor, the coal industry, the gas industry, electricity, financial, banking, gambling, health, insurance, postal, transport, water supply, and state-owned enterprises activities. The ACCC publishes the list of these enactments on its website (http://www.accc.gov.au/about-us/australian-competition-consumer-commission/legislation/exceptions-under-commonwealth-state-territory-legislation) and in its annual report (WTO document WT/TPR/S/244/Rev.1, 18 May 2011). Since 2011 the following Acts have been added to the list: the Stronger Futures in the Northern Territory Act 2012; the Electricity Generator Assets (Authorised Transactions) Act 2012; the Electricity Reform Act 2012; and the Water and Sewerage Corporation Act 2012

[175] Department of Agriculture, Fisheries and Forestry (2013).

[176] Joint Media Release, "Improved regulations for wheat exports: mandatory code announced", by The Hon. Barnaby Joyce MP Minister for Agriculture, and The Hon. Bruce Billson MP Minister for Small Business, 19 September 2014. Viewed at: http://www.maff.gov.au/Pages/Media%20Releases/improved-regulations-for-wheat-exports-mandatory-code-announced.aspx.

[177] The types of conduct that can be authorised are: a cartel provision; an exclusionary provision (primary boycott); an anti-competitive agreement; a secondary boycott; exclusive dealing; resale price maintenance; anti-competitive disclosures of pricing and other information; an acquisition that occurs outside of Australia; and dual-listed company arrangements that affect competition.

[178] Collective bargaining is an arrangement where two or more competitors come together to negotiate with a supplier or a customer over terms, conditions and prices. A group of businesses may sometimes appoint a representative, such as an industry association, to act on its behalf in the negotiations and can include negotiations associated with labour relations.

for arrangements across sectors including aviation, retail, primary production, automotive, and medical.[179] The ACCC received and assessed more than 750 exclusive dealing notifications involving 410 separate matters in 2012/13, an increase of more than 10% over the previous year. During 2012/13, the ACCC considered 21 collective bargaining proposals (authorisations and notifications), the majority of which involved small business participants and were related to primary producers negotiating with processors in the dairy, chicken-growing and potato-growing sectors. In 2013/14, the ACCC issued 13 determinations authorising collective-bargaining arrangements; these involved clubs, lottery agents, interpreter services, medical services, office supplies, wagering, and coal-handling and supply. There were no collective-bargaining notifications allowed during the year.

3.126. The National Access Regime (last amended in 2010) provides a legislative framework for third-party access to certain services provided by essential infrastructure facilities, such as electricity networks, rail tracks, natural-gas pipelines, water, communications, port terminals, and airports, when commercial negotiations on access are unsuccessful. Its purpose is to promote economically efficient infrastructure use and investment, including promoting competition in markets upstream and downstream from the service, as well as to encourage new entrants into markets that rely on monopoly services (i.e. limited competition). To achieve this objective, much of the ACCC/AER role in relation to access regulation may include: determining prices and access terms and conditions; monitoring and enforcing industry-specific pro-competition laws for bulk water, energy, and communications; and monitoring and reporting on prices and service quality of particular goods and services in the areas concerned. According to the 2013 Productivity Commission Inquiry Report, the regime should be retained, and its scope confined to ensure its use is limited to the exceptional cases where the benefits arising from increased competition in dependent markets are likely to outweigh the costs of regulated third-party access.[180] Renewed emphasis should be given to ensuring that the regime better targets the economic problem to reduce the risk of imposing unnecessary costs on the community and deterring investment in markets for infrastructure services for little gain.

3.4.3.1.4 Mergers and acquisitions

3.127. The CCA prohibits acquisitions that would be likely to substantially lessen competition. The 2008 ACCC guidelines outline the general principles underpinning its merger analysis, with increased emphasis on the competitive theories of harm and the effect of constraints. In September 2013, the ACCC published the revised Informal Merger Review Process Guidelines which reflect recent important developments in the approach to merger reviews, as well as incorporating changes to improve efficiency and transparency. In 2013/14, the ACCC considered 297 (377 in 2010/11) matters for compliance with the merger and acquisitions section of the CCA. Of these, 242 (236 in 2010/11) were assessed as not requiring a public review (pre-assessed).[181] The ACCC held a public or confidential review of 55 mergers (141 in 2010/11). In 2013/14, the ACCC unconditionally cleared 65% (77% in 2012/13) of those mergers that underwent a public or confidential review and 94% of all mergers (including pre-assessments). Some of the more substantial mergers considered recently fell within the air transport, banking, supermarket, and healthcare sectors. All publicly reviewed and decided mergers were published on the ACCC website.

3.4.3.1.5 Cartel conduct

3.128. For individuals, cartel conduct is punishable by imprisonment of up to ten years and/or fines of up to $A 220,000 per contravention or, under the parallel regime of civil prohibition, fines of up to $A 500,000 per contravention. Export cartels are exempt from the law.[182] Corporations found guilty of such conduct may be fined up to $A 10 million, three times the value of the illegal benefit or, where the benefit cannot be calculated, 10% of the corporate group's annual turnover (whichever is greater). In addition to the ACCC, which is responsible for investigating allegations of cartel conduct and arranging civil proceedings, the Commonwealth Director of Public Prosecutions (DPP), the general centralized prosecutions agency, has responsibility for prosecutions of all

[179] Australian Competition and Consumer Commission & Australian Energy Regulator (2013).
[180] Productivity Commission (2013b).
[181] Australian Competition and Consumer Commission & Australian Energy Regulator (2013).
[182] The authorities indicated that the policy reasons behind this exemption are a government rather than an ACCC matter, and export cartels do not negatively impact Australian citizens.

indictable federal offences in Australia. In 2012/13, six cartel litigations involving air cargo companies and a cable supplier were concluded securing over $A 41 million in fines; litigation was under way in four alleged cartel conduct cases (air cargo, cable, forklift gas, wire harnesses), two alleged misuse of market power (flyash, dynamic currency conversion services), and two alleged anti-competitive agreements cases.[183] As at May 2014 there were 12 in-depth investigations and 8 litigations ongoing.

3.4.3.1.6 Enforcement

3.129. In February 2013, the ACCC released a revised Compliance and Enforcement Policy, which identified the types of harmful anti-competitive business conduct to be assessed as a priority, irrespective of the economic sector concerned.[184] These are cartel conduct, agreements which substantially lessen competition, and the misuse of market power; in addition, competition and consumer issues arising in highly-concentrated sectors (supermarket and fuel sectors), and online competition were set as further areas of focus.

3.130. Most of the investigations instituted under CCA provisions concern mergers and, to a much lesser extent, unfair competition and consumer protection, horizontal agreements, vertical agreements, and abuse of dominance. The main industries subject to complaints and inquiries under CCA and Australian Consumer Law (ACL) provisions (section 3.4.3.3) in 2013/14 covered: other personal services; non-store retailing; on-selling electricity and electricity market operations; supermarket and grocery stores; wired telecommunications network operations; department stores; other electrical and electronic goods retailing; other store-based retailing; and motor vehicle manufacturing and car retailing. During the same period, the most common conduct complaints under the CCA provisions relating to effective competition and informed markets were alleged contravention of industry codes (section 3.4.3.1.2), exclusive dealing, and misuse of market power. Complaints relating to the CCA provisions on fair trading and consumer protection related mainly to: guarantees of acceptable quality; misleading or deceptive conduct; wrongly accepting payment; guarantees of due care and skill; false representations of price; safety standards; and guarantees relating to the supply of goods by description, sample or demonstration. Most CCA-related inquiries and complaints originate in New South Wales, Victoria, and Queensland.

3.4.3.2 Price surveillance

3.131. Price surveillance and monitoring is provided for in the CCA. Three forms of price surveillance are available: price inquiries, directed to the ACCC by portfolio ministers to undertake a public inquiry; price notification, where the portfolio minister requires specific companies to notify the ACCC of a proposed price increase; and price monitoring, where the portfolio minister directs the ACCC to monitor the prices, costs, and profits of companies and government agencies relating to specific goods and services. Price surveillance may be conducted informally or formally. Under the formal price surveillance system, penalties may be applied for non-compliance. As indicated, the ACCC conducts formal price surveillance on aviation and airport services and facilities, fuel, electricity, telecommunications, postal services, and container stevedoring. Since 2011 only one new set of price monitoring has commenced; more specifically, on 24 February 2014, the Commonwealth Government directed the ACCC to monitor prices, costs and profits to assess the general effect of the carbon tax scheme in preparation for the carbon tax repeal in July 2014 (sections 3.4.1.3, 4.2.2.2, 4.3.2, and 4.3.2.1.3).

3.4.3.3 Consumer protection policy

3.132. Consumer protection legislation is contained in the 2010 single ACL implemented as from 1 January 2011. Since the introduction of the ACL, amendments have included: exempting restaurant and café menu surcharges from the component pricing laws; clarifying lay-by sales rules; enhancing the tobacco information standard; and amendments to unconscionable conduct provisions to include interpretative principles of what constitutes unconscionable conduct. The ACL is due to be reviewed by 2016. The Consumer Credit Legislation Amendment (Enhancements) Act 2012 sought to strengthen the consumer protections in relation to consumer credit. The Competition and Consumer Amendment Act 2013 inserted an exemption to the ACL requirement

[183] Australian Competition and Consumer Commission & Australian Energy Regulator (2013).
[184] Australian Competition and Consumer Commission & Australian Energy Regulator (2013).

for traders to state a single price (e.g. for food, movie tickets). In addition to the ACL, there are a number of other separate laws related to consumer protection, including laws covering food standards, therapeutic goods and trade measurement. Responsibility for consumer protection enforcement at the Commonwealth level is with the ACCC and the Australian Securities and Investments Commission (ASIC), which remains the primary regulatory agency responsible for consumer protection for financial products and services. The ACL is administered and enforced jointly by the ACCC and the State and Territory consumer protection agencies, with the involvement of ASIC on relevant matters.

3.133. In 2013 and 2014 consumer protection priorities were in: telecommunications and energy; online consumer issues; consumer issues in highly-concentrated sectors; disruption of deceptive relationship scams; complexity and unfairness in consumer contracts; credence claims, particularly those that adversely impact the competitive process and small business; misleading carbon-pricing representations; consumer guarantees; issues affecting indigenous communities; and product-safety issues with the potential to seriously harm consumers.[185] In 2012/13, the ACCC was involved in 54 proceedings relating to consumer protection enforcement: 28 cases were carried over from 2011/12; 26 new cases began in 2012/13; and 33 cases were ongoing as of 30 June 2013. During this period litigations involved, *inter alia*, misleading advertising, misleading/deceptive/unconscionable conduct, harassment and coercion, or product safety compliance, at the energy and telecommunications activities or other activities through door-to-door sales, online trading, small business scams, credence claims, pyramid-selling, unfair contract terms, and consumer guarantees practices. In 2012/13, the ACCC accepted 12 consumer protection-related public undertakings by companies or individuals to remedy the harm caused by their conduct, accept responsibility for their actions, or establish or review and improve their trade practices compliance programmes and culture.

3.4.4 Corporate governance

3.134. Australia's corporate governance framework consists of parts of the Corporations Act 2001 (Corporations Act); accounting standards (which have the force of law); various market-operating rules (including the Australian Securities Exchange (ASX) Listing Rules and Operating Rules, and the ASX Corporate Governance Council's "Principles of Good Corporate Governance and Best Practice Recommendations") and voluntary self-regulatory codes of practice. The Australian Securities and Investments Commission also plays an important role in supervising corporate governance requirements set out in the Corporations Act, as does the Australian Prudential Regulatory Authority in relation to financial institutions. A number of reforms have been undertaken in recent years to improve accountability and transparency in the executive remuneration framework. These include expanding the content of remuneration reports and strengthening shareholder engagement by introducing the "two strikes and re-election" rule.[186] Efforts are currently focussed on reducing the regulatory burden for individuals, businesses and community organisations. The Senate Economics References Committee issued a report in June 2014 on its inquiry into the performance of the Australian Securities and Investments Commission which called for the review of sanctions for corporate breaches, including breaches by corporate officers. The Government is currently considering the Committee's recommendations.

3.135. During 2012/13, the ASX Corporate Governance Council reviewed its Corporate Governance Principles and Recommendations (last amended in 2010), focussing on Principles 6 (respect the rights of shareholders), 7 (recognise and manage risk) and 8 (remunerate fairly and responsibly), *inter alia*, to capture and reflect developments in Australia and internationally in corporate governance matters.[187] The opportunity was also taken to simplify the structure of the ASX Principles and Recommendations and to afford greater flexibility to listed entities in terms of where they make their governance disclosures. The revised third edition was released on 27 March 2014 and took effect for a listed entity's first full financial year commencing on or after 1 July 2014.

[185] Australian Competition and Consumer Commission & Australian Energy Regulator (2013).

[186] This rule gives a company's shareholders the power to require the Board to stand for re-election if, in two consecutive years, the company receives significant "no" votes on its remuneration report.

[187] ASX Corporate Governance Council Media Release, "Review of Corporate Governance Principles and Recommendations", 4 December 2012. Viewed at: http://www.asx.com.au/documents/asx-compliance/cgc-communique-4dec12.pdf.

3.4.5 Government trading enterprises

3.136. Government trading enterprises (GTEs) remain engaged, often as monopolies, in the production of goods and services; they are required to substantially or fully cover their costs.[188] GTEs established as companies are subject to the Corporations Act. However, most GTEs are established as statutory entities and may have policy objectives that place competing pressures on their commercial functions. All Australian government-owned enterprises are subject to competition laws. The Government's ownership is generally represented by two "shareholder ministers", the portfolio minister (the Minister in charge of the portfolio in which the GTE is involved), and the Finance Minister. The Government may impose price controls on GTEs providing goods and services in a monopolistic market, or specify other targets such as community service obligations (CSOs). At present, aside from Australia Post (stamps for letters below 125 grams are regulated) there are no other instances where the Government imposes price controls on GBEs.

3.137. According to the authorities in 2012/13 the combined revenue of the eight Commonwealth-owned GBEs accounted for 0.95% of GDP.[189] No other recent comprehensive data was available (covering all government-owned firms (including State- and Territory-owned)) to appraise the extent and impact of state involvement in the economy. In 2006/07, there were 86 GTEs providing essential infrastructure services (section 3.2.8, 3.4.3.1.1 and 3.4.3.1.3) in key sectors of the economy, including water (24), electricity (23), ports (19), forestry (6), rail (6), and urban transport (5).[190] The 11 largest GTEs accounted for around 50% (2006/07) of the total assets of these companies. These GTEs controlled about 2.8% (2006/07) of Australia's non-household assets and accounted for around 1.7% (2006/07) of GDP. According to a 2008 report of the Productivity Commission, the poor financial performance of many GTEs underscored a long-term failure to operate these businesses on a fully-commercial basis, in accordance with competition policy (section 3.4.3). A number of GTEs relied heavily on government funding in order to sustain operations, and their investments are funded from taxpayers and customers. Funding from governments can be either direct, through grants, asset contributions or equity injections, or indirect, via contracts with a GTE or through the provision of loans at below-market interest rates.

3.138. During the review period, the Commonwealth Government privatized Medibank Private health insurance company (section 4.5.5.2). Other privatizations were undertaken by the government of New South Wales (NSW) and involved: Port Botany and Port Kembla, two of Australia's biggest ports, (May 2013); and Eraring Energy (electricity generation) and two Delta Electricity power plants (July 2013).[191] In July 2013 the government of NSW called for bids in the sale of Macquarie Generation's two power plants. No further information on main privatization developments and plans at federal, state, and local level from 2011 onwards were available as no detailed records are maintained by the authorities. The 2014/15 Budget provides for the public sector to be streamlined to focus on the areas where Commonwealth Government involvement is necessary.[192] By mid-2014 it also proposed a $A 5 billion Asset Recycling Fund to provide 15% "bonus" payments to state governments that sell public assets and use the proceeds to pay for so-called "nation-building infrastructure" — mainly big privatised road projects.[193] The Government intended to conduct reviews into future ownership options for Australian Hearing, the Defence Housing Authority, the Australian Securities and Investments Commission Registry function and the Royal Australian Mint.

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[188] GTEs are also commonly referred to as: government business enterprises (GBEs); government-owned corporations (GOCs); public trading enterprises (PTEs); public corporations; state-owned corporations (SOCs); state-owned enterprises (SOEs); or territory-owned corporations (TOCs) (WTO document WT/TPR/S/244/Rev.1, 18 May 2011).

[189] These GBEs were: ASC Pty Limited, Australian Government Solicitor, Australian Postal Corporation, Australian Rail Track Corporation, Defence Housing Australia, Medibank Private Limited, Moorebank Intermodal Company Limited, and NBN Co Limited.

[190] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[191] Economist Intelligence Unit (2013).

[192] Commonwealth of Australia (2014c), Statement 1: Budget Overview.

[193] NewsMail online information, "Treasurer calls for investors to back infrastructure sales", 20 July 2014. Viewed at: http://www.news-mail.com.au/news/Treasurer-calls-for-investors-to-back-infrastructu/2323731/.

3.4.6 Intellectual property rights

3.139. Australia considers intellectual property (IP) as an integral part of international trade, and its importance is increasing as the effective use of knowledge contributes ever more to national economic prosperity. In 2013/2014 intellectual property was valued at $A 222 billion ($A 182.5 billion in 2010/11), with domestic expenditure on IP products at $A 38.5 billion (current prices) and trade in royalties for intellectual property for Australia at $A 1 billion ($A 1.1 billion in 2010/11) (exports) and $A 5.4 billion ($A 5.2 billion in 2010/11) (imports).[194] On a global scale, royalty and licensing transactions for patents have grown rapidly both in volume and as a share of world GDP over the past decade, while IP transactions in Australia have remained steady.[195] In 2013 Australia was the world's 13th country in terms of the size of inventor immigrant and emigrant communities.[196]

3.140. Australia has continued to provide strong intellectual property rights (IPRs) protection and enforcement; in 2013 its IP system ranked fifth (third in 2012) in the latest Global IP Index which is based on effectiveness and administrative performance.[197] During the review period, developments in its international commitments on the protection of IPRs included the conclusion of IP chapters in Free Trade Agreements with Malaysia, Japan, and Korea (Rep. of) (section 2.4.2); the FTA with Japan has not yet entered into force. Australia also signed the WIPO Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled on 23 June 2014, and the Anti-Counterfeiting Trade Agreement (ACTA) on 1 October 2011[198]; both treaties are yet to be ratified. Through ACTA Australia seeks an enhanced, practical international standard on IPRs enforcement with broad international support, to complement its existing international IPRs architecture.[199] Australia continues to participate in 17 out of 25 treaties administered by WIPO.[200] For a broad range of reasons reflecting domestic and international policy, Australia is not a contracting party to several WIPO treaties.[201]

3.141. According to the Productivity Commission, IP law has a pervasive impact on innovation, production, trade and consumption.[202] In 2012 IP Australia (see below) established the Office of the Chief Economist to better understand the role intellectual property plays in the economy, provide comprehensive data on IP-filing activity and influence the policy debate on IP and innovation in Australia.

3.142. To improve the robustness of its IP laws and system, Australia passed the IP Laws Amendment (Raising the Bar) Act 2012, its biggest IP system overhaul in twenty years, that came

194 The methodology for arriving at these figures is based on adding the value of expenditure each year across four categories of IP asset – research and development; mineral and petroleum exploration; computer software; and artistic originals – to the stock figure from the previous year, adjusted for depreciation (Australian Bureau of Statistics online information, "5368.0: International Trade in Goods and Services, October 2014" and "5204.0: Australian System of National Accounts 2013-14, 31 October 2014", Tables 10 and 2, respectively. Viewed at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/viewcontent?readform&view=productsbyCatalogue&Action=expandwithheader&Num=1; and Department of Foreign Affairs and Trade online information. Viewed at: https://www.dfat.gov.au/ip/).

195 IP Australia (2013).

196 WIPO (2013).

197 IP Australia (2013).

198 To date, 31 countries have signed ACTA and Japan is the only one to have ratified it; ACTA would come into force in countries that ratified it after ratification by six countries. On 21 November 2011, it was tabled in the Australian Parliament for consideration by the Joint Standing Committee on Treaties (JSCOT). On 27 June 2012 the Committee tabled its report. The Government tabled its response on 27 November 2012 (Department of Foreign Affairs and Trade online information. Viewed at: http://www.dfat.gov.au/ip/factsheet.html; and Productivity Commission, 2013d).

199 Department of Foreign Affairs and Trade online information. Viewed at: https://www.dfat.gov.au/ip/.

200 For more details on Australia's participation in WIPO Treaties, see WIPO online information. Viewed at: http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=10C.

201 These are: the Madrid Agreement (Indications of Source); the Nairobi Treaty on the Protection of the Olympic Symbols; the Washington Treaty on the Protection of Integrated Circuits; the Hague Agreement Concerning the International Registration of Industrial Designs; the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration; the Madrid Agreement Concerning the International Registration of Marks; the Locarno Agreement Establishing an International Classification for Industrial Designs; and the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks.

202 Productivity Commission (2013d).

into full effect on 15 April 2013.[203] The changes included updates to the Patents Act 1990, Trade Marks Act 1995, Designs Act 2003, Plant Breeder's Rights Act 1994, and Copyright Act 1968. The amendments address the following key areas: raising the quality of granted patents; free access to patented inventions for regulatory approvals and research; reducing delays in the resolution of patent and trade mark applications; assisting the operations of the IP profession; improving mechanisms for trade mark and copyright enforcement; and simplifying the IP system.

3.143. An Intellectual Property Laws Amendment Bill 2014 (see below) is expected to amend the Patents Act 1990, Trade Marks Act 1995, Designs Act 2003, and the Plant Breeder's Rights Act 1994 to, *inter alia*: implement the Protocol amending the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Protocol), enabling Australian medicine producers to manufacture and export patented pharmaceuticals to countries experiencing health crises under a compulsory licence from the Federal Court. It will also allow for a single trans-Tasman patent attorney regime and single patent application and examination processes for Australia and New Zealand, as part of the broader Single Economic Market (SEM) agenda; make minor administrative changes to the Patents, Trade Marks and Designs Acts to repeal unnecessary document retention provisions; and make minor technical amendments to the Patents Act to correct oversights in the drafting of the Intellectual Property Laws Amendment (Raising the Bar) Act 2012. Public consultation on the draft Intellectual Property Laws Amendment Bill 2014 and explanatory memorandum closed on 7 February 2014; the Bill was passed by the House of Representatives on 24 November 2014 and transmitted to the Senate.

3.144. Other work during the review period included an appraisal of pharmaceutical patents to see whether the system is effectively balancing the objectives of securing timely access to competitively-priced pharmaceuticals, fostering innovation and supporting employment in research and industry. A review of the innovation patent system was completed by the Advisory Council on Intellectual Property in June 2014, and a review of the designs system is currently underway and due to be completed by early- to mid-2015.

3.145. Between 2012 and 2013 five Members (Ukraine, Honduras, Dominican Republic, Cuba, and Indonesia) requested consultations with Australia with respect to certain laws and regulations relating to trade marks, geographical indications, and other plain packaging requirements on tobacco products and packaging; WTO dispute settlement Panels were established in May 2014 in respect of each of these claims (sections 3.2.7.3, 3.3.4.3, and 3.4.6.1.5, and section 2.4.1).[204]

3.4.6.1 Institutional and registration issues

3.146. IP Australia, under the Department of Industry, is responsible for the administration of patents, trade marks, designs, and plant breeders' rights. IP Australia recovers more than 95% of its costs by charging fees for services rendered. IP Australia provides inputs to RTA negotiations (section 2.4.2) so as to lock in transparent, high-standard protection for IPRs.[205] At the same time, the contribution of the Attorney-General's Department in this area consists of helping to achieve balanced outcomes on copyright that provide strong commitments on exceptions and limitations as well as enforcement. The Advisory Council on Intellectual Property (ACIP) and the Plant Breeders' Rights Advisory Committee advise the Minister and Parliamentary Secretary for Industry, as well as IP Australia, on matters relating to IP policy and the strategic administration of IP Australia. The Attorney-General's Department has responsibility for administration and policy in relation to the Copyright Act 1968 and the Circuit Layouts Act 1989.

3.147. In 2008/09, as a result of the global financial crisis, firms around the world scaled back investment, and the number of applications for IPRs dropped; patent filings have since recovered and trade mark and design filings in 2011/12 and 2013/14 exceeded pre-crisis levels.[206] In 2013/14, the average interval between the lodging and acceptance of applications for industrial property rights was: 4 months for trade marks (4 in 2009); 2 months for designs (46 in 2009);

[203] IP Australia online information. Viewed at: http://www.ipaustralia.gov.au/about-us/ip-legislation-changes.
[204] The legislation prohibits tobacco industry logos, brand imagery, colours and promotional text other than brand and product names in a standard colour, position, font style and size appearing on retail packaging of tobacco products.
[205] Department of Innovation, Industry, Science and Research (2008).
[206] IP Australia (2013).

and 44 months for plant breeders' rights (35 in 2009). As at September 2014 the average interval between a patent applicant's request for examination and the issue date of the first examination report was 12 months (13 in 2009).[207] Time increases seem due to the substantial rise in applications prior to commencement of the IP Laws Amendment (Raising the Bar) Act 2012. In addition, the average time taken to determine a wine's geographical indication depends on the application. No clear difference exists in average times between domestic and foreign applications for protection.

3.4.6.2 Industrial property

3.4.6.2.1 Patents

3.148. The Patents Act 1990, last amended in 2012 (section 3.4.6), provides protection for standard patents and innovation patents, with terms of 20 (up to 25 for eligible pharmaceuticals) and 8 years, respectively. The changes made by the 2012 Act covered, *inter alia*: patentability standards; patent examination; time frames for prosecuting patent applications; patents Notice of Entitlement; patent grant; patent oppositions; registration of attorney corporations; and suspension of attorney registration for serious offences.[208] According to the authorities, since the 2012 legislative updates patentability standards are now more closely aligned to international standards. The changes introduced give Australian innovators applying for international patents more certainty that they will meet patent standards overseas.[209] Experimentation and approval for generic manufacturers is no longer delayed or negatively impacted by patents thus providing certainty to researchers and manufacturers and allowing them to work without worrying about patent litigation. Changes to the Patent and Trade Mark Acts (section 3.4.6.1.2) reduced several time frames associated with examination and opposition; this tightened up the procedures for patent examination, patent (and trade mark) oppositions, and patent divisional applications. Between 2011 and 2013, the ACIP investigated the effectiveness of the innovation patent system in stimulating innovation by Australian SMEs.[210] Its report was released on 16 June 2014 and since July 2014 it has been under consideration by the Government.

3.149. Since 1980 there have been two ways to apply for a standard patent: either directly with IP Australia, or through an international filing system under the Patent Cooperation Treaty (PCT) (72.5% of cases in 2012).[211] Between 2009 and 2013 patent applications rose by 25.7% to 29,747; of these, 90% were from non-residents, mostly from the United States, Japan, and Germany. During the same period, innovation patents applications rose by 23.2% to 1,681 (2013).

3.150. A Commonwealth, state or territory court may order the granting of a compulsory licence if it is satisfied that the reasonable requirements of the public have not been met in relation to the invention, and the patentee has not given a satisfactory reason for failing to exploit the invention. Compulsory licences have seldom been sought in Australia and to-date there have been no successful cases.

3.4.6.2.2 Trade marks

3.151. The Trade Marks Act 1995, last amended in 2012 (sections 3.4.6 and 3.4.6.1), provides for the registration of trade marks, collective trade marks, certification trade marks, and defensive trade marks. Under the Act, registered trade marks are protected for ten years and can be renewed indefinitely, upon request and payment of the appropriate fee. The changes relating to the Raising the Bar Act 2012 covered trade mark oppositions and examination, penalties for trade mark infringement, border protection measures for trademark goods and expanding the

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[207] IP Australia (2014).

[208] For more details on these changes, see IP Australia online information. Viewed at: http://www.ipaustralia.gov.au/about-us/ip-legislation-changes/ip-laws-amendment-act-2012/raising-the-bar-patents/.

[209] IP Australia online information. Viewed at: http://www.ipaustralia.gov.au/about-us/ip-legislation-changes/ .

[210] ACIP online information. Viewed at: http://www.acip.gov.au/reviews/all-reviews/review-innovation-patent-system/.

[211] IP Australia (2013).

jurisdiction of the Federal Circuit Court to hear trade mark matters.[212] They came into force in 2013.

3.152. Between 2009 and 2013 trade mark filings rose by 11.3% to 62,959 of which 63% originated from residents.[213] During the review period, trade mark registrations rose from 36,528 (2010) to 46,978 (2013); in 2013, trade mark registrations consisted of 15 certification trade marks, 30 collective trade marks, 6 defensive trade marks and 46,927 standard trade marks.

3.4.6.2.3 Industrial designs

3.153. The Designs Act 2003 provides for an initial registration for five years from the filing date of the application, and for a single renewal for a further five years, i.e. a maximum term of 10 years. However, design applications filed under the Designs Act 1906 (i.e. prior to 2003) continue to have a possible maximum term of 16 years. The 2003 Act and the 2004 Designs Regulations were last amended in 2012 (section 3.4.6). The changes introduced by the 2012 Act expand the jurisdiction of the Federal Circuit Court to hear design matters and improve flexibility for the filing of documents associated with design applications and the retention or otherwise of Designs sub-offices.[214] In recent years a variety of concerns have been raised about the effectiveness of the designs system and whether it is meeting its original policy objectives. In May 2012, ACIP was requested to investigate the effectiveness of the designs system in stimulating innovation by Australian users and the impact the designs system has on economic growth. The completion of the review is expected by early- to mid-2015.[215] Between 2009 and 2013 design applications rose by 35.8% to 6,993, of which 57% were filed by non-residents, a steady feature since 2007.[216] The number of registered designs rose from 5,327 in 2009 to 7,066 in 2013, and those of certifications dropped from 856 to 741.

3.4.6.2.4 Protection of plant varieties

3.154. Under the Plant Breeder's Rights (PBR) Act 1994, last amended in 2012 (section 3.4.6), unauthorized use of protected plant varieties, and different kinds of false representation regarding plant varieties, are criminal offences. PBRs' registration lasts up to 25 years for trees and vines, and 20 years for other species. The changes introduced by the 2012 Act included amending a number of definitions in the PBR to ensure their consistency with the UPOV Convention (International Convention for the Protection of New Varieties of Plants).[217] Enforcement of PBRs is generally the responsibility of holders of the rights through civil procedures, and the Customs has no seizure powers at the border (section 3.4.6.4). Between 2009 and 2012 PBR registrations dropped progressively by 48.9% to 144 (81 of which were from domestic breeders), primarily due to the long-term consequences of drought and natural disasters affecting both domestic and non-resident applicants. In 2013, PBR registrations tracked back towards normal/average levels (237) with 123 registrations by domestic applicants. The United States, New Zealand and the Netherlands are the most active applicants and together comprised 69% of non-resident applications and registrations in 2013.

3.4.6.2.5 Geographical indications (GIs)

3.155. GIs are protected through the Trade Marks Act 1995, which allows for the registration of GIs as certification trade marks (CTMs), provided that certain criteria are met, and the CCA, which

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[212] For more details on these changes, see IP Australia online information. Viewed at: http://www.ipaustralia.gov.au/about-us/ip-legislation-changes/ip-laws-amendment-act-2012/raising-the-bar-trade-marks/.

[213] IP Australia (2013).

[214] For more details on these changes, see IP Australia online information. Viewed at: http://www.ipaustralia.gov.au/about-us/ip-legislation-changes/ip-laws-amendment-act-2012/raising-the-bar-designs/.

[215] ACIP online information. Viewed at: http://www.acip.gov.au/reviews/all-reviews/review-designs-system/.

[216] IP Australia (2013).

[217] For more details on these changes, see IP Australia online information. Viewed at: http://www.ipaustralia.gov.au/about-us/ip-legislation-changes/ip-laws-amendment-act-2012/raising-the-bar-pbr/.

prevents misleading conduct.[218] In addition, the Australian Grape and Wine Authority Act 2013 (Wine Act) that commenced on 1 July 2014 ensures protection both for Australian and foreign wine GIs. The Australia New Zealand Food Standards Code (sections 3.2.7.2.1 and 3.2.7.3) also contains prohibitions on infringement of GIs of spirits. Protection is also provided through labelling legislation, such as the Commerce Trade Descriptions Act 1905, which prohibits the use of false trade descriptions on labelling. A Register of Protected Names and Other Terms for the protection of GIs of Australian and foreign wine remains in place. The Wine Act, and the Australian Grape and Wine Authority Regulations 1981 allow an objection to be made to the Register of Trade Marks or the determination of Australian and foreign GIs on the basis of pre-existing trade mark rights or that the name of the GI was already in common use as the common name of a type or style of wine or as the name of a variety of grapes. A wine agreement, the Australia-European Community Agreement on Trade in Wine, has been in place since 1 September 2010.[219] The Geographical Indications Committee (GIC) of the Australian Grape and Wine Authority (AGWA), a Commonwealth statutory authority established under the Wine Act (replacing the Australian Wine and Brandy Corporation and its successor the Wine Australia Corporation)[220], determines GIs for wine. The authorities consider that the GI determination process is consistent with Australia's WTO obligations and no less burdensome than the process for determining foreign GIs. Since 2006, eight Australian wine GIs have been determined and entered on the Register of Protected Names; the GIC is currently considering the determination of a number of European GIs.

3.4.6.2.6 Other

3.156. No changes were made to the law in relation to undisclosed information and trade secrets, which are protected under the common law and by equity.

3.4.6.3 Copyright and related rights

3.4.6.3.1 Copyright

3.157. The Copyright Act 1968, last amended in 2012 (section 3.4.6), protects all original literary, dramatic, musical and artistic works. The duration of a copyright varies according to the nature of the work and whether it has been published. Depending on the material, copyright for literary, dramatic, musical and artistic works generally lasts for the author's life plus 70 years from the year of the author's death or from the year of first publication after the author's death. Copyright for films and sound recordings lasts 70 years from their publication, and the term for broadcasts is 70 years from the year in which they were made.[221] Unlike for patents, trade marks, designs, and PBRs, where registration is a precondition for protection, copyright (including of circuit layouts (section 3.4.6.2.3) is granted automatically where the substantive requirements are fulfilled. In May 2011 the Copyright Act was amended to exempt product information approved under the Therapeutic Goods Act from copyright infringement. The 2012 amendments to the Copyright Act 1968 concerned issues such as the Notice of Seizure and Claim for Release of Goods, and inspection, forfeit and disposal of seized goods.[222] Following the completion of a thorough review of Copyright and the Digital Economy, the Australian Law Reform Commission made a number of recommendations, including the introduction of a new broad and flexible fair use of exceptions, that as at December 2014 were under consideration.[223]

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[218] Examples of GIs registered as CTMs for food in Australia include Parma for meats and Stilton for cheese.

[219] The Agreement provided, *inter alia*, a transitional period of 12 months until 1 September 2011 for the use of certain sensitive European geographical indications, traditional expressions and vine variety names. More information on this Agreement is available online (http://www.agriculture.gov.au/agriculture-food/wine-policy/trade-in-wine).

[220] AGWA brings together the Research, Development & Engineering activities of the Grape and Wine Research and Development Corporation and the market development and compliance activities of the Wine Australia Corporation in one new entity. AGWA is funded by grape growers and winemakers through levies and user-pays charges and the Australian Government, which provides matching funding for R&D investments (AGWA online information. Viewed at: https://www.wineaustralia.com/en/About%20Us.aspx).

[221] The Copyright Act 1968 protects subject matter other than works (cinematograph films, sound recordings, broadcasts, and published editions), for 70, 50, or 25 years (Part IV, Division 4).

[222] For more details on these changes, see IP Australia online information. Viewed at: http://www.ipaustralia.gov.au/about-us/ip-legislation-changes/ip-laws-amendment-act-2012/raising-the-bar-copyright/.

[223] It was recommended that the Copyright Act 1968 (Cth) should provide an exception for fair use, which should contain: (a) an express statement that a fair use of copyright material does not infringe

3.4.6.3.2 Parallel imports

3.158. In order to facilitate competition, some parallel imports are allowed under the Copyright Act 1968 and, in certain circumstances, under the Trade Marks Act 1995. The Copyright Amendment (Parallel Importation) Act 2003 (PI Act) extends parallel importation and subsequent commercial distribution to computer software, electronic books, electronic journals, and electronic sheet music, with the notable exception of films (digital video discs (DVDs)) and books. The use of trade marks on these goods should not prevent their parallel importation. Parallel importation of liquor, branded foods, clothing, IT items (e.g. Australian computer games including their hardware) from third parties (i.e. bypassing the local licensees of the products) has been common practice for some wholesale and/or retail stockists. In 2012 the Full Federal Court followed the trend of recent decisions by reading restrictively the defence of "consent" available to the importers of grey or parallel goods (Paul's Retail Pty Ltd v Lonsdale Australia Limited [2012] FCAFC 130).[224] As a result, in an infringement action it would be, *inter alia*, the responsibility of the importer to prove that it has the consent of the Australian brand owner to import goods; importers and retailers will need to ensure that the goods are genuine or correctly licensed, and ensure that their importation into Australia is within the scope of the conditions or territory directed in any licence agreement. As part of the independent 'root and branch' review of Australia's competition laws and policy (section 3.4.3.1.1), a Review Panel has been asked to consider ways to ensure Australians can access goods and services at internationally-competitive prices, including examining any remaining parallel import restrictions and international price discrimination.

3.4.6.3.3 Circuit layout

3.159. The Circuit Layouts Act 1989 remains the main law for the protection of layout designs (topographies) of integrated circuits (also referred to as computer-chip designs or semi-conductor chips). A layout design is protected for 10 years from its first commercial exploitation, and if not exploited, 10 years from when it was made, i.e. maximum protection of 20 years. The Circuit Layout Amendment Regulations 2003 contain the list of eligible countries to which Australia extends reciprocal protection of circuit layouts designs; they were last amended in 2008 to ensure that eligible foreign countries are Members of the WTO. This mechanism enables the Regulations to self-update each time a new Member joins the WTO.

3.4.6.4 Enforcement

3.160. During the period under review some improvements were made in IPR enforcement. IPRs-holders may enforce their IPRs by civil action against infringers, both at the federal and the state level. The Australian Federal Police and state and territory police agencies have the authority to undertake criminal investigations, with prosecutions conducted by the relevant state or Commonwealth or State/Territory office of the DPP. Penalties for offences relating to IPRs include fines and imprisonment. For copyright offences, the maximum penalty is a fine of up to $A 93,500 together with imprisonment of up to five years. For trade mark offences, penalties may take the form of fines of up to $A 93,500; monetary penalties for a company can be up to five times the penalty for individuals. The 2012 Act (section 3.4.6) increased the maximum penalty for trade mark offences from two to five years imprisonment, with courts able to award exemplary damages against counterfeiters.[225] The changes improved alignment between penalties for trade

copyright; (b) a non-exhaustive list of the factors to be considered in determining whether the use is a fair use ("the fairness factors"); and (c) a non-exhaustive list of illustrative uses or purposes that may qualify as fair use ("the illustrative purposes"). Furthermore, the non-exhaustive list of fairness factors should be: (a) the purpose and character of the use; (b) the nature of the copyright material; (c) the amount and substantiality of the part used; and (d) the effect of the use upon the potential market for, or value of, the copyright material. It also recommended the non-exhaustive list of illustrative purposes should include the following: (a) research or study; (b) criticism or review; (c) parody or satire; (d) reporting news; (e) professional advice; (f) quotation; (g) non-commercial private use; (h) incidental or technical use; (i) library or archive use; (j) education; and (k) access for people with disability. More information is available at Australian Law Reform Commission online information. Viewed at: http://www.alrc.gov.au/inquiries/copyright-and-digital-economy.

[224] Mirabello (2012); Chrysilious IP online information, "Importing overseas products may be more costly than you think - A warning to retailers and importers", 24 June 2013. Viewed at: http://www.chrysiliouip.com.au/parallel-importing/; McCormack (2013).

[225] IP Australia (2013).

and copyright infringement, and brought the Australian system for trade mark offences into better alignment with the systems of major trading partners.

3.161. As a result of extensive consultation with industry groups, border enforcement measures improving the system for confiscating goods were introduced with effect from 15 April 2013 by the Intellectual Property Laws Amendment (Raising the Bar) Act 2012 (section 3.4.6).[226] The improvements simplified the seizure process and enabled rights owners to effectively enforce their rights. More information, including details of importers, exporters and other players in the supply chain who are suspected of importing counterfeit trade mark or pirated copyright goods, is now released by the Customs to the rights-holder. Access to this information should improve the ability of rights holder's to pursue legal action. Under the new laws, importers will no longer be able to avoid prosecution and receive the infringing goods or copies when the statutory period expires.[227] Upon acceptance of a Notice of Objection lodged by the IPR owner, Customs may seize and hold imported goods infringing copyrights or trade marks law. As of 5 December 2014, the Australian Customs and Border Protection Service (ACBPS) had 662 Notices of Objection in place covering thousands of brands. In 2013/14, the ACBPS made 3,427 seizures of counterfeit goods, involving 975,547 items; in 2012/13 it made 2,572 seizures, involving 513,814 items, estimated to have a retail value of more than $A 43 million. The largest seizures for this period consisted of batteries, chicken-bags, toiletries (including toothpaste and cosmetics), energy drinks and toys. Customs does not have similar seizure powers in relation to patents or PBRs.

3.162. While there is no suggestion that piracy and counterfeiting is non-existent in Australia, there is a lack of verifiable empirical evidence on the extent of the problem.[228] According to industry statistics, in 2011 Australia recorded the fourth lowest software piracy rate in the world, after the United States (19%), Japan and Luxembourg (20%), and New Zealand (21%).[229] From 2009 to 2011, installations of unlicensed software on personal computers (PCs) in Australia fell by two percentage points to 23%; in 2011 the commercial value of Australia's illegal software was estimated at US$763 million (US$550 million in 2009). Those involved in IPR infringement range from members of the general public to more professionally-organised criminal networks. Globally there is ongoing growth in the volume and types of goods counterfeited by organised crime. Unauthorised peer-to-peer file-sharing is a recognised concern, with the Australian Government releasing an Online Copyright Infringement Discussion Paper on 30 July 2014 seeking public submissions on draft proposals to address online piracy.

[226] Australian Customs and Border Protection Service (2013a).
[227] Previously, rights-holders were often unable to initiate legal proceedings, serve papers or obtain forfeiture if the importer was deliberately unavailable during the statutory action period, or provided false details.
[228] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.
[229] Business Software Alliance (2012).

4 TRADE POLICIES BY SECTOR

4.1 Overview[1]

4.1. Australia has maintained its relatively open trade regime since its last Review. At the same time, however, despite certain policy changes, it has continued to provide general and industry-specific support in different forms to virtually the same sectors. In addition, a number of activities, including cargo-liner shipping conferences and essential infrastructure facilities (some of which are considered to be "natural monopolies"), such as electricity networks, rail tracks, natural gas pipelines, water, communications networks, and post, continue to benefit from special regimes or exemptions that restrict competition. The fact that some activities remain protected or otherwise assisted more than others (e.g. manufacturing compared to agriculture) continues to constitute a potential impediment to efficient reallocation of resources in the economy as a whole.[2] As a result of this and other factors (section 1.2.1 and below), no major improvement in overall multi-factor productivity growth (MFP), and thus international competitiveness, was achieved during the period under review.

4.2. Despite its relatively small contribution to GDP (2.4%), Australia's market- and export-oriented agriculture remains of fundamental importance; its MFP has risen and a strategy to raise the sector's competitiveness is under consideration. Sectoral policy developments have focused largely on ensuring a sustainable, productive and resilient agricultural base supported with measures on drought-relief, water- and land-management, farm finance and rural research. The average level of applied MFN tariff protection for the sector (excluding forestry) remained negligible, at 1.4%, compared with 3.3% for manufacturing. Some sensitive items (e.g. cheese, certain vegetables, certain oils and fats) continue to receive tariff protection and tariff-rate quotas affect certain types of cheese and curd. A generally strict quarantine and inspection regime remains in place, while biosecurity reform has proceeded. Exports and/or production of certain commodities (e.g. certain dairy products, grain, horticulture, livestock, and wines/grapes) continue to be subject to levies earmarked mainly for R&D. Single-desk arrangements (monopoly) continue to affect rice exports. Changes were made in areas such as the exceptional circumstances arrangements, wheat export arrangements, export certification requirements, and livestock supply chain. Despite a wide range of assistance programmes, the sector's overall level of support, as measured by different indicators, has remained low, with budgetary assistance declining in value terms to about 0.1% of GDP. This assistance was delivered in the form of non-trade distorting (Green Box) budgetary outlays rather than tax incentives; the AMS-related expenditure was within Australia's *de minimis* WTO commitments. A range of initiatives and measures have continued to improve fisheries' management and thus the sustainability of fish stocks for the long-term viability of the sector.

4.3. Mining (8.6% of GDP) remains critical to Australia's economic performance, while continuing to operate in a seemingly competitive market environment with no apparent industry-specific restrictions on foreign investment and overall little government support compared with other sectors. The sector's average MFP growth rate dropped further but mining output, set to increase strongly in the coming years, is to give a productivity boost. A Mineral Resources Rent Tax on iron ore and coal was applied from 2012 to late 2014, while the Petroleum Resource Rent Tax was extended to virtually all onshore (as from 2012) and offshore oil and gas projects.

4.4. During the period under review Australia reviewed, *inter alia*, its future energy needs, passed a comprehensive package of clean energy proposals including a carbon price mechanism (repealed in 2014), and set mandatory minimum efficiency performance and energy rating label requirements. A new coherent and integrated approach to energy policy is under consideration. Electricity generation, transmission, and distribution remain subject to geographical and regulatory segmentation between the eastern, western and northern areas of the country; generation capacity is largely government-owned or controlled and retail electricity rates regulation is maintained in all states and territories other than Victoria, South Australia and New South Wales; tariffs are set by independent energy regulators or governments. Budgetary assistance for the

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[1] This Section refers to several indicators, including effective rate of combined assistance, used by the Productivity Commission (section 2.2) for assessing support provided to different economic activities. For details on the definition, methodology, and scope of these indicators, see Productivity Commission (2014c).

[2] As indicated by the authorities at the time of the previous Review, assistance could target market and information failures and therefore enhance resource allocation.

electricity, gas, water and waste services industry was the highest among all sectors. The Fuel Tax Credits Scheme continued to reduce the cost of liquid, gaseous and blended fuels for certain business uses; domestic producers of ethanol, biodiesel and renewable diesel used in transport also continued to receive a government subsidy, which is to be gradually repealed (ethanol, biodiesel).

4.5. Manufacturing policy has been focused largely on increasing the multi-factor productivity, sustainability and growth of industry (7.1% of GDP) as well as the creation of new high-skilled jobs. Average annual MFP slowdown was reduced. The average applied MFN tariff rate on industrial products remained virtually unchanged. Budgetary assistance from a wide range of policy instruments as a share of GDP is estimated to have remained steady at 0.1%, albeit decreasing in value terms; the textiles, clothing, footwear and leather industries, as well as motor vehicles and parts activities, have continued to attain/attract particularly high, albeit declining, effective rates of assistance, the highest of all manufacturing activities. The automotive industry continues to be assisted by mechanisms such as preferential government procurement policies, tax policy and restrictions on the importation of second-hand vehicles; assistance continued to be delivered mainly in the form of the industry-specific components and was supplemented by a Growth Fund to help adjust to the end of car manufacturing. Industry-specific support for the textiles, clothing, footwear and leather industries was drastically cut and the elimination of two remaining programmes is under consideration.

4.6. Australia's services sector is the mainstay of its economy, accounting for 71% of GDP and 77% of employment. While the financial services sector has performed well over the review period, a recently-released Financial Sector Inquiry has made various recommendations to strengthen and develop the sector, including eliminating distortions to the efficient market allocation of financial resources as well as impediments to competition. Approval is still required for all investments (both domestic and foreign) of over 15% in financial institutions. Banking reforms undertaken since 2011 have included: implementation of new capital and liquidity requirements; strengthened supervision; and winding down of measures introduced to mitigate the impact of the global financial crisis. Recent developments in the insurance sector have included the sale of a major state-owned private health insurer and the closure of the Private Health Insurance Administration Council. The provision of life insurance by foreign companies through branch operations is prohibited, but exceptions to this rule are increasingly being granted through RTAs.

4.7. Australia has a very high level of information and communication technology (ICT) development and has recently seen a big increase in both fixed and wireless broadband subscriptions and mobile subscriptions. Foreign investment restrictions remain in place for Telstra, the main player in the telecommunications sector, but are not applied to any other provider. The roll-out of the national broadband network is continuing, albeit with a new focus on using a range of different broadband technologies, rather than a largely fibre-to-the-premises approach. Completion is anticipated in 2020. The network is fully state-owned and will operate on a non-discriminatory, wholesale-only basis. Various regulatory steps have been taken to facilitate transition to the new regime and a new framework for providing universal services has been introduced. Australia's television broadcasting industry remains supported by local content measures and film production continues to benefit from various forms of financial assistance by the Commonwealth Government.

4.8. In the area of transport, budgetary provision has been made for major infrastructural works, particularly to roads and railways. While most major government-owned ports and airports are operated by private sector entities, government involvement in the transport sector remains quite pervasive, and various foreign investment restrictions are in place. In the maritime transport subsector, reforms have been implemented to make the Australian shipping industry more internationally competitive, increase the size of the shipping fleet and promote employment. These have included tax reforms, the creation of an International Shipping Register, and the implementation of a licensing system to give domestically-flagged ships a first opportunity to cabotage services. However, the cabotage policy is being reviewed by the new Government in light of concerns about its resulting costs and inefficiencies. The review period has seen a big increase in international passenger arrivals by air, the negotiation of several new air services agreements with third countries, and plans to enhance infrastructure. The cabotage market, which accounts for significantly more passenger arrivals than from international destinations, is dominated by two companies. The tourism sector is fully open to investment, and benefits from little government support. Tourism-related services remain Australia's major services export.

4.2 Agriculture, Livestock, and Fisheries

4.2.1 Features

4.9. Australia's agriculture sector remains strongly market-oriented.[3] Despite their relatively small contribution to GDP, and the impact of persisting severe drought and exchange rate appreciation in recent years, agricultural production and trade remain of fundamental importance to Australia, a competitive net agricultural exporter.[4] The sector also has important linkages with other activities. Between 2009/10 and 2012/13, it accounted for 2.4%-2.5% of GDP (including forestry and fisheries) (Table 1.2) and provided work to 2.6% (2012/13) of the employed population.[5] In 2009/10 the major agricultural commodities (ranked by gross value) were: cattle and calves, wheat, milk, vegetables, and fruits and nuts (excluding grapes).[6] Australia continues to export around 60% (in volume) or 67% (in gross value) of its total agricultural production.[7] The sector's share in total exports rose in 2012 to 15%, due to the decline in the share of minerals and fuels exports as a proportion of total exports, and remained stable in 2013 (up from 13.1% in 2010).[8] In 2012 the major agricultural exports in value terms (recorded trade basis) were wheat, beef, meat, cotton, wool, alcoholic beverages (mainly wine), and oilseeds and oleaginous fruits.[9]

4.10. Almost 93% of Australia's food supply is produced domestically.[10] Average annual MFP growth in agriculture, forestry and fishing rose from minus 1.6% (2003/04-2007/08) to 6.2% (2007/08-2011/12) on the back of stronger output growth without any overall increase in the use of inputs associated with substantially improved weather conditions.[11] Future opportunities to promote agricultural productivity growth may come from: reducing regulatory burdens; improving the efficiency of rural research, development and extension systems; and building human capital through improving labour availability and skills.[12]

4.2.2 Main policy developments

4.11. During the review period, the "Sustainable Agriculture Stream", a sub-programme within the overall Australia's Caring for our Country 2013-18 initiative, has been focused on ensuring a sustainable, productive and resilient agricultural base involving: sustainable food production; innovation in agriculture and fisheries practices; reduced impact of weeds and pests; and improved management of agriculture and fisheries and the natural resource base.[13] The Sustainable Agriculture Stream is being delivered in the context of other major government policies and initiatives, including: the Intergovernmental Agreement on Biosecurity (sections 3.2.7.2.2 and 4.2.2.1); the Carbon Farming Initiative, drought policy reform (section 4.2.2.2); and the Commonwealth Policy on Fisheries By-Catch (section 4.2.3). In 2012, a rural R&D policy statement was released covering: increased transparency and accountability in the rural research and development corporations (RDCs) model[14]; improved co-ordination and

[3] OECD (2013a).

[4] Australian Department of Foreign Affairs and Trade online information. Viewed at: http://www.dfat.gov.au/trade/negotiations/trade_in_agriculture.html.

[5] In 2012/13, approximately 261,000 people were directly employed in agriculture compared to 294,000 in 2010/11, this decline being partly due to seasonal variations and the shift from permanent to casual and contract labour; the complete agricultural supply chain, including the affiliated food and fibre industries, provides over 1.6 million jobs (National Farmers' Federation, 2013; and Australian Bureau of Agricultural and Resource Economics and Sciences, 2014, Table 6).

[6] Australian Bureau of Statistics online information. Viewed at: http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1301.0~2012~Main%20Features~Agricultural%20production~260.

[7] National Farmers' Federation (2013).

[8] UNSD Comtrade Database.

[9] DFAT STARS database, based on ABS Cat No. 5368.0 data. Viewed at: https://www.dfat.gov.au/publications/trade/trade-at-a-glance-2013/trade_performance_at_a_glance/part03_australias_trade_and_economic_statistics.html.

[10] National Farmers' Federation (2013).

[11] Productivity Commission (2013c).

[12] Gray et al. (2014).

[13] Department of Agriculture and the Department of the Environment online information. Viewed at: http://www.nrm.gov.au/funding/agriculture/index.html.

[14] RDCs are a partnership between the government and industry to share the funding and strategic direction-setting for primary industry R&D, investment in R&D and the subsequent adoption of R&D outputs. A

priority-setting across the whole rural R&D system; an increased range of ways for pursuing productivity growth; and increased operational efficiencies and value for money on R&D investment. A May 2013 National Food Plan, no longer a policy of the current Government, was to ensure a more integrated, coordinated and strategic focus on food policy along the supply chain.[15] Other developments during the review period involved: export measures (section 4.2.2.1); water use; and farm finance (section 4.2.2.2). The Department of Agriculture (previously called the Department of Agriculture, Fisheries, and Forestry (DAFF) until September 2013) remains responsible for the development and implementation of sectoral policies and programmes. A White Paper on Australia's Agricultural Competitiveness aimed at setting out a strategic approach to promote more investment and growth and improve profitability in the sector was due for release in early 2015.[16]

4.12. Australia's bilateral and plurilateral agriculture agreements cover a range of agricultural trade matters including: exchange of scientific information; protocols for live animal trade; agricultural cooperation; dialogue on trade policy; mutual recognition; trade facilitation; and specific bilateral trade issues. In April 2013, Australia and China agreed to enhance cooperation under the Australia-China Agricultural Cooperation Agreement Programme (ACACA Programme).[17] Under the new ACACA Programme, applicants are able to seek funding for an expanded range of activities, including workshops, officer secondments and training programmes. A set of priorities for ACACA projects are now agreed on by both countries at the commencement of each funding round.

4.13. Australia continued to provide food aid and technical and financial assistance within the ambit of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed (LDCs) and Net Food-Importing Developing Countries (NFIDCs). All Australian food assistance is in fully-grant form and cash-based. In 2012/13 Australia provided 73,834 metric tonnes of food assistance valued at over $A113.7 million (92,352 tonnes, $A 102 million in 2010/11) within the ambit of the Decision; all food assistance to LDCs/NFIDCs totalled 60,681 metric tonnes, valued at around $A30.7 million (85,881 tonnes, $A 50.1 million in 2010/11).[18] At the same time Australia provided $A 570.7 million ($A 512.0 million in 2010/11) for technical and financial assistance programmes within the ambit of the Decision; of this, over $A 216.8 million ($A 214.8 million in 2010/11) was directed to LDCs/NFIDCs.

4.2.2.1 Border measures

4.14. During the review period, Australia's average level of applied MFN tariff protection for the sector (excluding forestry) remained unchanged and negligible at 1.4 % (Table 3.1). While most products (73% of agricultural tariff lines) are duty free, some sensitive items, including cheese (which is subject to a specific duty), citrus fruit juices (subject to an alternate duty), and certain vegetables, nuts, fruit, beverages (e.g. grape wine, juices), sugars, oils and fats (largely subject to a 5% rate), continue to receive some tariff protection. Australia has maintained tariff-rate quotas for certain types of cheese in line with its WTO market access commitments and preferential arrangements (section 3.2.2.4). Imports of all agricultural (and food) products remain subject to a quarantine and safety regime (section 3.2.7.2.4); domestically-produced and imported food products must meet the requirements of the Food Standards Code of FSANZ. Australia continued its biosecurity reform process (section 3.2.7.2.2) in 2012 with the signing of the Intergovernmental Agreement on Biosecurity, work on new biosecurity legislation to replace the Quarantine Act of 1908, and the transition from defined intervention targets to a flexible risk-based approach. As of 27 November 2014 a Biosecurity Bill 2014 was with Parliament and is expected to be passed in the course of 2015 (section 3.2.7.2.2).

4.15. Exports and/or production of certain dairy, grain, horticulture, livestock, and wine/grape commodities remain subject to over 90 different non-*ad valorem* (except for sheep, lamb, deer velvet, and wine) levies. These levies are administered, collected, and distributed by the

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levy system provides for the collection of contributions from farmers to finance RDCs, while research project funding can be matched with supplementary funds from the federal budget (OECD, 2013a).

[15] Department of Agriculture, Fisheries and Forestry (2013).

[16] Australian Government online information. Viewed at: https://agriculturalcompetitiveness.dpmc.gov.au/.

[17] Department of Agriculture, Fisheries and Forestry online information. Viewed at: http://www.daff.gov.au/about/current-grants.

[18] WTO document G/AG/N/AUS/93, 8 October 2014.

Department of Agriculture on behalf of primary industries to 19 levy recipient bodies which in turn service 54 industry representative bodies.[19] Following concerns about the welfare of live cattle exported to Indonesia, exports were temporarily suspended and a new regulatory framework for exports of feeder and slaughter livestock to Indonesia (the Exporter Supply Chain Assurance System (ESCAS)) was implemented in July 2011. The ESCAS, which requires exporters to establish supply chain arrangements that deliver animal welfare outcomes in line with World Organization for Animal Health (OIE) standards, was to be extended to all of Australia's feeder and slaughter livestock markets (except cattle to Egypt) by the end of 2012.[20] Rice is the sole item subject to single-desk arrangements and is exempt from competition policy provisions (section 3.3.3). Under the Wheat Export Marketing Amendment Act 2012, the Wheat Export Accreditation Scheme and the Wheat Export Charge (WEC) were abolished on 10 December 2012 and Wheat Exports Australia ceased its operations on 31 December 2012 (sections 3.3.2 and 3.4.3.1.3)[21]; as of 30 September 2014, a mandatory port access code of conduct for bulk wheat exports repealed past wheat export legislation and assists all stakeholders to access the export infrastructure. In line with its commitment to support SMEs and to preserve jobs in regional (i.e. non-metropolitan) Australia, in May 2012 the Commonwealth Government announced transitional funding of $A 4 million to the grain, fish and egg export industries to help businesses transition to revised certification arrangements. In 2012/13, a further $A 39 million was made available to help industries adjust to new export certification arrangements, including new fees and charges, and to help them implement export reforms.[22] Furthermore, $A 15 million over four years will be available as from 2014/15 to support small exporters in sectors where there are specific export certification registration charges.[23] Australia notified that it provided no export subsidies for its scheduled agricultural products during the period 2009/10-2011/12 (pears 2009-12).[24]

4.2.2.2 Domestic support measures

4.16. Agriculture is estimated to have received 14% (27% in 2006/07) of total budgetary assistance (i.e. outlays plus tax concessions) made available to all sectors of the economy in 2012/13. This assistance represents 0.07% of GDP (Table 4.1).[25] Domestic support for agriculture remains the second lowest amongst OECD countries; in 2012 Australia's producer support estimate (PSE) was estimated at just 3% (the same as in 2010 and 2011) of gross farm receipts or just over one-sixth of the OECD average, thus keeping Australian farmers among the most efficient and therefore most self-sufficient in the world.[26] According to OECD estimates, between 2010 and 2012 Australia's total support estimate (TSE) to agriculture dropped from 0.2% to 0.1% of GDP, the lowest among all OECD countries.[27] In 2011/12, forestry, logging, horticulture, fruit-growing, aquaculture and fishing (section 4.2.3) were among the primary production activities benefiting from the highest effective rates of (combined) assistance.[28] Domestic producer and consumer prices have remained roughly aligned with world prices;

[19] Agricultural levies and export charges (requested by industry) are in place to fund research and development, marketing, residue-testing, plant and animal biosecurity programmes and emergency responses for industry (Department of Agriculture online information. Viewed at: http://www.daff.gov.au/agriculture-food/levies/publications; Department of Agriculture, 2013).

[20] A $A 5 million Approved Supply Chain Improvements Program supported over two years (2011/12 to 2012/13) Australia's livestock export industry to meet the requirements of ESCAS. Government funds were provided on the basis of $A 1 for every $A 3 of industry investment, in particular on slaughtering facilities in approved export supply chains meeting OIE standards, to underpin the new regulatory framework. The program was available to eligible applicants, such as Australian livestock exporters, but not to importing countries or foreign businesses (Department of Agriculture online information. Viewed at: http://www.agriculture.gov.au/animal-plant-health/welfare/export-trade/approved-supply-chain-improvements-program; Department of Agriculture, Fisheries and Forestry, 2012; OECD, 2013a).

[21] Department of Agriculture, Fisheries and Forestry (2013); and OECD (2013a).

[22] Department of Agriculture, Fisheries and Forestry (2013); and Productivity Commission (2013d).

[23] Funding would be provided in the form of a rebate of 50% of their export certification registration costs, up to a maximum of $A 5,000. From 2015/16, funding will be provided for projects that directly benefit small exporters, particularly projects to improve market access (Commonwealth of Australia, 2014b).

[24] Australia has export subsidy commitments for butter and butter oil, cheese, skim milk powder and other milk products (financial year basis) and pears (calendar year basis) (WTO documents G/AG/N/AUS/87, 29 October 2012; and G/AG/N/AUS/90, 17 October 2013).

[25] Productivity Commission (2014c).

[26] OECD (2013a).

[27] OECD (2013a).

[28] Assistance to forestry and logging has increased reflecting, *inter alia*, new structural adjustment packages for the Tasmanian forest industry (Productivity Commission, 2013d, Table 2.7).

Australia's OECD Nominal Protection Coefficient (NPC) for all commodities concerned has been 1.00 since 2010.[29]

Table 4.1 Budgetary assistance to agriculture, 2008/09-2012/13

	2008/09	2009/10	2010/11	2011/12	2012/13
Share in total budgetary assistance (%)					
Dairy cattle farming	10.1	10.2	11.3	9.4	11.1
Grain, sheep, and beef cattle farming	57.7	49.9	46.3	39.0	40.1
Horticulture and fruit-growing	3.6	5.0	3.4	5.2	5.4
Other crop growing	7.9	7.3	6.2	4.6	4.4
Other livestock-farming	2.6	2.4	2.7	4.0	3.3
Fisheries	4.1	4.8	6.0	4.9	6.3
Forestry and logging	-3.5	2.1	3.6	5.3	3.9
Other primary production	1.3	1.1	1.2	1.2	1.4
Unallocated primary production[a]	16.3	17.1	19.3	26.4	24.2
Total outlays ($A million)	1,425.4	1,275.4	1,055.1	958.7	762.7
Total tax expenditure ($A million)	404.9	364.4	303.0	494.4	370.0
Total budgetary assistance ($A million)	1,830.4	1,639.8	1,358.1	1,453.1	1,132.7
Share of total budgetary assistance to GDP (%)	0.15	0.13	0.10	0.10	0.07

a Unallocated includes general programmes where details of beneficiaries are unknown.

Source: Productivity Commission (2014), *Trade & Assistance Review 2012-2013*, 27 June. Viewed at: http://www.pc.gov.au/__data/assets/pdf_file/0007/137788/trade-assistance-review-2012-13.pdf.

4.17. The sector has continued to receive declining budgetary assistance from a wide range of programmes, mainly in the form of outlays (Table 4.1). Grain, sheep, and cattle-farming remain the major recipients although their shares of total budgetary assistance have declined. By 2012/13, tax deductions for horticultural plantations, estimated at $A 6 million per year, seem to be the only industry-specific measure in place for the sector as the Fisheries Structural Adjustment Package was terminated in 2010/11.[30]

4.18. The agricultural sector receives no market price support. Budget-financed programmes are mainly used for natural resource and environmental management, in particular water.[31] Expenditure on research and development is co-financed by funds collected through industry levies (section 4.2.2.1), supplemented by an equal contribution from the Commonwealth budget up to a cap. An additional $A 100 million over four years to fund research in partnership with RDCs is to be delivered from 2014/15 onwards.[32] An amount of $A 8 million over four years as from 2014/15 is being provided to improve access by farmers to safe and effective "minor use" of agricultural and veterinary chemicals. Estimated support for general services increased from 39.4% of TSE in 2010 to 41.8% in 2012.[33] The Fuel Tax Credits Scheme removes the incidence of excise and excise-equivalent customs duties from the costs of some fuels (including diesel) used in business activities, including specified activities in agriculture, fishing, and forestry (sections 3.4.2 and 4.3.2.3).

4.19. In the face of an increasingly variable climate, the Commonwealth Government provides a range of assistance to farmers and primary producers. During the review period, Australia reformed its drought assistance driven by the 2008 National Review of Drought Policy. In 2013, the Commonwealth, state and territory governments signed the Intergovernmental Agreement on National Drought Program Reform that outlines a new approach to drought programmes and aims to encourage farmers to prepare for, and manage the effects of, drought and other challenges, rather than relying on government support. A key step in this direction was the closure of the Exceptional Circumstances Interest Rate Subsidy on 30 June 2012, as well as that of the Exceptional Circumstances Arrangements on 30 June 2014.[34] On 26 February 2014, as a result of

[29] The NPC is the ratio between the average price paid/received at farm gate and the border price at farm gate (OECD, 2013a).

[30] Productivity Commission (2013d), Table A.10; Productivity Commission (2014c).

[31] OECD (2013a).

[32] Commonwealth of Australia (2014b).

[33] OECD (2013a).

[34] Successive reviews of drought policy had found that the Exceptional Circumstances Interest Rate Subsidy was ineffective and could lead to farm businesses being less responsive to drought conditions (Department of Agriculture, Fisheries and Forestry online information. Viewed at: http://www.daff.gov.au/about/current-grants; Productivity Commission, 2013d; and OECD, 2013a).

prolonged and severe drought in some areas of Australia, a temporary $A 320 million drought assistance package was introduced for 2013/14 and 2014/15 only and included: more generous criteria for accessing income support as from early March 2014; drought concessional loans totalling $A 280 million for debt-restructuring, operating expenses and drought recovery and preparedness activities; assistance of up to $A 12 million for the installation of water-related infrastructure; and, $A 10 million assistance to help reduce the impact of pest animals in drought-affected areas. Furthermore, under the Water for the Future headline initiative, the 2013 Restoring the Balance in the Murray-Darling Basin programme involves purchasing of unencumbered water entitlements and encourages enhanced irrigation efficiency.[35] Water savings generated through the use of these programmes are shared between proponents and the environment with at least 50% of the water savings transferred to the Commonwealth Government.

4.20. Innovation Grants, ranging between $A 250,000 and $A 1.5 million, provide tools to implement sustainable practices, reduce farm costs and build productivity through the development and adoption of innovative practices across agriculture, fishing, aquaculture and farm forestry. As of March 2014, 31 projects worth up to $A 21.2 million had received funding.[36]

4.21. In April 2013, the Commonwealth Government introduced a Farm Finance package aimed at helping to build up the financial resilience of highly-indebted farm businesses. It consists of four measures: short-term assistance in the form of concessional loans for productivity enhancement projects or debt-restructuring; funding for around 17 additional full-time counsellors with the Rural Financial Counselling Service; increasing the non-primary production income threshold for Farm Management Deposits (FMDs) from $A 65,000 to $A 100,000, and allowing consolidation of existing FMD accounts; and establishing a nationally-consistent approach to farm debt mediation.[37]

4.22. Under its Carbon Farming Futures Program (2011-2017), Australia has implemented a Filling the Research Gap, Action on the Ground, Extension and Outreach Program, and related offset incentives.[38] In line with its commitment to repeal the Carbon Tax (section 3.4.1.3 and 3.4.3.2), the Commonwealth Government has reviewed funding arrangements related to the Carbon Tax, made the necessary adjustments to associated programmes and did not proceed with any new projects under the Carbon Farming Futures programme. Through its Direct Action Plan, the Government will introduce a mix of new policies, including the Emissions Reduction Fund to provide ongoing opportunities for farmers and land-managers to participate in emission reduction projects with a bill on the Emissions Reduction Fund being introduced in June 2014.

4.23. Since late 2011, a Carbon Farming Initiative (CFI), a voluntary carbon offset scheme, has allowed farmers and land-managers to earn carbon credits (Australian Carbon Credit Units (ACCUs)) by reducing greenhouse gas emissions and storing carbon in vegetation and soils

[35] OECD (2013a).

[36] Department of Agriculture online information. Viewed at: http://www.daff.gov.au/about/current-grants.

[37] Department of Agriculture online information. Viewed at: http://www.daff.gov.au/about/current-grants.

[38] The Filling the Research Gap program was to expend $A 47 million on 57 projects in research areas including "reducing methane emissions (from livestock and manure), reducing nitrous oxide emissions (from fertilisers and soils), and increasing soil carbon and improving modelling capability". The Conservation Tillage Refundable Tax Offset is a refundable tax offset that primary producers could claim if they brought a no-till seeder. The Offset was worth 15% of the cost of the no-till seeder. The refundable tax offset was designed to encourage the uptake of conservation tillage practices to reduce emissions, increase soil carbon and improve productivity (Australian Taxation Office online information. Viewed at: https://www.ato.gov.au/Business/Primary-producers/In-detail/Other-rebates---deductions/Conservation-tillage-refundable-tax-offset). Under the Action on the Ground funding programme, farmers and land managers undertake on-farm trials of abatement technologies, practices and management strategies to measure and demonstrate how they can reduce agricultural greenhouse gas emissions of methane and nitrous oxide or increase the sequestration of carbon in soil while maintaining or improving farm productivity. By March 2014, 89 multi-year grants worth up to $A 44.29 million had received funding; these projects were trialling a diverse range of on-farm practices and management strategies, on more than 530 properties across the country. By April 2013, 24 projects valued at $A 21.3 million were funded under the Extension and Outreach program supporting sector-specific projects, including the livestock, dairy, horticulture, cotton and grains industries (Department of Agriculture online information. Viewed at: http://www.daff.gov.au/about/current-grants; and Productivity Commission, 2013d).

through changes to agricultural and land-management practices (also known as carbon farming).[39] Credits can be sold into the voluntary carbon offset market or to offset liabilities under the 2012 carbon-pricing mechanism, repealed with effect from 1 July 2014 (section 3.4.1.3). This could create additional income for participants in the initiative. According to the authorities, the cost of removal of the carbon tax was estimated to be $A 13.7 billion on a fiscal balance basis.[40] On 24 November 2014, the Carbon Farming Initiative Amendment Bill 2014 was passed by the Parliament; it is to expand, *inter alia*, its coverage and enable the Clean Energy Regulator to issued credits for emissions reduction projects from across the economy.

4.24. Since 2008/09, current total AMS remained at zero (section 3.4.2). During the review period, no trade-distorting domestic product-specific support was delivered, and non-product-specific AMS-related expenditure was within Australia's *de minimis* commitments. "Green-box"-type support accounted for virtually all total support notified to the WTO.

4.2.3 Fisheries

4.25. Fisheries-production remains underpinned by high-value low-volume seafood.[41] Its value continued to be negatively affected in recent years by the appreciation of the Australian dollar and increased competition in the domestic market from rising imports. Australia has remained a net importer of fish products by value since 2007, and exports on average 56% of its fish products.[42] According to the OECD, a focus on improving productivity would allow the fishing industry to meet the challenges posed by an appreciating Australian dollar.[43] Compared to 2006, in 2010 the number of fishers and fish-farmers increased by 16% and 26%, respectively, while vessel tonnage decreased drastically and vessel numbers by one-third. In 2011/12 aquaculture accounted for almost 45.5% of the total gross value of fisheries production.[44]

4.26. Australia continues to implement a range of initiatives and measures to improve fisheries-management and ensure the sustainability of fish stocks for the long-term viability of the industry.[45] According to a March 2013 Fisheries Management Review, the Commonwealth fisheries are in good shape but improvements could be made in policy coverage, transparency and communication with the broader stakeholder base.[46] Australia reviewed, *inter alia*, its 2007 Commonwealth Fisheries Harvest Strategy Policy and Guidelines (completed in 2013), and released the Commonwealth Policy on Fisheries Bycatch in May 2013, and the second National Plan of Action for the Conservation and Management of Sharks (Shark-plan 2), in July 2012. Key priorities for 2013-14 included simplifying the regulatory environment, and managing ecological and compliance risks.[47] The Fisheries Legislation Amendment Act 2013 strengthened provisions making corporations and other persons responsible for any unlawful conduct engaged in by their employees, agents or directors in particular circumstances. Industry became a partner in managing Commonwealth fisheries with amendments to fisheries-management legislation in 2010/11 enabling the Australian Fisheries Management Authority (AFMA) to enter into co-management arrangements, giving powers and functions to primary stakeholders in individual fisheries.

4.27. Australia's key commercial stocks are managed in accordance with the Commonwealth Fisheries Harvest Strategy Policy and Guidelines which applies an evidence-based, precautionary approach to setting catch levels. Resource Assessment Groups provide advice on the status of fish stocks and the impact of fishing on the marine environment, including recommendations to the AFMA Commission on issues such as: the setting of total allowable catches (TACs); stock

[39] Department of Agriculture online information. Viewed at: http://www.daff.gov.au/about/current-grants; and OECD (2013a).
[40] Revised Explanatory Memorandum Clean Energy Legislation (Carbon Tax Repeal) Bill 2014. Viewed at: http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5311_ems_144677a8-32fc-4fab-94b9-f5e90b54927f/upload_pdf/14167rem.pdf;fileType=application%2Fpdf.
[41] OECD (2013e).
[42] Department of Agriculture, Fisheries and Forestry (2013); OECD (2013e).
[43] OECD (2013e).
[44] Australian Bureau of Agricultural and Resource Economics and Sciences, "Table 1: Gross value of fisheries production". Viewed at: http://data.daff.gov.au/data/warehouse/9aam/afstad9aamd003/2012/AFS_Production11Yrs_v1.0.0.xls.
[45] OECD (2013e).
[46] Department of Agriculture, Fisheries and Forestry (2013).
[47] Australian Fisheries Management Authority (2013).

rebuilding targets; biological and economic reference points; and risk assessments. AFMA sets the TAC based on estimates of the take by state commercial fishers and recreational anglers as well as other mortality sources. By October 2013, Australian fish stocks were considered in good shape as key wild fish stocks were largely sustainable.[48] Of the 93 Commonwealth-managed stocks assessed in 2012, 63 were classified as not overfished (59 in 2009) and 77 stocks are classified as not subject to overfishing (73 in 2009); 9 stocks were classified as overfished (12 in 2009) and 4 stocks as subject to overfishing (10 in 2009).[49] Similarly stocks managed by state and Northern Territory governments appear to be in generally good condition, with the national Status of Key Australian Fish Stocks Report 2012 indicating that most stocks were neither overfished nor subject to overfishing.[50]

4.28. Only Australian or Australian-declared (see below) boats are authorized to fish under a fishing permit or statutory fishing right granted by AFMA.[51] According to OECD, there were 322 fishing vessels (excluding State-registered vessels) nominated to Commonwealth fishing concessions during 2011. A foreign boat is not permitted to enter an Australian port unless it is authorized by a port permit granted by AFMA. A person must not land fish at an Australian port from a foreign boat unless the Minister responsible for fishing has expressly authorized that person to do so. A foreign-flagged vessel may be declared an Australian vessel for the purposes of the Fisheries Management Act 1991 on application to AFMA, provided that it meets certain criteria. Access for foreign fishing fleets to Australia's Exclusive Economic Zone (EEZ) (200 nautical miles) is provided through three agreements.[52] According to a 2013 OECD report, the evolution in the domestic fleet means that no future access for foreign vessels to the Australian EEZ is likely to be granted as Australia no longer has excess fish stocks.

4.29. Adjustment assistance has only been used in special circumstances to facilitate the introduction of new fisheries-management arrangements.[53] Where marine reserves create additional requirements for fishing-reduction efforts beyond that required for achieving fisheries management objectives, Government-funded adjustment assistance/compensation may be considered on a case-by-case basis. Under the Caring for our Country programme (section 4.2.2.2), a programme of the previous Government, support has been available to improve management practices in aquaculture.[54] A decline in annual expenditure under the Fisheries Structural Adjustment Program (terminated in June 2010) has seen the estimated effective rates of combined assistance for fisheries decrease from a high of 12% (2006/07) to 3.3% (2011/12). While budgetary assistance under the industry-specific Fisheries Structural Adjustment Program has dropped progressively by 89.2% since 2008/09 to $A 1.8 million (2010/11), fishing industry R&D funding remained stable.[55] Following the announcement of the final network of new marine reserves in June 2012, around $A 100 million of fisheries adjustment assistance funding was to assist the commercial fishing industry adjust to the introduction of the new marine reserves.[56] The package was to include: transitional business assistance in the form of payments to fishing businesses; competitive grants to improve the long-term sustainability of fisheries displaced by the marine reserves; and reduction of commercial fishing through the purchase of individual fisher's entitlements or quota units in fisheries, where appropriate, up to the level of production displaced by the new marine reserves. However, consistent with its commitment for a more competitive and sustainable fisheries sector, the current Government will

[48] Borthwick. (2012).
[49] OECD (2013e).
[50] Australian Bureau of Agricultural and Resource Economics and Sciences (2013); and Fisheries Development Research and Development Corporation (2012).
[51] AFMA allocates statutory fishing rights for access to the resources of each fishery, in which many fishers have individually tradable quotas (ITQs) or shares of the resource assigned as a proportion of the total allowable catch determined by AFMA each year. Where ITQs are not used, AFMA uses a direct permit system to specify the amount of catch each concession-holder can take in a fishing season (Borthwick, 2012; and OECD, 2013e.).
[52] These Agreements are: the Multilateral Treaty on Fisheries Between Certain Governments of the Pacific Island States and the Government of the United States of America; the Australian-Indonesian Memorandum of Understanding regarding the Operation of Indonesian Traditional Fishermen in Areas of the Australian Fishing Zone and Continental Shelf (1974); and the Torres Strait Fisheries Act 1984 – providing access to Australian waters by Papua New Guinea nationals to conduct traditional fishing (Borthwick, 2012).
[53] OECD (2013e).
[54] Department of Agriculture, Fisheries and Forestry (2012).
[55] Productivity Commission (2013d), Table A.10.
[56] The new reserves were estimated to displace approximately 1% of the annual value of wild-catch fisheries production in Australia (Productivity Commission, 2013d).

review the management plans for the Commonwealth marine reserves announced in November 2012. It intends to appoint a scientific review panel and bioregional advisory panels to provide advice on future marine reserve-management arrangements. Until the results of the review are finalised, any fisheries' compensation has been placed on hold.

4.30. During the review period, Australia continued its strong action against illegal, unreported and unregulated (IUU) fishing. Its National Fisheries Compliance Strategy 2010-15 outlines the objectives that fisheries agencies will pursue to promote voluntary compliance and create effective deterrence to illegal fishing activities.[57] Australia is also working with its northern neighbours to reduce IUU fishing and improve fisheries management and governance. Between 2005/06 and 2013/14, the number of illegal fishing vessels apprehended declined by 93%.

4.31. Australia ratified both the Southern Indian Ocean Fisheries Agreement and the Convention on the Conservation and Management of High Seas Fishery Resources of the South Pacific Ocean in March 2012 (entry in force June 2012 and August 2012 respectively), and was in the process of ratifying the Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing Agreement (signed on 27 April 2010) at end-2014. Other activities during the review period included participating in bilateral cooperation with Indonesia, and continued engagement with northern neighbours as part of the Regional Plan of Action to promote responsible fishing practices and combat IUU fishing in the Southeast Asian region.[58]

4.3 Mining and Energy

4.3.1 Mining

4.32. Australia remains one of the top five producers and exporters of most of the world's key minerals, the country's largest export.[59] In 2012/13, mining accounted for 8.6% (7.9% in 2009/10) of GDP and 2.3% (1.7% in 2009/10) of total employment (Table 1.2), and 64.1% (62.8% in 2010) of total merchandise exports (Table A1.2). The sector's average MFP growth rate dropped further from minus 4% (2003/04-2007/08) to minus 8.4% (2007/08-2011/12), still the lowest rate of all sectors of the economy (section 1.2.1).[60] The sector is critical to Australia's economic performance and over the next five years it is forecast to realise the full benefit of recent high levels of investment; the expected mining output increase is to lead to improved MFP growth (sections 1.1, 1.2.1, 1.3.1, and 1.5).[61] A 22.5% Mineral Resources Rent Tax (MRRT) on the "super profits" from the mining of iron ore and coal was introduced on 1 July 2012 and repealed on 30 September 2014 (section 3.4.1.2), while the 1987 Petroleum Resource Rent Tax of 40% has applied to all onshore (as from 1 July 2012) and offshore petroleum projects (except those in the Joint Petroleum Development Area in the Timor Sea).[62] In 2011/12, mining-related taxes contributed 23.6% (23.1% in 2010/11) of the revenue from corporate income-tax (excluding

[57] OECD (2013e).

[58] Department of Agriculture, Fisheries and Forestry (2012).

[59] For example, Australia is the world's leading producer of bauxite, rutile and zircon; the second largest producer of gold, iron ore, lead, lithium, manganese ore, tungsten and zinc, the third largest producer of ilmenite and uranium; the fourth largest producer of black coal (also the largest exporter), nickel and silver; and the fifth largest producer of brown coal and copper. It has the world's largest resources of gold, iron ore, lead, nickel, rutile, uranium, zinc and zircon as well as the second largest resources of bauxite, cobalt, copper, ilmenite, niobium, silver, tantalum and thorium. Australia's resources of black coal, brown coal, magnesite, tungsten, lithium, manganese ore, rare earths and vanadium are ranked in the top five in the world (Geoscience Australia online information. Viewed at: http://www.ga.gov.au/minerals/basics.html).

[60] Input growth reached record levels in 2011/12, as miners continued to invest heavily in new projects in response to historically high commodity prices. While mining profitability has been high since the commodities boom began, the consequences of high investment for measured productivity have been negative. MFP growth in mining has declined by 40% in the eight years since 2003-04. On average, businesses used 67% more inputs (capital and labour) to produce each unit of output in 2011/12 than they did eight years ago (Productivity Commission, 2013c).

[61] Department of Resources, Energy and Tourism online information. Viewed at: http://www.ret.gov.au/resources/mining/Pages/Mining.aspx.

[62] Output-based royalties are levied for most mining projects, either in the form of specific royalties (flat rate per unit of production) or on an *ad valorem* basis (levied as a percentage of the value of production). The Commonwealth's Petroleum Resource Rent Tax, a profit-based royalty is the main exception (WTO document WT/TPR/S/244/Rev.1, 18 May 2011).

resource rent taxes).[63] Australia reportedly remains a relatively high tax jurisdiction for coal and iron ore mining with an effective rate of 41% in 2011/12. Even without the MRRT, iron ore and coal producers appear to be at the upper end of global resource royalty and tax scales as Australia is in the top quartile of countries based on a total tax take of 44% compared with a global average of around 39%.[64] Mineral and petroleum resources are owned either by the Commonwealth, or state, or territory governments.[65]

4.33. The mining sector continues to operate in a seemingly competitive market environment with no industry-specific restrictions on foreign investment, although, as for all sectors, prior approval or notification is required for investment above certain thresholds (section 2.6). The authorities are unaware of any export cartel arrangements in the sector. Mining receives relatively little budgetary assistance, although between 2009/10 and 2012/13 its share rose from 5.3% to 7.0% of the total available to all sectors of the economy. Between 2009/10 and 2011/12, it rose by 46.1% to $A 785.24 million before falling to $546.5 in 2012/13.[66] The estimated effective rate of (combined) assistance from tariff and budgetary assistance for mining remained negligible (0.2% in 2012/13) (Table A4.1). Budgetary assistance is allocated between budget outlays ($A 401.9 million) and taxation concessions ($A 144.5 million). In 2012/13, R&D-related tax concessions and offsets represented 77.2% (64% in 2011/12) of total budgetary assistance to mining. In 2011/12 virtually all industry-specific budgetary assistance (34.9% of total sectoral assistance) was delivered through the Coal Sector Jobs Package (CSJP), with lower amounts channelled through the National Low Emissions Coal Initiative.[67] The CSJP provided a total of $A 218.8 million to only the most emissions-intensive mines in 2011/12 as a prepayment to ease their transition to the introduction of the carbon price mechanism (section 4.3.2) in 2012/13. No CSJP funding was provided in 2012/13. Eligible mines received a second CSJP payment in 2013/14 with payments totalling $A 219.3 million. Due to budgetary savings and the repeal of the carbon price mechanism, no further CSJP funding is available.

4.3.2 Energy

4.34. Australia is richly endowed with natural energy resources (uranium, coal, natural gas); it is the world's ninth largest energy producer, accounting for around 2.7% of global energy production and a major supplier to world markets (it is one of only three OECD countries that are net energy exporters).[68] In 2012/13, petroleum-based productions (including crude oil, diesel, and liquefied petroleum gas (LPG)) accounted for 37.7% of Australian energy consumption, followed by coal (33%), gas (23.6%) and renewables (5.6%). Domestic use of nuclear power is not envisaged in the near future. As a result, *inter alia*, of a surge in investment in large and lumpy infrastructure projects, rising (evening) peak versus average demand for electricity, and a move to less polluting but higher cost production technologies, the average MFP growth rate for electricity, gas, and water supply activities rose slightly from minus 4.8% (2003/04-2007/08) to minus 4.5% (2007/08-2011/12), the second lowest after that of mining (section 4.3.1).[69]

4.35. During the review period, efforts to update the energy policy framework were undertaken. A comprehensive draft Energy White Paper (EWP)2 was published in November 2011, seven years after the release of the previous EWP. The draft energy policy provided an assessment of future energy needs to 2030 and set out a policy framework to guide the further development of the sector. The draft EWP2 set three clear policy objectives: the provision of accessible, reliable and competitively-priced energy for all Australians; enhancement of domestic and export growth

[63] Australian Taxation Office online information, "Taxation statistics 2010-11: Table 4, Part E". Viewed at: https://www.ato.gov.au/About-ATO/Research-and-statistics/Previous-years/Tax-statistics/Taxation-statistics-2010-11/?anchor=Detail_Company_tax_and_the_petroleum_res. Australian Taxation Office online information, "Taxation statistics 2011-12: Table 4". Viewed at: https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Tax-statistics/Taxation-statistics-2011-12/?anchor=coy_detailed#coy_detailed.

[64] The authorities consider this analysis by Goldman Sachs, released in January 2013 and cited at Minerals Council of Australia submission to the Senate Economics Legislation Committee, "Inquiry into Minerals Resource Rent Tax Repeal and Other Measures Bill 2013", 21 November 2013, as impartial.

[65] Australian Bureau of Statistics online information. Viewed at: http://www.abs.gov.au/ausstats/abs@.nsf/0/D92AFED55BF16AB2CA256CAE0015DA36?opendocument.

[66] Productivity Commission (2014c).

[67] Productivity Commission (2013d).

[68] Bureau of Resources and Energy Economics online information. Viewed at: http://bree.slicedlabs.com.au/sites/default/files/files/publications/energy-in-aust/bree-energyinaustralia-2013-factcard.pdf.

[69] Separate data on MFP for electricity and gas are not available. Productivity Commission (2013c).

potential; and the delivery of clean and sustainable energy. It also identified four priority areas for future action and outlines a set of initiatives to advance this agenda: strengthening the resilience of the energy policy framework; reinvigorating the energy market reform agenda; developing critical energy resources – particularly its gas resources; and accelerating clean energy outcomes. The final EWP2 was to be published in late 2012. However, the current Government committed to develop a new Energy White Paper in light of changed market conditions and policy. As at December 2014, an Energy White Paper was under development. The new Energy White Paper is to set out a coherent and integrated approach to energy policy to reduce cost pressures on households and businesses, improve Australia's international competitiveness and grow its export base and economic prosperity. An Energy Green Paper, the precursor to the Energy White Paper, was released for public consultation in September 2014. Consultation closed in early November 2014 and submissions are being used to inform the development of the Energy White Paper.

4.36. A July 2011 comprehensive package of clean energy proposals, the Securing a Clean Energy Future – the Australian Government's Climate Change Plan, aimed to consolidate existing policies and strengthen them with new initiatives contained in four key pillars: the introduction of a carbon price mechanism (repealed on 1 July 2014, section 3.4.1.3)[70]; the update of renewable energy (section 4.3.2.1.3); the improvement in energy efficiency; and action on the land. The Plan is accompanied by proposals to provide significant levels of financial support for innovation in clean energy technologies, including through: investments in renewable energy; the creation of a new $A 10 billion commercially oriented Clean Energy Finance Corporation (CEFC), which would invest in renewable energy, low-emission, and energy-efficient technologies[71]; as well as the creation of a new institution, the Australian Renewable Energy Agency (ARENA), which would separately administer $A 3.2 billion in government funding for existing research and development, demonstration and commercialisation of renewable energy. Legislation to establish ARENA was passed in 2011 and the Agency commenced operations on 1 July 2012. ARENA's funding was reduced and re-profiled as an element of the legislation repealing the carbon price mechanism, and further savings were announced in the 2014 Budget, along with a decision to close the Agency, and move management of ARENA commitments and functions to the Department of Industry.[72] Furthermore, many of the measures under the Plan were transposed into Commonwealth law through a Clean Energy Legislative Package, passed on 8 November 2011. According to the OECD, the scale of Australia's energy policy ambitions is enormous and very costly even for a resource-rich nation (section 4.3.2.1.3).[73]

4.37. Australia has a technology-neutral approach to energy policy and the Commonwealth Government is working to ensure that different energy sources compete on a level playing field. This allows stakeholders to take advantage of new technologies that can contribute to the reliable and affordable supply of energy. In addition to its clean energy policy, Australia supports the sustainable expansion of fossil fuel exploration, production and utilisation (sections 4.3.1, 4.3.2.1.3, and 4.4).[74] Coal is a key contributor to the Australian economy and continues to be an important part of the country's energy mix. Australia, which is the second largest coal exporter in the world, has taken a global leadership role in efforts to reduce emissions from coal combustion

[70] Repealing the carbon tax and the Clean Energy Package was designed to: reduce the cost of living; lower retail electricity by around 9% and retail gas prices by around 7%; boost Australia's economic growth, increase jobs and enhance Australia's international competitiveness by removing an unnecessary tax; reduce ongoing annual compliance costs for around 370 liable entities by almost $A 90 million per annum; and remove over 1,000 pages of primary and subordinate legislation. For more details on the impact of this repeal, see Department of the Environment online information. Viewed at: http://www.environment.gov.au/topics/cleaner-environment/clean-air/repealing-carbon-tax.

[71] Since 1 July 2013, AIP Plans (sections 3.2.2.6.3, 3.2.8, and 4.4) have also been required from companies receiving over $A 20 million from the CEFC as a condition of the investment.

[72] An ARENA Repeal Bill 2014 was introduced into the House of Representatives on 19 June 2014 to give effect to this decision; on 1 July 2014 it was referred to a Senate Committee. On 4 September 2014, the Senate Economics Legislation Committee tabled its report and recommendations following review of the Bill (ARENA online information. Viewed at: http://arena.gov.au/about-arena/governance-and-funding-updates/).

[73] OECD & International Energy Agency (2012).

[74] Drilling operations have expanded into new offshore areas, significantly boosting reserves and production of gas (sections 1.2.1, 4.3.1, and 4.3.2.2) in particular. Several subsidies aimed explicitly at promoting fossil fuel exploration, in addition to production subsidies that also benefit exploration activities, remain in place. In total they are worth between $A 2.9 and $A 3.5 billion each year. The largest of these subsidies is the Fuel Tax Credits Scheme (section 4.3.2.3). The mining industry – including coal companies – receives more than $A 2 billion in subsidies every year (Bast et al., 2014).

and coal mining, including establishing the Global Carbon Capture and Storage Institute. Domestically, Australia has world-leading Carbon Capture and Storage (CCS) projects underway and is developing new processes for converting coal mine methane into energy. Development proposals that will have, or are likely to have, a significant impact on matters of national environmental significance, including those related to coal mining development, must be referred for assessment and approval by the Commonwealth Minister for the Environment.

4.38. A July 2009 National Strategy on Energy Efficiency aimed at developing a nationally-consistent approach to energy-efficiency policy, reducing red tape, and helping businesses and households invest in modern cost-cutting technologies remains in place.[75] It involves: legislation on appliance energy ratings and labels; mandating all new homes to achieve energy rating standards in the future; and accelerating the phasing-out of inefficient lighting, including a ban on incandescent light bulbs. Under the Greenhouse and Energy Minimum Standards Act 2012 (GEMS Act), the Commonwealth Government can set mandatory minimum efficiency performance standards (MEPS) and energy-rating label (ERL) requirements for electrical equipment and appliance products. These requirements are set out in legislative instruments called GEMS determinations, which now cover: rotary clothes-dryers; clothes washing machines; dishwashers; household refrigerating appliances; double-capped fluorescent lamps; transformers and electronic step-down converters for ELV lamps; ballasts for fluorescent lamps; compact fluorescent lamps for general lighting services; incandescent lamps for general lighting services; electric water heaters; external power supplies; digital television set top boxes; commercial refrigeration products; power supply transformers; air conditioners; liquid-chilling packages; gas water heaters; electric motors (2 phase); and televisions/computers/computer monitors for personal, domestic or household use.

4.3.2.1 Electricity

4.39. The majority of Australia's electricity was produced from coal, which accounted for 63.9% (76.3% in 2007/08) of total electricity generation in 2012/13, followed by natural gas (20.5%), and renewable and oil product sources (10.2% (of which hydro and wind account for 7.3 and 2.9 percentage points, respectively)). As a result, carbon dioxide emissions per unit of output are high by international standards.[76] Electricity generation, transmission, and distribution remain subject to geographical and regulatory segmentation in two major blocks: the six southern and eastern Australia jurisdictions[77]; and Western Australia and the Northern Territory. In 2014, of the 69 (52 in 2010) major firms in the Australian electricity market, 16 (11 in 2010) were entirely foreign-owned, and a further 13 (8 in 2010) were either joint ventures with foreign-owned companies or partly foreign-owned, with foreign ownership ranging from 34% to 80% (37% to 91% in 2010).[78]

4.3.2.1.1 Southern and eastern Australia

4.40. During the review period, declining electricity demand has led to surplus generation capacity in most regions and has delayed the need for investment in electricity transmission and distribution networks.[79] Greater stability in global financial markets has eased finance costs for energy businesses. In 2013, these developments translated into more stable retail electricity prices in most jurisdictions.

4.41. The Australian Energy Regulator (AER) regulates energy markets and networks under national energy market legislation and rules in eastern and southern Australia.[80] The Australian Energy Market Operator (AEMO), the single electricity and gas market operator in southern and eastern Australia only, releases annual publications on high-level national transmission planning

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[75] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[76] Bureau of Resources and Energy Economics online information, "Australia's Energy Sector Key Facts". Viewed at: http://bree.slicedlabs.com.au/sites/default/files/files/publications/energy-in-aust/bree-energyinaustralia-2013-factcard.pdf; Energy Supply Association of Australia (2014); Bureau of Resources and Energy Economics online information, "2014 Australian energy statistics data July". Viewed at: http://www.bree.gov.au/publications/australian-energy-statistics/2014-australian-energy-statistics-data.

[77] These jurisdictions are: Queensland, New South Wales, the Australian Capital Territory (ACT), Victoria, South Australia, and Tasmania.

[78] Energy Supply Association of Australia (2014).

[79] Australian Energy Regulator (2013).

[80] More information on the AER is available online. Viewed at: http://www.aer.gov.au/about-us.

and investment opportunities in electricity generation and natural gas. Generators and retailers trade electricity in the six jurisdictions of eastern and southern Australia through the wholesale National Electricity Market (NEM). These jurisdictions are physically linked by an interconnected transmission network, the largest interconnected power system in the world. The electricity produced by major generators in the NEM is sold into a gross pool market through a central dispatch process managed by the AEMO. Across the NEM, around two-thirds of generation capacity is government-owned or controlled. The NEM has around 317 (270 in 2010) registered generators, 5 (6 in 2010) state-based transmission networks (linked by cross-border interconnectors), and 13 major distribution networks that collectively supply electricity to end-use customers.[81]

4.42. Reforms to the energy rules were announced in November 2012 and undertaken to deliver future decisions on network revenues and investment that are in the long-term interests of consumers.[82] The rules change provided greater flexibility in the National Electricity Rules (NER) and National Gas Rules (NGR) for the AER to adapt its approaches to the nature of the network business it is regulating. They affect areas such as: the rate of return; capital expenditure and operating expenditure; capital expenditure incentives; and the regulatory process. In 2013, the AER published implementing guidelines under the Better Regulation programme. These will apply first to transitional regulatory determinations in New South Wales (transmission and distribution), the Australian Capital Territory (distribution) and Tasmania (transmission) commencing in mid-2014. The first determinations under the full arrangements for these businesses are to be made by mid-2015.[83] In retail, the adoption of the National Energy Customer Framework (NECF), a national customer protection framework for the retail sale of electricity and gas to residential and small business energy customers continued.[84] New South Wales became the fourth jurisdiction (following South Australia, Tasmania, and the ACT) to implement the NECF on 1 July 2013. Victoria indicated it would implement the NECF, subject to the resolution of state-specific issues, and Queensland has indicated it plans to adopt the NECF in 2015, subject to the COAG Energy Council agreeing to state-specific variations to support customers outside of south east Queensland. Implementation of the NECF involves the transfer of current state and territory (except for Western Australia and the Northern Territory) legislation into a single set of laws, regulations and rules comprising the National Energy Retail Law, National Energy Retail Regulations and National Energy Retail Rules. Consumers in those jurisdictions now enjoy access to the AER's price comparator (www.energymadeeasy.gov.au).

4.43. Following double digit rises in 2012-13, electricity retail price increases under regulated offers for 2013/14 were contained to below 4% in New South Wales, Tasmania and the ACT. Victoria, South Australia and New South Wales do not regulate retail electricity prices; in Victoria, standing contract prices rose by 5%-12% across the state's five distribution network areas in 2013. In South Australia, electricity prices in standing offer contracts fell by 9.1% following deregulation on 1 February 2013. Subsequent movements resulted in a net price decrease of 1.8% during 2013. An exception to the move towards more stable electricity prices was Queensland, where the regulated single-rate residential tariff rose by 20.4% in 2013/14; this rise passed through two years of network cost increases following the Queensland Government's price freeze for this tariff in 2012/13.[85]

4.3.2.1.2 Western Australia and the Northern Territory

4.44. Western Australia and the Northern Territory have their own electricity generators. In Western Australia 39% of generating capacity is state-owned. In the small Northern Territory market the industry is dominated by the state-owned corporation Power and Water. Their electricity markets are not interconnected with the NEM. Western Australia has operated a wholesale electricity market (WEM), consisting of an energy market and a capacity mechanism, since 2006, but there is no wholesale market competition in the Northern Territory. Western Australia's electricity market retains a relatively concentrated ownership structure, with state-owned utilities being prominent across the supply chain, especially in the South Western

[81] Australian Energy Regulator (2013).
[82] Australian Energy Regulator (2013).
[83] AER online information. Viewed at: http://www.aer.gov.au/Better-regulation-reform-program.
[84] The NECF is a national regime for retail customers of electricity and gas, designed to harmonise most state and territory regulatory requirements in relation to the sale and supply of energy to customers.
[85] Australian Energy Regulator (2013).

Interconnected System (SWIS).[86] Therefore, full retail competition does not exist in the jurisdiction. The Economic Regulation Authority (ERA) is the AER equivalent for the region.[87] The West Australian Government and Northern Territory Government set retail energy prices for these jurisdictions. In the 2014/15 West Australian Budget, the Government announced a 4.5% increase in residential electricity tariffs, effective from 1 July 2014. In the Northern Territory, a 5% increase in tariffs was to apply from 1 January 2015.

4.3.2.1.3 Other issues

4.45. In 2011/12, budgetary assistance for the electricity, gas, water and waste services industries, mainly in the form of transitional assistance under the industry-specific Energy Security Fund (92.8% of total assistance to the sector), peaked ($A 1.1 billion) and was the highest among all sectors.[88] This assistance was a one-off and in 2012/13 budgetary assistance for this sector dropped markedly to just $A 129.6 million. The Renewable Energy Target (RET) scheme, consisting of the Large-scale Renewable Energy Target (LRET) and the Small-scale Renewable Energy Scheme (SRES), that is aimed at increasing renewable energy generation and reducing greenhouse gas emissions from the electricity sector, remains in place. It is designed to deliver the equivalent of 20% of Australia's electricity from renewable sources by 2020, and will cease in 2030. As at 31 December 2013, there were 394 power stations accredited under the LRET with a combined capacity of approximately 18,600 megawatts.[89] Under the SRES, there are over two million small-scale installations that have the capacity to generate or displace approximately 6,882 gigawatt hours of electricity annually.[90] An independent review was to examine the operation and costs and benefits of the Renewable Energy (Electricity) Act 2000 and related legislation and regulations, and the RET scheme which is constituted by these instruments; a report was to be issued by mid-2014 but as at end 2014, it had not yet been released.[91]

4.46. Australia's electricity prices in 2010 and 2011 remained low (or at the mid-range on a purchasing power parity basis) compared with most other OECD countries, reflecting, *inter alia,* Australia's abundant and low-cost coal supplies.[92] Nevertheless, over the past five years, they have been rising as a result of network capital expenditure to meet increasing peak demand, environmental policy requirements, the carbon tax, green and renewable energy schemes (e.g. RET, feed-in tariff schemes), as well as a cyclical increase in the replacement of electricity assets in some states, thus resulting in higher average fixed energy costs per user.[93] Lowering customer energy bills, particularly peak rates, is at the forefront of both Commonwealth and State and Territory Government policy agendas. State and Territory Governments maintain overall responsibility for retail energy pricing. Price regulation is maintained in all states and territories other than Victoria, South Australia and New South Wales, and tariffs are set either by independent energy regulators or governments according to varying methodologies (sections 4.3.2.1.1 and 4.3.2.1.2). Therefore, the tariffs applying to a customer class in one jurisdiction are not comparable to those in another. Ceilings on retail electricity rates for households and SMEs remain in place. According to a 2012 OECD survey, enhancing the efficiency of the energy market would boost growth, while preserving the environment; price controls remain an important area of unfinished business in energy reform as electricity tariff caps reduce supply-side signals for investment.[94] Despite the lack of a nationally mandated programme, most Australian jurisdictions operate feed-in tariff (FiT) schemes, which provide owners of small

[86] In the SWIS, Western Australia's principal electricity system, the state-owned Western Power owns the bulk of transmission and distribution systems. Another state-owned utility, Verve Energy, owns about two-thirds of generation capacity. The balance is privately owned and mainly dedicated to resource projects. In contrast to the NEM, which is a gross pool where the sale of all wholesale electricity occurs in a spot market and participants may also enter formal hedge contracts to manage spot market risk, energy in the SWIS is traded mainly through bilateral contracts outside the pool. WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[87] More information on ERA's activities during the review period is available at Economic Regulation Authority Western Australia (2013).

[88] Productivity Commission (2013d and 2014c).

[89] Clean Energy Regulator (2014).

[90] Clean Energy Regulator (2014).

[91] Department of the Environment online information, "Renewable Energy Target Review - Terms of Reference". Viewed at: http://www.environment.gov.au/minister/hunt/2014/pubs/mr20140217-tor.pdf.

[92] Energy Supply Association of Australia online information. Viewed at: http://www.esaa.com.au/Library/PageContentFiles/de27d276-324e-4ac3-ac98-fd8714f97ff8/121213_Comparing_Australian_and_International_Electricity_Prices.pdf.

[93] Deloitte (2013).

[94] OECD (2012).

renewable-energy systems with guaranteed fixed rates for the sale of electricity fed into the grid (e.g. Victoria).[95] During the review period, several schemes (e.g. ACT FiT scheme, South Australian solar FiT scheme, and Residential Net FiT for Western Australia) were closed to new participants.[96]

4.3.2.2 Gas

4.47. Australia, which exports half of its natural gas production, remains a major player in global liquefied natural gas (LNG) markets. In 2013, it was the second-largest LNG exporter in the Asia-Pacific region and the third-largest in the world.[97] Natural gas production, one of the draft EWP2's priority action areas (section 4.3.2), is expected to double, leading to a nearly fourfold increase in LNG export capacity up to 2020. The domestic market is divided into three separate gas markets.[98] As there is no interconnection between these markets, because of the large distances between them, gas production is either consumed within each market or exported as LNG. The petroleum resource rent tax (section 3.4.1.2) also applies to gas projects. Wholesale gas continues to be mostly sold under confidential, long-term contracts of up to 20 years, considered as being essential for the financing of new projects. The trend in recent years has been towards shorter-term supply, owing to price uncertainties, but most contracts still run for at least five years and prices are generally indexed to world oil prices. Between 2009/10 and 2011/12, rising production costs and strong gas demand, particularly in the mining sector, have put upward pressure on prices. Higher international LNG prices also reflect increasing crude oil prices to which Australian LNG contract prices are linked, and stronger demand from Japan in the wake of the shutdown of its nuclear electricity generation sector.[99] More recently, the development of an LNG export industry in Queensland that has seen rising production costs, LNG netback pricing expectations and limited supply competition, put further upward pressure on domestic prices in the eastern gas market.[100]

4.3.2.3 Petrol

4.48. Australia remains a net importer of refinery feedstock (crude oil and condensate) and refined petroleum products as 40% of total oil supply is imported, but a net exporter of liquid petrol gas (LPG).[101] A large portion (75%, 2012/13) of domestic crude oil and condensate production is exported, as the oil's quality and the geographic location of production makes it attractive for modern and more efficient Asian refineries.[102] Around 85% of input into refineries is sourced from imports; domestic refineries account for around 63% of Australia's refined product consumption. High labour and construction costs (compared to nearby Asian markets), combined with the need to build at big volume to fully utilise economy-of-scale benefits, are key drivers of falling domestic refining capacity.[103] Australia is the only International Energy Agency (IEA) member that relies on the normal stockholding practices of the domestic oil industry to meet its 90-day net import stockholding obligation.[104]

[95] For example, a minimum feed-in tariff rate of 6.2 cents per kilowatt hour (c/kWh) would apply to all customers that have been receiving the current feed-in tariff introduced on 1 January 2013 in Victoria from 1 January 2015. The minimum FiT rate applying until the end of 2014 was at 8 cents per kWh (State Government Victoria online information. Viewed at: http://www.energyandresources.vic.gov.au/energy/environment-and-community/victorian-feed-in-tariff-schemes).

[96] OECD & International Energy Agency (2012); and International Energy Agency online information. Viewed at: http://www.iea.org/policiesandmeasures/renewableenergy/?country=Australia.

[97] OECD& International Energy Agency (2012).

[98] These markets are: Eastern Australia (Queensland, New South Wales, the Australian Capital Territory, South Australia, and Tasmania), Western Australia, and the small Northern Territory market.

[99] Bureau of Resources and Energy Economics (2013).

[100] Department of Industry and Bureau of Resources and Energy Economics (2014).

[101] OECD & International Energy Agency (2012).

[102] Australian Institute of Petroleum (2013).

[103] The refining sector incurred losses of around $A 600 million during 2011/12 compared with a net profit of $A 348 million in 2010/11 (Australian Competition and Consumer Commission & Australian Energy Regulator, 2013; and Bureau of Resources and Energy Economics, 2013).

[104] In 2012, there was a severe worsening in Australia's compliance level, as higher 2011 net imports become the basis for measuring stockholding. According to IEA estimates, compliance was around 70 days throughout 2012, while the situation improved slightly in 2013, owing to a short-term increase in domestic

4.49. The industry remains concentrated at the refining and wholesale levels but this need not give rise to concerns about the state of competition. Nevertheless, despite some improvement, the operation of the buy–sell arrangements and the low potential for large-scale independent imports continue to have a bearing on the functioning of competition in the market.[105] A key priority for the Australian Competition and Consumer Commission (ACCC) is anti-competitive conduct in the fuel sector; it is concerned about any possible impact on competition in the fuel market because of the potential impact on consumers of even a small increase in price.[106] A mandatory 2007 Oilcode (section 3.4.3.1.3) regulating the conduct of operators in the retail industry for downstream petroleum products remains in place. On 3 May 2012, the ACCC announced it had commenced an investigation into price information sharing in the retail petrol sector because of concerns that such arrangements may be in breach of the Competition and Consumer Act 2010.[107] By August 2014, the ACCC was seeking declarations, injunctions, pecuniary penalties and costs; this matter was listed for a directions hearing in Melbourne on 26 September 2014.[108]

4.50. In late 2011, the Commonwealth Government released its Strategic Framework for Alternative Transport Fuels that sets out a long-term strategic framework to support the market-led development of alternative transport fuels in the context of maintaining liquid fuel security while moving toward a low emission economy.[109] Under the 2002 Ethanol Production Grant (EPG) Programme, which in June 2011 was extended until 30 June 2021 with a review after that date, the government subsidy to producers remains equal to the fuel excise of 38.143 cents per litre. This is equivalent to budgetary assistance of $A 108.9 million in 2012/13 ($A 115.3 million in 2011/12, $A 124.7 million in 2010/11), meaning that E10 petrol is effectively excise-free for the ethanol component (which is 10%).[110] The Energy Grants (Cleaner Fuels) Scheme also provides 38.143 cents a litre for the domestic use of biodiesel and renewable diesel. According to the 2014 Budget, as of 1 July 2015 the EPG and the Cleaner Fuels Scheme will cease and the excise rate for ethanol and biodiesel will be set at zero. From 1 July 2016 onwards, excise will be progressively phased-in on ethanol and biodiesel over a five-year period based on a discounted energy content until it reaches 12.5 cents per liter for ethanol, and 50% of the energy content equivalent tax rate for biodiesel.[111] The excise equivalent customs duty for imported biodiesel will continue to be taxed at the full energy content equivalent tax rate.[112] No comments were provided by the authorities on this matter.

4.51. The pre-tax component of gasoline prices remains amongst the lowest in the OECD and the tax-inclusive gasoline price is the fourth lowest, following Mexico, the United States and Canada.[113] Australian wholesale gasoline and diesel prices closely follow movements in the regionally-benchmarked Singapore prices for petrol (e.g. MOPS95) and diesel (Gasoil 10 ppm sulphur), which are in turn largely set by world oil prices. The Fuel Tax Credits Scheme remains in

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production in 2012, though not sufficient to bring Australia into sustainable compliance. More information on this matter is available at OECD & International Energy Agency (2012).

[105] The refiner-marketers accounted for about 73% (93% in 2007/08) of the petrol imported into Australia in 2013/14. The recent growth in independent imports has been partly driven by the increased availability of Australian-standard petrol in overseas refineries, greater access to import terminals and the scaling back of the Australian refining sector (Australian Competition and Consumer Commission, 2014b; and WTO document WT/TPR/S/244/Rev.1, 18 May 2011). The authorities indicated that Trafigura, a leading international commodities trading and logistics company, entered the import market in 2013 to become the largest independent importer, and United Petroleum is also a fuel importer.

[106] Approximately 54% of petrol prices in Australia comprise the international price of refined petrol, around 34% is fuel taxes and around 12% covers local costs and wholesale and retail margins. Local competition can only affect this last component (that is, 12% of the petrol price).

[107] Australian Competition and Consumer Commission & Australian Energy Regulator (2013).

[108] ACCC Media Release, "ACCC takes action against Informed Sources and petrol retailers for price information sharing", 20 August 2014. Viewed at: http://accc.gov.au/media-release/accc-takes-action-against-informed-sources-and-petrol-retailers-for-price-information-sharing.

[109] Alternative transport fuels include biofuels (such as ethanol and biodiesel), gaseous fuels (compressed natural gas, liquefied natural gas and liquefied petroleum gas) and synthetic fuels (coal to liquids, gas to liquids, biomass to liquids and shale to liquids).

[110] Productivity Commission (2013d).

[111] Australian Taxation Office online information. Viewed at: https://www.ato.gov.au/General/New-legislation/In-detail/Indirect-taxes/Excise/Ethanol-Production-Grants-Programme---cessation/.

[112] Australian Taxation Office online information. Viewed at: https://www.ato.gov.au/General/New-legislation/In-detail/Indirect-taxes/Excise/Taxation-treatment-of-Biodiesel---modification/; and *Ethanol Producer Magazine*, "*Australia to eliminate ethanol subsidy*", 29 May 2014. Viewed at: http://ethanolproducer.com/articles/11096/australia-to-eliminate-ethanol-subsidy.

[113] Bureau of Resources and Energy Economics (2013).

place to reduce or remove the incidence of excise and excise equivalent customs duty, and covers liquid, gaseous and blended fuels for business use including for: all off-road business activities, including for electricity generation and aviation fuel, prior to the repeal of the carbon tax in July 2014, where the business was in the Opt-In Scheme.[114] Fuel tax credit rates vary depending on the fuel use and activity; the latest set of these rates covers the period from 1 July 2013 onwards.[115] In 2013/14, the Fuel Tax Credits Scheme represented a tax expenditure of $A 5.8 billion that is expected to rise at about $A 6.3 billion in 2014/15.[116]

4.4 Manufacturing

4.52. Manufacturing accounted for 7.1% of GDP (2012/13), 8.1% of employment (8.6% and 8.9%, respectively in 2009/10) (Table 1.2), and 11.7% of total merchandise exports (about 5.2% of which machinery and transport equipment), virtually the same as in 2010. Average annual MFP slowdown was reduced to -0.2% over 2007/08-2011/12 (from -1.4% in 2003/04-2007/08).[117] While the export competitiveness of Australian manufacturing has declined due to the high dollar, the authorities consider that it retains many strengths and opportunities as the country has strong and sustainable comparative advantages in low-medium technology areas.[118]

4.53. Trade in global value chains (GVCs) is the fastest growing part of international trade, and a critical driver of productivity, growth, and employment.[119] In 2010, the domestic value added in Australia's exports, which is indicative of the value added gains for a country from exports, was at 87%.[120] Australia's GVC participation rate (i.e. the share of exports that is part of a multi-stage trade process) was 42%, ranking it 23rd (above Brazil and India) in the world's top 25 exporting economies.

4.54. Under its Industry Development and Investment Program, Australia aims to increase the productivity, sustainability and growth of industry, including in the manufacturing sector to support its ongoing competitiveness and help build industries which are integrated into global markets and innovative in their business operations.[121] Under its October 2014 Industry Innovation and Competitiveness Agenda (sections 1.4 and 3.4.2), the Commonwealth Government will focus on initiatives to promote national competitiveness and productivity including: economy-wide measures to boost the competitiveness of manufacturing and lower the costs of doing business (e.g. costs of energy and regulation); options to encourage innovation; options to accelerate the development of productivity-enhancing infrastructure; options to encourage the growth of small to medium-sized businesses; and, economy-wide incentive mechanisms to boost investment.[122] A $A 1 billion February 2013 package, *A Plan for Australian Jobs*, an initiative under the former Government's Industry and Innovation Statement, is not supported by the current Government.

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[114] The Opt-in Scheme under the Clean Energy Act 2011 allowed liable entities and large users of liquid petroleum fuels (e.g. diesel, petrol, aviation fuel) to take on an emissions liability for that fuel under the carbon pricing mechanism rather than paying the equivalent carbon price "indirectly" through the fuel tax or excise systems (Clean Energy Regulator online information. Viewed at: http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/About-the-Mechanism/liquid-fuel-opt-in-scheme/Pages/default.aspx; and Energetcis online information. Viewed at: http://www.energetics.com.au/insights/latest-news/climate-change-matters/opt-in-scheme-for-liquid-fuels-regulations-finalis).

[115] Australian Taxation Office online information. Viewed at: https://www.ato.gov.au/Business/Fuel-schemes/In-detail/Fuel-tax-credits---for-GST-registered-businesses/Calculating-and-record-keeping/Fuel-tax-credit-rates-and-eligible-fuels/.

[116] Commonwealth of Australia (2014), Statement 1: Budget Overview, *Budget Strategy and Outlook 2014-15*, Budget Paper No.1. Viewed at: http://www.budget.gov.au/2014-15/content/bp1/download/BP1_BS1.pdf

[117] Productivity Commission (2013c).

[118] Prime Minister's Taskforce on Manufacturing (2012).

[119] Asian International Economists Network online information, "Global Value Chains, Trade Policy and Asia", 22 May 2013. Viewed at: http://aienetwork.org/blog/36/global_value_chains_trade_policy_and_asia.

[120] Factors that influence the share of domestic value added in exports include the size of the economy, the composition of exports and position in GVCs, and the economic structure and export model of the country (UNCTAD, 2013).

[121] Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (2013a).

[122] Joint Media release with the Prime Minister, the Hon Tony Abbott MP, "$155 million to grow the jobs of tomorrow", 30 April 2014. Viewed at: http://minister.industry.gov.au/ministers/macfarlane/media-releases/155-million-grow-jobs-tomorrow.

The Plan was to be funded via changes to the R&D Tax Incentive leading to savings of over $A 1 billion from 2014-17 as businesses with annual Australian turnovers of $A 20 billion or more would no longer be eligible for the incentive. In November 2013, the current Government reintroduced a bill, yet to be passed, to implement these changes and will redirect the revenue gain to repair the budget (sections 1.3.2 and 1.4.1).

4.55. During the review period, innovation infrastructure and support included: the services of Austrade; AusIndustry (Industry Skills Fund); Commercialisation Australia and Enterprise Connect (a $A 236 million Industrial Transformation Research Program); relevant Cooperative Research Centres (CRCs), such as the Advanced Manufacturing CRC, the Automotive Australia 2020 CRC and the Advanced Composites Structures CRC; and, skills and training through the National Workforce Development and Productivity Agency and associated Fund.[123] An Entrepreneurs' Infrastructure Programme (EIP) was announced in the 2014 Budget which will include elements to: enhance business management capability; provide connections between researchers and business; and assist businesses commercialise ideas. Several general and industry-specific programmes, most of which are discussed in other sections of this report (sections 3.4.2 and below), contributed to achieving the programme's objectives during 2012/13. They included: Automotive New Markets Initiative (until 30 June 2014); Automotive Supply Chain Development Program; Automotive Transformation Scheme; Buy Australian at Home and Abroad[124]; Clean Technology Focus for Supply Chains Program; Procurement Strategy – Strengthening the Australian Industry[125]; Certain Inputs to Manufacture; Clean Business Australia – Green Building Fund; Clean Technology Food and Foundries Investment Program; Clean Technology Investment Program; Energy Brix Australia Corporation Assistance; Enhanced Project By-Law Scheme; Food Industry Policy; General Motors Holden – Next Generation Vehicles; Liquefied Petroleum Gas Vehicle Scheme; Steel Transformation Plan; Textile, Clothing and Footwear (TCF) Investment (Small Business Program); Clothing and Household Textile (Building Innovative Capability) Scheme, TCF – Register of Approved Occupational Clothing, TCF – Structural Adjustment Program; TCF – Strategic Capability Program; and Tradex. A number of these programmes have been closed from 2014/15 onwards with a focus on simplifying and streamlining industry support to help boost business productivity and increase competitiveness across the economy. Australia's government procurement policy at national, state and/or territory level provides for support to the local industry and SMEs (section 3.2.8). A new Single Business Service allows the industry to interact with Government; as of 1 July 2014, it was made up of a consolidated online presence, a contact centre and a face-to-face business facilitation network to link interested businesses with relevant programmes and services.[126]

4.56. Manufacturing activities continue to receive the largest part of net combined assistance from a wide range of policy instruments. In 2012/13, the sector accounted for 83.9% (70% in 2011/12) of the estimated net combined assistance made available to all sectors of the economy.[127] In 2012/13, manufacturing received 77.4% (76.2% in 2011/12) of its net combined industry assistance ($A 7.1 billion), mainly through tariff assistance on its output protecting metal product manufacturing, food, beverages, and tobacco activities, thus raising costs to consumers and to industries that use manufactured and other inputs subject to tariffs.[128] The sector's effective rate of combined assistance was 4.2% in 2012/13 (4.5% in 2009/10) (Table A4.1).[129] Effective

[123] Department of Industry (2014c); Australian Workforce and Productivity Agency (2013); and Australian Research Council online information. Viewed at: http://www.arc.gov.au/ncgp/itrp/itrp_default.htm.

[124] The $A 58 million Buy Australian at Home and Abroad initiative assists firms to enhance their competitiveness and link with new business opportunities, particularly on major projects through the following activities: Australian Industry Participation Plans for major Commonwealth Procurement (section 3.2.8); Supplier Advocates; Resources Sector Supplier Advisory Forum and Envoy; Supplier Access to Major Projects (SAMP); and, Clean Technology Focus for Supply Chains (Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education online information. Viewed at: http://www.innovation.gov.au/INDUSTRY/BUYAUSTRALIANATHOMEANDABROAD/Pages/default.aspx).

[125] Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (2013a).

[126] Australian Government online information. Viewed at: http://www.business.gov.au/about-businessgovau/Pages/Single-Business-Service.aspx.

[127] Productivity Commission (2013d and 2014c).

[128] The net combined assistance is defined as the net tariff assistance plus budgetary outlays and tax concessions.

[129] The effective rate of combined assistance is measured as the dollar value of assistance as a proportion of (unassisted) value added. The calculations of combined assistance comprise budgetary, tariff, and regulatory assistance.

combined assistance to the textiles, clothing, footwear and leather and motor vehicles and parts industries (sections 4.4.1.1 and 4.4.1.2) remains higher than average and the highest of all goods industries of the economy, at around 8.1% and 8.9%, respectively.

4.57. Australia's average applied MFN tariff on industrial products has remained relatively unchanged since its last Review (Table 3.1). Unilateral tariff cuts on certain finished textile articles were implemented as of 2015 (section 3.2.2.2). According to Productivity Commission estimates in 2012/13, most tariff assistance on outputs continued to be directed towards the manufacturing sector, and in particular the food, beverages and tobacco ($A 1.7 billion), metal and fabricated metal products ($A 1.7 billion), petroleum, coal, chemical and rubber products ($A 1 billion), and motor vehicles and parts ($A 0.8 billion) industry groups.[130] In 2013, the passenger motor vehicles and the textiles, clothing and footwear accounted for 10.3% and 8% of the gross customs duty revenue respectively.

4.58. Budgetary assistance for manufacturing is estimated to have dropped in 2010/11, risen to about $A 1.8 billion in 2011/12, and declining to $A 1.6 billion in 2012/13; however, its share of GDP remained relatively stable at around 0.1% (Table 4.2). The pattern of this assistance was reversed from 2010/2011 onwards; in 2012/13 it was mostly and increasingly delivered in the form of outlays (82.8%) and to a lesser extent by means of tax concessions. The motor vehicles and parts industries have remained the main recipient of budgetary assistance. In 2012/13, industry-specific and general export support accounted for 39.6% and 9% of budgetary assistance, respectively.[131] Arrangements that may have assistance implications but are not part of these estimates include government-purchasing preferences and local-content arrangements (section 3.2.8). As for sectors discussed elsewhere in this report, the extent of domestic support provided by state or territory governments cannot be fully appraised.

Table 4.2 Budgetary assistance to manufacturing, 2008/09-2012/13

	2008/09	2009/10	2010/11	2011/12	2012/13
Share in total budgetary assistance (%)					
Food, beverages, and tobacco	6.7	6.5	7.5	6.0	6.4
Textiles, clothing, and footwear	7.4	7.0	7.9	3.2	3.9
Wood and paper products	4.2	1.3	1.3	1.1	1.8
Printing, publishing, and media	0.6	0.5	0.6	0.8	1.3
Petroleum, coal, chemicals, and rubber	14.5	13.6	17.3	15.5	20.0
Non-metallic mineral products	0.8	1.0	1.2	1.2	2.1
Metal product manufacturing	7.0	5.9	6.4	14.7	6.9
Motor vehicles and parts	32.4	37.5	30.6	34.0	28.7
Other transport equipment	1.9	1.7	1.8	1.6	1.9
Other machinery and equipment	10.5	10.3	10.9	9.8	14.2
Other manufacturing	1.4	1.4	1.5	1.9	2.5
Unallocated manufacturing[a]	12.7	13.2	13.0	10.4	10.4
Total outlays ($A million)	794.0	955.2	993.7	1,408.2	1,333.3
Total tax expenditure ($A million)	926.0	981.2	706.0	444.9	275.9
Total budgetary assistance ($A million)	1,720.0	1,936.4	1,699.7	1,853.1	1,609.2
Share of total budgetary assistance to GDP (%)	0.14	0.15	0.12	0.12	0.11

a Unallocated includes general programmes where details of beneficiaries are unknown.

Source: Productivity Commission (2014), *Trade & Assistance Review 2012-2013*, 27 June. Viewed at: http://www.pc.gov.au/__data/assets/pdf_file/0007/137788/trade-assistance-review-2012-13.pdf.

4.4.1 Automotive

4.59. Despite its small contribution to total merchandise exports[132], and its relatively high degree of concentration[133], the automotive industry remained a relatively sensitive part of the Australian

[130] Productivity Commission (2014c).
[131] Productivity Commission (2014c).
[132] In value terms, the share of the sector (HS 87) ranged from 1% to 1.3% of total exports between 2009 and 2013 (UNSD Comtrade database).
[133] The domestic industry consists of 3 foreign-owned subsidiaries of global companies (Ford, General Motors - Holden, Toyota) and approximately 160 component, tooling, design and engineering firms. Their three plants, combined, currently assemble six models of passenger motor vehicles with production spread across two states (Victoria, South Australia) and four market segments. The three producers also manufacture engines and undertake vehicle design and engineering in specialty centres located in Victoria. Ford, General

economy during the review period. It was the fourth major recipient of government assistance across all sectors in 2012/13 and by far the largest among other manufacturing activities.[134] . Its contribution to manufacturing value added, employment[135], and capital expenditure is around 5% (2011/12, 2012/13). Passenger motor vehicles customs duty ($A 920 million) and Luxury Car Tax ($A 430 million, section 3.4.1.1 and below) payments (excluding GST) account for 1.4% (2013/14) of total indirect tax receipts.[136] Australia remains a very small global player in the automotive sector; its new vehicle sales of just over 1 million units were around 1.3% (1.4% in 2012) of passenger and commercial vehicles sold globally in 2013.[137] In 2013, nearly 90% (81% in 2012) of new passenger motor vehicles were imported.[138] Australia's share of global production in 2013, at 210,538 units (221,254 units in 2012), was about one-quarter of 1%, and of that, about 40% (32.6% in 2009) was exported. According to a 2014 Productivity Commission Position Paper (see below), all vehicle manufacturers in Australia produce well below the 200,000 to 300,000 vehicles needed annually for an assembly plant to be cost-competitive.[139] Despite continuing efforts, a substantial cost gap between Australian and many overseas assembly plants remains.[140] Between 2010 and 2012 local content dropped from 60.1% to 43.6%.[141] Export opportunities are limited by the high costs of production, the sustained high value of the Australian dollar, competition from lower cost countries and continuing barriers to trade.[142]

4.60. According to a Productivity Commission report, Australia's car market is competitive due to a unilateral applied MFN (5%) and preferential (zero, section 2.4.2.1) tariff cuts.[143] Nevertheless, the average applied MFN tariff for the industry (8.6%) remains significantly higher than the average rate for the manufacturing sector. Used vehicles remain subject to a high/prohibitive compound tariff rate (whose AVE is as much as 215.4%) and Vehicle Import Approval requirements (section 3.2.2.2.1, Table A3.1).[144] Despite applying to both domestic and foreign cars, the luxury car tax (LCT) (section 3.4.1.1) continues to be seen by some stakeholders as

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Motors - Holden and Toyota would cease manufacturing in Australia by 2016 (Ford) and 2017, respectively (Productivity Commission, 2013a).

[134] Motor vehicles and parts had the highest effective rate of assistance of all industry groups. Productivity Commission (2014c).

[135] In 2013, around 45,000 people were employed in the manufacture of cars, trucks and buses, as well as automotive engines, automotive electrical components and products for the automotive aftermarket. Another 225,000 people were employed in the repair, maintenance and wholesaling of motor vehicles and parts; this workforce is largely independent from, and not significantly influenced by, the degree of local manufacturing of vehicles (Productivity Commission, 2013a).

[136] Commonwealth of Australia (2014c), Table 8.

[137] Productivity Commission (2013a).

[138] Department of Industry (2013); and Federal Chamber of Automotive Industries online information, "VFACTS Sales Report 2013". Viewed at: http://www.fcai.com.au/.

[139] Productivity Commission (2014a).

[140] The costs of producing motor vehicles in Australia are high relative to some countries where the three producers have affiliate operations, e.g. two times higher than in Europe, and four times higher than in Asia (Productivity Commission, 2013a).

[141] This estimate is based on the ratio of Value of Components Sourced from Australian Suppliers/Value of Production of Locally-made PMVs and PMV Derivatives, data available online by the Department of Industry. The authorities' estimates differ from those of the Secretariat and were of the order of 66.0% (2010) and 64.7% (2012). During the review period there has been concern that production will be focused on global vehicle platforms, a shared set of common design, engineering, and production efforts, as well as major components over a number of outwardly distinct models and even types of automobiles, often from different, but related marques. This would have an impact on Australian content value that is believed to be an extremely low 20-25% in Holden's new (Cruze) platform (Australian Automotive Aftermarket Association, 2013; and Department of Industry, 2013).

[142] There is concern that preferential tariff treatments among other countries have placed Australian exports at a disadvantage (Productivity Commission, 2013a).

[143] As an increasingly larger number of imported vehicles enter at a zero tariff rate, domestic vehicle producers are under pressure to lower their prices (or offer other consumer discounts such as free petrol or zero-rate financing) to avoid losing sales. In addition to existing preferential arrangements, FTAs with the Republic of Korea and Japan would mean that two-thirds of imported cars would enter at zero tariff rate by 2017, producing savings of up to $A 2,000 on popular makes (Productivity Commission, 2013a; and *The Australian*, "Trade deals will slash car tariffs", 14 February 2014. Viewed at: http://www.theaustralian.com.au/national-affairs/policy/trade-deals-will-slash-car-tariffs/story-fn59nm2j-1226826646593#).

[144] According to the Australian Parliament Hansard records, the rarely applied non-*ad valorem* component of the duty on imported used cars, introduced in 1991 as an industry protection measure, has benefits for environmental, safety and even consumer concerns. They also mentioned that Australia's balanced approach to used-vehicle imports is less restrictive than economies that prohibit imports of used cars.

effectively discriminating against foreign-made vehicles of this type, which usually have higher prices than domestically-produced luxury/large vehicles, and are estimated to continue to provide 97.1% (2011/12) of the revenue from this tax.[145] In 2014, there were calls to scrap tariffs on imported cars and the LCT after the planned closure of the Ford, Toyota, and Holden plants.[146] Government procurement of motor vehicles remains exempt from the mandatory procurement procedures of the Commonwealth Procurement Rules (section 3.2.8).[147] Between December 2012 and October 2013, an automotive industry advocate was to develop, *inter alia*, an action plan to increase the purchase of Australian-made vehicles by public sector fleets.[148]In light of the closure announcements by local vehicle producers, the Government is to address the Commonwealth's fleet procurement policy in its response to the Productivity Commission's Report on Australia's Automotive Manufacturing Industry (see below).

4.61. Although automotive manufacturing remains heavily, albeit less, assisted, this assistance has not secured the future of motor vehicle production as demonstrated by planned plant closures.[149] In 2012/13, motor vehicles and parts accounted for $A 461.8 million ($A 629.4 million (2011/12), $ A 726.5 million (2009/10)) of budgetary assistance or 28.7% of the amount transferred to manufacturing. It was mainly delivered through the industry-specific components of the New Car Plan for a Greener Future (i.e. the Automotive Transformation Scheme, the Green Car Innovation Fund), and general export support from Tradex.[150] A $A 34 million Assistance to Ford Australia (under the Automotive Industry Structural Adjustment Program) was delivered in 2011/12. Since November 2008, the $A 5.8 billion New Car Plan for a Greener Future has assisted the industry to prepare for a low-carbon future and to further orientate itself to global markets and supply chains. During the review period, the plan consisted of: $A 1.6 billion in capped, and approximately $A 348 million in uncapped, assistance under the Automotive Transformation Scheme (ATS) from 1 January 2011 to 31 December 2017 (previously scheduled until 2020/21) as a consequence of the decision by the domestic car makers to cease manufacturing by that date[151]; a $A 500 million Green Car Innovation Fund (GCIF) which was closed to new applications on 27 January 2011[152]; a $A 146.9 million Automotive Industry Structural Adjustment Programme (AISAP) promoting adjustment through mergers and consolidation in the components sector, and facilitating labour market adjustment (1 November 2008 to 30 June 2018); a $A 20 million Automotive Supply Chain Programme (30 June 2009 to 30 June 2013) helping suppliers improve their capabilities and their integration in complex national and global supply chains; a

[145] Furthermore, the discriminatory nature of the LCT appears to be reinforced by the fact that the Commonwealth Government singles out the entire automotive industry and does not tax other 'luxury' items such as yachts or jewellery in a similar manner (Federal Chamber of Automotive Industries, 2009; Victorian Automobile Chamber of Commerce, "Submission and Comments Australia's Automotive Manufacturing Industry – Position Paper January 2014", 13 February 2014. Viewed at: http://www.pc.gov.au/__data/assets/pdf_file/0009/134199/subpp252-automotive.pdf; and WTO document WT/TPR/S/244/Rev.1, 18 May 2011).

[146] *The Australian*, 13 February 2014. Viewed at: http://www.theaustralian.com.au/national-affairs/on-special-thousands-off-if-car-imposts-go/story-fn59niix-1226825266041#.

[147] In 2012/13, Australian-manufactured vehicles accounted for 56% of fleet purchases by the three governments with an Australian-made purchasing policy (i.e. the Commonwealth, Victoria and South Australia), and 21% of fleet purchases by the remaining state territory and local governments combined (Productivity Commission, 2013a).

[148] Productivity Commission (2013d).

[149] Productivity Commission (2013a).

[150] Productivity Commission (2013a).

[151] In 2013/14 a $A 289.5 million in capped and $A 56.6 million in uncapped assistance was delivered mainly to motor vehicle (67.9%) and automotive components (31.3%) producers. The ATS provides assistance in the form of cash payments to eligible participants for production of motor vehicles, investment in R&D to a maximum rate of 50%, and investment in plant and equipment to a maximum rate of 15%. The ATS covers motor vehicle producers, automotive component producers, automotive machine tool and automotive tooling producers, and automotive service providers. Certain segments of the industry including the truck and bus assembling and many firms in the aftermarket parts segments, operate without the benefit of the ATS (Department of Industry online information. Viewed at: http://www.innovation.gov.au/industry/automotive/InitiativesandAssistance/Pages/ATS.aspx; Australian Government online information. Viewed at: http://www.business.gov.au/grants-and-assistance/manufacturing/ats/Pages/default.aspx; and Department of Industry, 2014a).

[152] The GCIF plan to produce more fuel-efficient cars was closed to new applications after two years of operation as part of Budget saving's measures required, *inter alia*, to help pay for the rebuilding of infrastructure damaged by the floods in Queensland and Victoria; it used just 38% of its budget. Before that decision, however, Toyota received $A 35 million to build a hybrid Camry and $A 63 million to develop a next generation engine plant, Holden obtained $A 149 million to build its Cruze sedan, and Ford was awarded $A 42 million for its EcoBoost engine project.

$A 6.3 million Automotive Market Access Programme (July 2009 to 30 June 2012) to boost component suppliers' access to global supply chains; a $A 16 million Automotive New Markets Initiative (from 2012/13 to 2013/14) to help capture new opportunities in global automotive markets[153]; and a Liquefied Petrol Gas (LPG) Vehicle Scheme Enhancement programme (1 July 2011 to 30 June 2014) providing grants for the LPG conversion of a used registered motor vehicle ($A 1,000) or the purchase of a new vehicle ($A 2,000) fitted with LPG prior to first registration.[154] In addition, the New Car Plan provided co-investment grants to Ford ($A 34 million), Holden ($A 215 million) and Toyota ($A 28.6 million). The co-investment with Holden was terminated in early 2014 without any grant funding paid. Although the production support provided by the ATS raised WTO-consistency concerns domestically in the past; the authorities consider that all programmes under the scheme A New Car Plan for a Greener Future are WTO-compliant.[155]

4.62. Following the closure announcements of the local motor vehicle producers, a $A 155 million Growth Fund was announced on 30 April 2014 to assist industry transition out of car manufacturing in Australia by 2017.[156] The Growth Fund, which forms part of the Industry Investment and Competitiveness Agenda (section 4.4), is to help generate future jobs and supply-chain business opportunities in Victoria and South Australia affected by the closures. The Growth Fund includes: a $A 30 million Skills and Training Program; a $A 15 million boost to the AISAP; a $A 20 million Automotive Diversification Programme; a $A 60 million Next Generation Manufacturing Investment Program to accelerate private sector investment in high value non-automotive manufacturing sectors in Victoria and South Australia; and, a $A 30 million Regional Infrastructure Program to support investment in non-manufacturing opportunities in affected regions.

4.63. To ensure that any support is accountable, transparent and targeted at the long-term sustainability of the automotive manufacturing industry, the Productivity Commission was requested to undertake an inquiry.[157] According to its 2014 Position Paper, the key findings point out, *inter alia*, that: the policy rationale for specific assistance to automotive manufacturing are weak; there is no compelling evidence that spillover and multiplier benefits exceed the costs of assistance to the industry; decades of transitional assistance have forestalled but not prevented the structural adjustment now being faced by the industry; and the forthcoming closures of the Ford and Holden plants are expected to contribute to an underspend of $A 380 million under the ATS funding schedule by 2020.

4.4.2 Textiles, clothing, and footwear (TCF)

4.64. During the review period, the share of textiles and clothing in total value of merchandise exports remained stable at 0.2%.[158] Its shares in GDP and employment were 0.2% and 0.3%, respectively. In 2012/13, the industry's value added was 2.8% (2.7% in 2008/09) of total manufacturing value added, and import value was almost 20 times more than that of exports. In 2013, Australian textiles and clothing exports as a share of world textiles and clothing exports was 0.11%.[159]

[153] The Automotive New Markets Initiative, a joint initiative between the Commonwealth, Victoria and South Australia governments, has three key elements: the Automotive New Markets Program; the Business Capability Support Program; and, the Automotive Envoys and Automotive Supplier Advocate (Automotive New Markets Initiative Automotive New Markets Program Ministerial Guidelines 2012, 27 July 2012. Viewed at: http://www.innovation.gov.au/industry/automotive/InitiativesandAssistance/ANMI/Documents/ANMPMinisterialGuidelines.pdf; and Manufacturelink online information, "New Automotive Markets Initiative, 27 August 2012". Viewed at: http://www.manufacturelink.com.au/news/view/new-automotive-markets-33116.aspx).

[154] The LPG Vehicle Scheme has been capped at 25,000 eligible claims (AusIndustry online information. Viewed at: http://www.ausindustry.gov.au/programs/energy-fuels/lpgvs/Pages/default.aspx).

[155] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[156] Prime Minister Media Release, "Securing Australia's Manufacturing Future", 18 December 2013. Viewed at: http://www.pm.gov.au/media/2013-12-18/securing-australias-manufacturing-future; Joint Media Release with the Prime Minister, the Hon Tony Abbott MP, "$155 million to grow the jobs of tomorrow", 30 April 2014. Viewed at: http://minister.industry.gov.au/ministers/macfarlane/media-releases/155-million-grow-jobs-tomorrow.

[157] Productivity Commission (2014a).

[158] UNSD Comtrade database.

[159] UNSD Comtrade database and ABS Cat. No. 5368.0.55.017 Changes to AHECC and Custom tariff 2012.

4.65. TCF activities continued to benefit from government support as reflected in several assistance indicators discussed in this report (section 4.4). Budgetary assistance to the TCF industry, mainly delivered in form of outlays via the industry-specific Clothing and Household Textile Building Innovative Capability scheme ($A 22.6 million in 2011/12, $A 22.3 million in 2012/13), halved in 2011/12 and rose slightly in 2012/13 to account for 3.2% and 3.9% of the total amount available to manufacturing respectively.[160] Unilateral tariff cuts undertaken in 2010 and January 2015 reduced border protection to TCF producers (section 3.2.2.2). Nevertheless, these rates remain significantly higher than the average applied MFN tariff for the sector (Table A3.1). The industry remains characterized by a high degree of tariff escalation (section 3.2.2.2.2).

4.66. During the review period, various types of assistance to promote, *inter alia*, innovation and the development of a sustainable and internationally-competitive textile and clothing industry, remained in place. The 2009 TCF Innovation Package was continued, including a five-year $A 33.2 million TCF Strategic Capability Programme (grants, 2010/11 to 2014/15), a $A 112.5 million Clothing and Household Textile Building Innovative Capability scheme (grants, 2010/11 to 2014/15), and TCF Small Business Programme (grants, until 30 June 2016).[161] In the May 2014 Budget, the Government announced its intention to close the Clothing and Household Textile Building Innovative Capability scheme and the TCF Small Business Programme with effect from 30 June 2014 (i.e. one year earlier than originally intended). As of December 2014, the relevant legislation had passed the Lower House but was yet to be debated in the Senate. Part 2 (i.e. the Restructuring Initiative Grants Scheme) of the $A 50 million TCF Structural Adjustment Program (1 July 2005 to 30 June 2015), i.e. the Restructuring Initiative Grants Scheme, ceased in June 2013.[162] The TCF Industries Innovation Council brings together business, unions, researchers, and government to consult on innovation and provide strategic advice.

4.5 Services

4.5.1 Features

4.67. Australia's services sector is the mainstay of its economy; it accounted for 71% of GDP in 2012/13 and 77% of employment in the same year. Main services sub-sectors are: wholesale and retail trade (9.2% of GDP); ownership of dwellings (8.9%); finance and insurance (8.7%) and professional, scientific and technical services (7.3%) (Table 1.2). Services growth has remained steady over the review period, and exports have witnessed a strong recovery after the global financial crisis. Nevertheless Australia still posts a services deficit: the value of services receipts was just under $A 58 billion in 2013/14 while the value of services payments in the same fiscal year was just under $A 72 billion (Table 1.3).

4.5.2 Domestic support

4.68. As reported by the Productivity Commission, while budgetary assistance (i.e. government outlays and tax concessions) to the services sector was just over $A 3 billion in 2012/13, the input tariff penalty on services was nearly $A 5 billion, resulting in negative net assistance overall (Table 4.3).

Table 4.3 Government assistance to the services sector, 2012/13

	Net tariff assistance	Budgetary assistance
Electricity, gas, water, and waste services	-97.1	129.6
Construction	-1,698.1	168.5
Wholesale trade	-259.8	199.7

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[160] Productivity Commission (2014c).

[161] More information on these programmes is available at AusIndustry online information. Viewed at: http://www.ausindustry.gov.au/programs/manufacturing/tcf-scp/Pages/default.aspx, http://www.ausindustry.gov.au/programs/manufacturing/bic-scheme/Pages/default.aspx, and http://www.ausindustry.gov.au/programs/small-business/tcf-sbp/Pages/default.aspx; Department of Industry online information. Viewed at: http://www.innovation.gov.au/industry/TextilesClothingandFootwear/TCFIndustries/Pages/default.aspx; and WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[162] Department of Industry, Innovation, Climate Change, Science, Research, and Tertiary Education (2013b).

	Net tariff assistance	Budgetary assistance
Retail trade	-188.0	126.8
Accommodation and food services	-523.6	69.3
Transport, postal, and warehousing	-211.8	96.1
Information, media, and telecommunications	-145.7	357.7
Financial and insurance services	-9.7	640.3
Property, professional, and admin. services	-620.9	677.5
Public administration and safety	-217.8	17.5
Education and training	-120.3	38.9
Health care and social assistance	-274.9	158.1
Arts and recreation services	-79.1	407.4
Other services	-288.7	68.6
Unallocated services[a]		170.8
Unallocated other[a]		
Total	**-4,735.5**	**3,326.7**

a Unallocated includes programmes for which details of the initial benefiting industry could not be readily identified.

Source: Productivity Commission (2013), *Trade and Assistance Review 2012-13*. Viewed at: http://www.pc.gov.au.

4.5.3 Commitments under the General Agreement on Trade in Services (GATS)

4.69. Australia's commitments under the GATS remain unchanged. Its comprehensive Schedule of Specific Commitments covers most services sectors, with the exception of audio-visual, postal-courier, and rail transport services. Apart from a revised services offer submitted in May 2005, no new offer has been tabled within the context of the current GATS negotiations.[163]

4.5.4 Regional and bilateral agreements on services

4.70. Australia's regional trade agreements (RTAs) with ASEAN (and New Zealand), Chile, the Republic of Korea, Malaysia, New Zealand, Singapore, Thailand, and the United States include provisions on services. Some use a negative-list approach to scheduling services commitments, while others use positive list modalities. As noted in Australia's previous Review, the levels of commitments undertaken by Australia vary from one FTA to the other and often go significantly beyond GATS commitments. Australia's RTAs exclude subsidies from their application, consistent with the absence of specific disciplines on services subsidies in the GATS.[164]

4.5.5 Financial services

4.71. Finance and insurance services contributed 8.7% to GDP (at current prices) in 2012/13 and accounted for 3.6% of total employment (Table 1.2). The financial services sector is based on three main institutional groups: authorized deposit-taking institutions (ADIs), which include banks, building societies and credit unions; non-ADI financial intermediaries, including money market corporations, finance companies, and securitization vehicles; and fund managers and insurers, including life and general insurance companies, and superannuation and approved deposit funds (ADFs). As at June 2013, the banking sector accounted for just over 57% of the financial system's total assets (Table 4.4).

4.72. The financial system remains supervised by three institutions: the Reserve Bank of Australia (RBA), Australia's central bank; the Australian Prudential Regulation Authority (APRA) (deposit-taking institutions, general and life insurance companies, and superannuation funds (i.e. pension funds); and the Australian Securities and Investments Commission (ASIC) (overall market conduct, consumer protection, and competition in financial services). The Council of Financial Regulators ensures coordination between these bodies.

[163] More information on Australia's GATS commitments and latest submitted offers may be found, *inter alia*, in WTO documents GATS/SC/6, 15 April 1994; GATS/EL/6, 15 April 1994; GATS/SC/6/Suppl.4, 26 February 1998; TN/S/O/AUS/Rev.1, 31 May 2005.

[164] WTO document S/WPGR/W/46/Add.1, 11 May 2009.

Table 4.4 Structure of the financial system assets, June 2009 to June 2013

($A trillion and %)

	Main supervisor/regulator	June 2009	2010	2011	2012	2013
Total ($A trillion)		**4.6**	**4.6**	**4.8**	**5.1**	**5.4**
Banking sector				(%)		
Reserve Bank (RBA)		2.4	1.9	1.6	1.8	1.9
Other banks	APRA	56.6	56.9	56.8	58.5	57.3
Other authorized deposit-taking institutions (ADIs)						
Permanent building societies	APRA	0.5	0.5	0.5	0.4	0.4
Credit unions	APRA	0.9	1	1	1.1	0.9
Registered Financial Corporations (RFCs)						
Money market corporations	ASIC	2.1	1.4	1.4	1	0.8
Finance companies	ASIC	2.6	2.2	2.2	2.1	2.1
Life offices and superannuation funds						
Life insurance offices	APRA	3.9	4.1	4.2	4	4
Superannuation funds	APRA	16.6	18.7	20	20	22
Other managed fund						
Public unit trusts	ASIC	5.9	6	5.5	4.9	4.8
Cash management trusts	ASIC	1	0.8	0.5	0.5	0.5
Common funds	State authorities	0.2	0.2	0.2	0.1	0.1
Friendly societies	APRA	0.1	0.1	0.1	0.1	0.1
Other financial institutions						
General insurance offices	APRA	2.9	2.9	3.1	3	3
Securitization vehicles	ASIC	4.2	3.2	2.8	2.5	2.3

Source: Reserve Bank of Australia online information. Viewed at: http://www.rba.gov.au/statistics/tables/xls/b01hist.xls [15 April 2014].

4.73. Proposed foreign investments in Australian financial institutions, as with foreign investments in other sectors, are subject to a screening process with exceptions applied to a few RTA partners (Chile; Korea (Rep. of); New Zealand; and the United States) (section 2). The Financial Sector (Shareholdings) Act (FSSA) 1998 operates in parallel with this process and requires that any investor, foreign or domestic, wishing to acquire an interest of 15% or more in a financial institution must notify and seek the Treasurer's approval.[165] The Treasurer reviews whether applications are in the national interest on a case-by-case basis, taking into account all relevant considerations, such as prudential requirements and the impact on the economy and competition.[166]

4.74. Various tax measures have been put in place, or are being implemented, to encourage the further development of Australia's financial services sector. Offshore Banking Unit (OBU) rules provide for a concessional rate of tax (10%) on income earned from eligible offshore banking activities. This concession is available to an entity that is declared by the Treasurer to be an OBU.[167] The Commonwealth Government has announced that it will modernise the OBU regime to encourage genuine offshore banking activity in Australia, starting in July 2015.[168] Australia's Investment Manager Regime (IMR) is intended to provide greater clarity and certainty regarding the Australian tax treatment of investments of foreign funds using an independent Australian resident investment adviser, fund manager, broker, exchange or agent. The IMR will exempt from income tax the gains of widely-held foreign funds from certain financial arrangements.[169] Australia's Managed Investment Trust (MIT) rules offer a reduced rate of withholding tax of 15% on "fund payments" (for example rental income) by Australian managed funds to foreign investors

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[165] Financial Sector (Shareholdings) Act (Act No. 55 of 1998, as amended), Part 2. Viewed at: http://www.comlaw.gov.au/Details/C2010C00077/Html/Text#_Toc253669783.

[166] WTO document WT/TPR/M/244/Add.1, 16 May 2011. APRA's guidelines on authorization set out the minimum criteria to be met by applicants. These were viewed at: http://www.apra.gov.au/adi/Pages/adi-authorization-guidelines.aspx.

[167] Entities that may be declared as an OBU may include: an authorized deposit-taking institution; a state bank; a life insurance company; a fund manager; or other entity designated by the Treasurer.

[168] This announcement was made in the 2013-14 Budget. As noted in a Treasury's media release, these reforms will commence on 1 July 2015. The Treasury online information. Viewed at: http://axs.ministers.treasury.gov.au/media-release/003-2014/.

[169] The first two stages of the IMR were introduced in 2012 and the Commonwealth Government has announced that it will be proceeding with the third and final tranche.

(a rate of 30% applies in all other cases). The foreign investor must be a resident of a country with whom Australia has a tax information exchange agreement (TIEAs and DTAs (Table 2.4)).

4.75. The Commonwealth Government is supportive of the development of an Asia Region Funds Passport which will provide the regulatory framework for the cross-border offer of collective investment schemes in participating economies.[170]

4.76. A major Financial System Inquiry was launched in 2013 with its panel mandated to develop a blueprint for the future of the financial services sector which would support Australia's economic growth and the country's evolving needs.[171] The panel's final report was released in December 2014. While it acknowledged that Australia's financial system has many strong characteristics, it also identified various weaknesses. At a general level it found there was scope to eliminate distortions to the efficient market allocation of financial resources (such as taxation, information imbalances and unnecessary regulation). Noting high concentration and increasing vertical integration in some areas, it also recommended the removal of impediments to competition. Other recommendations fell under five specific themes, namely: (a) strengthening the economy by making the financial system more resilient; (b) lifting the value of the superannuation system and retirement incomes; (c) driving economic growth and productivity through settings that promote innovation; (d) enhancing confidence and trust by creating an environment in which financial firms treat customers fairly; and (e) enhancing regulator independence and accountability, and minimising the need for future regulation.[172]

4.5.5.1 Banking

4.77. The Australian banking market remains dominated by four nationwide full-service banks. These accounted for 76% of total banking assets (end June 2014). The Commonwealth Government does not have an ownership stake in any bank, but continues to guarantee various superannuation and other liabilities of the Commonwealth Bank.[173] The main laws and regulations governing ADIs are: the Banking Act 1959 (as amended) and Banking Regulations 1966.[174]

4.78. Foreign banks may apply to the Australian Prudential Regulatory Authority (APRA) to establish locally incorporated subsidiaries or branches to carry on banking business in Australia. There are no restrictions on the number or size of operations of foreign banks in the Australian market and foreign-owned subsidiaries are subject to the same legislative and prudential requirements as locally-owned ADIs. In order to protect depositors, branches may only accept deposits from retail customers above $A 250,000. As at mid-October 2014, 47 of the 163 authorized banking groups were foreign-owned (40 locally incorporated subsidiaries and 7 branch operations). At end June 2014, foreign banks accounted for 11.6% of banking assets (a 2.9% share for subsidiaries and an 8.7% share for branches). They continue to have a more significant presence in merchant banking rather than in retail banking.

4.79. As reported by the IMF, the banking system is well managed.[175] Banks' asset performance has been good reflecting, *inter alia*, operational efficiencies, higher net interest income and a decline in the ratio of non-performing loans to total loans. Banks have moved towards more stable funding sources (domestic, rather than short term wholesale funding) and strong deposit growth

[170] Asia Regions Funds Passport online information. Viewed at: http://fundspassport.apec.org/.

[171] Under its terms of reference, the panel was required to recommend policy options to: promote a competitive and stable financial system which contributes to Australia's productivity growth; promote the efficient allocation of capital and cost efficient access and services for users; meet the needs of users with appropriate financial products and services; and create a dynamic and innovative environment. FSI online information. Viewed at: http://fsi.gov.au/terms-of-reference.

[172] Treasury (2014).

[173] Prior to 1995 the Government-owned the Commonwealth Bank. Under the terms of the Commonwealth Bank Sale Act 1995, the Commonwealth Government guaranteed various superannuation and other liabilities. There is no termination date for these guarantees and they remain reflected in the Commonwealth Government's Statement of Risks, included in each Commonwealth Budget update.

[174] These laws were viewed at: http://www.apra.gov.au/adi/Pages/adi-legislation.aspx.

[175] IMF (2014). As noted by the RBA, in March 2014, over the previous six months banks' deposit were growing at an annualised rate of about 9%, with credit growth at around 4.5%.

has outpaced moderate credit growth.[176] As pointed out by the RBA, the exposure of Australian banks to international claims is small compared with many other advanced banking systems.[177]

4.80. This notwithstanding, the authorities are cognisant of potential future risks and are taking action to prevent them. The IMF has reported that while stress tests have shown that banks would be resilient to a variety of solvency shocks, a major liquidity shock could require central bank support. A key concern relates to possible overheating of the housing sector, with the RBA warning that the current low interest rate environment and rising housing prices (evident particularly in Sydney and Melbourne[178]) could encourage speculative activity. Regulators are concerned to ensure that banks do not increase their risk appetite or relax their lending standards.[179] As reported by the RBA, recent regulatory steps taken by APRA have included: more intensive supervision and stress-testing activities and the release of a draft Prudential Practice Guide for housing lending. In addition, regulators are discussing further steps to be taken to reinforce sound lending practices, particularly with respect to lending to investors, an area which has recently expanded significantly.[180]

4.81. Steps taken to strengthen the banking system over the review period have included various measures, either completed or planned, to implement the Basel III capital and liquidity requirements. From January 2015, all banks will need to conform to new Basel III liquidity requirements (some of these requirements were in effect sooner). Concurrently, the RBA will establish a Committed Liquidity Facility (CLF) allowing participating ADIs to have access to sufficient liquidity in the event of an acute stress scenario.[181] All banks were required to implement Basel III capital requirements in 2013[182], and will have to meet non-risk-weighted capital ratios (leverage ratios) at a future date (yet to be decided).[183] Entities which are higher risk are subject to more intensive supervision by APRA and may be subject to capital requirements beyond those required under the Basel framework. Additionally, four major banks have been designated by APRA as systemically-important banks (D-SIBs).[184] D-SIBs pose greater systemic risks and will be subject to more intensive supervision as well as higher capital requirements from 2016.[185]

4.82. Key policy measures taken in the banking sector to mitigate the impact of the global financial crisis have been wound down. The Guarantee Scheme for Large Deposits and Wholesale Funding closed to new liabilities in 2010. Under the Financial Claims Scheme for ADIs, deposits were guaranteed by the Government up to a threshold of $A 1 million up until 31 January 2012. This has been replaced by a permanent guarantee cap of $A 250,000, in place since February 2012.[186]

4.83. In the 2013 Economic Statement, the previous Government announced the creation of a Financial Stability Fund, to be funded by a levy on bank deposits covered by the Financial Claims Scheme (FCS); its target size was to be 0.5% of total deposits protected by the FCS. A decision on the future of the Financial Stability Fund was put on hold by new Government pending the conclusion of the Financial System Inquiry (see above).

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[176] As at July 2014, domestic deposits and wholesale debts contributed approximately 57% and 34% of banks' funding, respectively.

[177] See Reserve Bank of Australia (2014a and 2014b). As reported in the September Review, the aggregate profit of the major banks was over $A 14 billion in their latest half-yearly results (around 13% higher than the corresponding period a year earlier); the major bank's annual returns on equity have been above those recorded in other advanced economy banking systems (15% in the 2014 financial year); and, in domestic portfolios, the ratio of non-performing loans to total loans was 1.1% at June 2014, down from 1.9% in mid-2010. As reported by the March Review, RBA Australian-owned banks' international claims represented a little less than one-quarter of their global consolidated assets as at March 2014.

[178] Reserve Bank of Australia (2014b).

[179] Reserve Bank of Australia (2014a).

[180] Reserve Bank of Australia (2014b).

[181] More detailed information on the CLF is available on the RBA website. Viewed at: http://www.rba.gov.au/media-releases/2011/mr-11-25.html.

[182] IMF (2012).

[183] Reserve Bank of Australia (2014b).

[184] These banks' designation as D-SIBs was based upon APRAs examination of four broad indicators of systemic importance, namely, size, interconnectedness, complexity and substitutability.

[185] Reserve Bank of Australia (2014a).

[186] APRA online information. Viewed at: http://www.apra.gov.au/CrossIndustry/Documents/ADI%20Financial%20Claims%20Scheme%20FAQ%2001%2002%2012.pdf.

4.5.5.2 Insurance

4.84. Australia's insurance market is one of the world's largest (in 12th place globally according to Australia's previous review, which contains the most recent OECD data).[187] The Commonwealth Government used to own 100% of Australia's largest private health insurer, Medibank Private Limited but sold this entity through an initial public offering in November 2014.[188] It does not own shares in any other insurance company. Information was not available on the equity stakes of state/territorial governments in any insurance companies.

4.85. As a consequence of the decline in insurance numbers over the past 10-15 years, the general insurance business has become more concentrated. According to the authorities, for the year ended 2013, the largest five direct insurance groups accounted for over 70% of direct insurance premiums, compared to under 50% in 1995. Over the same period, the top five life insurers held around 82% of the industry's assets.

4.86. In 2014, total insurance premiums were equal to around 5% of GDP. According to OECD figures from 2012, direct gross premiums per capita are above the OECD average. On the other hand, OECD reports that the share of foreign companies in the domestic market is under the OECD average: at 15.8% in 2012 for life insurance companies and 27.1% for non-life insurance companies.

4.87. The Federal laws governing the insurance sector are: the Insurance Act (1973) for general insurance; the Life Insurance Act (1995) for life insurance; and, the Private Health Insurance Act (2007) for private health insurance.[189]

4.88. APRA has responsibility for licensing and regulating life and general insurance companies, including reinsurance companies.[190] Public insurance companies (i.e. those which provide compulsory insurance under state or territorial legislation (see below)) are licensed by and regulated at the state level. Private health insurance companies are currently regulated by the Private Health Insurance Administration Council (PHIAC). However, in the 2014-15 Budget, the Commonwealth Government announced the closure of the PHIAC; its prudential regulation functions are being transferred to APRA and its remaining functions will be subsumed by the Australian Department of Health by 1 July 2015. Under individual state/territorial laws workers' compensation insurance; third-party motor insurance; builders' warranty insurance and public liability insurance are compulsory. Professional indemnity insurance is also compulsory for certain practitioners (for example, legal and medical practitioners, insurance brokers, certain accountants and contractors working with government bodies). Medical indemnity and professional indemnity insurers must be licenced by APRA under the Insurance Act.[191]

4.89. An insurer cannot write both life insurance and general insurance from a single legal entity. Local assets may only be insured by a foreign insurer under specific circumstances. These include for high value insureds; atypical risks; and for risks that cannot reasonably be placed in Australia.

4.90. As at September 2014, the total assets of direct general insurance companies amounted to $A 101.4 billion, while total net earned premiums amounted to $A 29.8 billion.[192] APRA's most recent statistics on public insurance companies date back to end June 2012. At that date, total assets were worth $A 57.6 billion and net premium revenue just over $A 11 billion.[193] Full foreign ownership of private general and life insurance companies is permitted. Foreign general insurance companies may establish in Australia as branches or subsidiaries; there are no restrictions on the number or size of either. Foreign life insurance companies may only establish as subsidiaries but

[187] According to the OECD, on a total premiums basis (the sum of premiums of direct business and of reinsurance accepted), Australia had a 1.8% market share among OECD countries in 2012 (OECD, 2014b).
[188] Department of Finance online information. Viewed at: http://www.finance.gov.au/property/medibank-sale.
[189] These Acts may be viewed at http://www.comlaw.gov.au.
[190] As noted by the RBA, to protect against risks arising out of domestic companies' insurance operations abroad, APRA supervises insurers on a globally consolidated basis, requiring insurance groups to hold capital at both the individual entity and consolidated group level (Reserve Bank of Australia, 2014a).
[191] Marshall and Gibson Lawyers online information. Viewed at: http://www.marshallgibson.com.au/blog/history-compulsory-insurance-australia.
[192] Australian Prudential Regulation Authority (2014).
[193] Data provided by APRA.

not branches. At the time of Australia's previous review, the authorities explained that this requirement was introduced in the context of major prudential reform which, *inter alia*, saw the establishment of new technically-detailed liability valuation and capital requirements as well as detailed requirements regarding the equitable allocation of company profits between shareholders and policy-holders. In view of these reforms it was considered that satisfactory prudential supervision would best be achieved where foreign life insurance companies were incorporated in Australia.[194] An exception exists to this rule for eligible foreign life insurance companies; this currently applies to life insurance providers from the United States; New Zealand; and the Republic of Korea under their respective RTAs. Japanese life insurance providers will also receive an exception through the recently signed RTA once it enters into force (section 2.4.2.1). There are no restrictions on the number and size of foreign-owned life insurance companies.

4.91. As reported by the RBA, overall the general insurers' profitability has strengthened since 2012, due in part to a benign claims environment (in sharp contrast to the years 2010 and 2011) and increases in premiums. In contrast, growth has been slow in life insurance; largely due to higher levels of claims and competitive pressures.[195] However, there have been signs of recovery in the first half of 2014. Both the general and life insurance industry are well capitalised, with capital equivalent to respectively 1.7 times and 1.9 times APRA's prescribed amount.[196]

4.5.6 Communications

4.5.6.1 Telecommunications

4.92. Information media and telecommunications services accounted for 3% of GDP in 2012/13 (Table 1.2). Australia is ranked in 11th place out of 157 economies in the ITU's 2012 ICT Development Index, moving up four places from the previous year. As noted by the ITU, Australia has a very high level of ICT development and has recently seen a large increase in the number of wireless-broadband subscriptions and penetration rates.[197] Australia has witnessed an increasing take-up of mobile subscriptions and fixed (wired) broadband subscriptions, while fixed line subscriptions have gradually declined (Table 4.5). Increased use of Voice over Internet Protocol (VoIP) is posing a growing challenge to revenue streams from traditional telecommunications services.[198]

Table 4.5 Selected telecommunications indicators, 2010-13

	2010	2011	2012	2013
Fixed (number)	10,625,000	10,573,000	10,471,000	10,350,000
Fixed (per 100 inhabitants)	47.42	46.49	45.43	44.34
Mobile (number)	22,500,000	23,789,000	24,338,000	24,940,000
Mobile (per 100 inhabitants)	100.43	104.61	105.59	106.84
Fixed (wired) broadband subscriptions (number)	5,375,000	5,412,000	5,611,000	5,839,000
Fixed (wired) broadband subscriptions (per 100 inhabitants)	23.99	23.80	24.34	25.01

Source: ITU online information. Viewed at: http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx.

4.93. As at June 2012 (the latest date for which information was available) there were 212 fixed-line telephone service providers and 156 mobile networks services providers operating

[194] WTO document WT/TPR/M/244/Add.1, 16 June, 2011.

[195] As noted by the RBA, excessive competition for group life insurance policies led to an under-pricing of risk and subsequent losses.

[196] According to the RBA, the general insurance industry's annual return on equity was 17% in the first half of 2014. However, the industry expects a lower rate of premium growth in the years ahead because of competitive pressures (Reserve Bank of Australia, 2014a and 2014b).

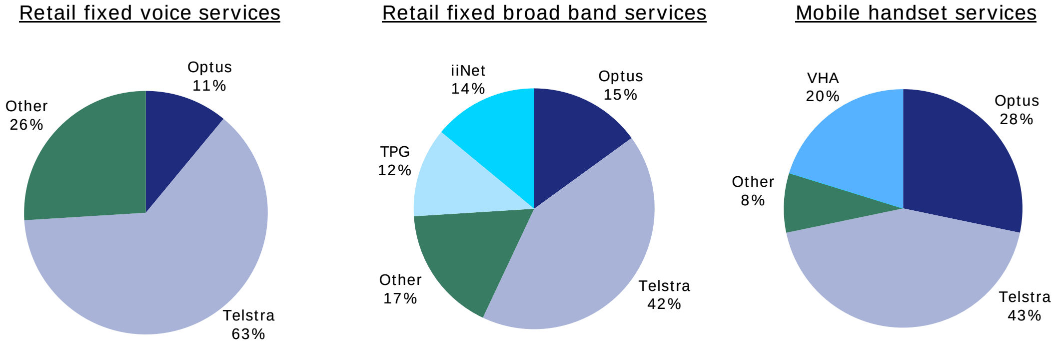
[197] ITU (2013). As noted in the ACMA Annual Report (2012-13), at 30 June 2012, nearly half the Australian population owned a mobile phone that connected to the internet, double the number compared to the previous year (Australian Communications and Media Authority, 2013a). As noted by the ITU, in 2013 there were 110.5 mobile-broadband subscriptions per 100 inhabitants (ITU online information. Viewed at: http://www.itu.int/net4/itu-d/icteye/CountryProfile.aspx).

[198] VoIP has grown from nearly 3.9 million users (both mobile and home) in June 2011 to nearly 6.4 million users in June 2014 (Australian Communications and Media Authority, 2012 and 2014).

on three mobile networks.[199] As at June 2013 there were 419 internet service providers (including fixed, wireless and satellite broadband providers).

4.94. Telstra remains the main player in the telecommunications sector; at October 2014, its total market share was 46.5%, followed by Optus (19.5%).[200] It has a particularly dominant position in the provision of retail fixed voice services (Chart 4.1), although its market share in this segment has slightly declined in recent years. Aggregate foreign equity ownership of Telstra is capped at 35%; individual foreign investors are permitted to own only up to 5%.[201] There are no FDI limits applied to other providers, although significant foreign investments are subject to the general Foreign Investment Review Board (FIRB) screening process (section 2).

Chart 4.1 Market share for selected telecommunications services, June 2013



Source: ACCC (2014), "Telecommunications competitive safeguards", *ACCC Telecommunications Report 2012-13*, February.

4.95. The Australian Competition and Consumer Commission (ACCC) has been measuring the changes in the prices paid for fixed and mobile telephone (voice) services since 1997/98; over that period prices for fixed services have fallen by 47.1% in real terms and prices for mobile voice services have fallen by 51.7%. In real terms, since 2006/07 prices for internet services have fallen by 20.9% in real terms, although they have begun to level off in recent years. While price competition in the mobile sector has slowed recently, operators are increasingly competing in areas such as network and service quality and coverage.[202] The ACCC starting setting price and non-price access terms and conditions to the wholesale ADSL service in May 2013[203]; this has resulted in a 15% decrease in wholesale ADSL prices. As observed by the ACCC and the OECD, fixed line telephony, fixed broadband services and international mobile roaming charges in Australia appear to be quite high. However, wireless broadband seems to be relatively less expensive than in various other countries.

4.96. The main laws governing the sector are the Telecommunications Act (1997), the Competition and Consumer Act (CCA) (2010), and the Telecommunications (Consumer Protection and Service Standards) Act (1999), the National Broadband Network Companies Act 2011, and the Radiocommunications Act 1992.

4.97. The ACCC remains in charge of enforcing competition rules under the CCA.[204] It sets wholesale prices and wholesale terms of access for "declared" services[205]; monitors and reports on prices and competition; and investigates claims of anti-competitive conduct.[206] Since 2011, the ACCC has, *inter alia*, made nine access determinations in relation to declared services; approved

[199] Australian Communications and Media Authority (2012), p. 19.
[200] Information provided by the authorities based upon the *World Industry Report J5800 Telecommunications Services in Australia*, October 2014.
[201] Productivity Commission (2014c), Box 3.2.
[202] As noted by the ACCC, this may be driven by increased consumer demand for data and preferences for network quality over other factors.
[203] Wholesale ADSL final access determination/FAD.
[204] Telecommunications-specific rules are set out in Parts XIC (regulation of wholesale access) and XIC (regulation of anti-competitive conduct) to the CCA.
[205] Once a service is "declared" the terms and conditions of access to that service can be regulated.
[206] ACCC online information. Viewed at: http://www.accc.gov.au/regulated-infrastructure/communications/accc-role-in-communications.

NBN Co.'s special access undertaking; amended the Facilities Access Code in order to introduce mandatory timeframes[207]; and approved Telstra's structural separation undertaking and migration plan.

4.98. The Australian Communications and Media Authority (ACMA) is responsible for numbering (number portability is permitted), industry codes and standards, spectrum management and licensing, and some consumer topics, such as controlling internet spam and enforcing universal service obligations. Since 2011, regulatory reforms undertaken by the ACMA have included measures to enhance consumer protection; changes to numbering management to accommodate new technologies, uses and entrants; and, less complex equipment labelling requirements.[208]

4.99. As reported in Australia's previous review, the previous Government introduced some major changes to the structure of the telecommunications sector in order to respond to consumer demands for improved broadband capacity and facilitate competition among retail services providers.[209] It established a new state-owned company, NBN Co., to build and operate a national, next generation broadband network.

4.100. While the original intention was to replace the majority of the existing copper and hybrid fibre-coaxial (HFC) infrastructure with a predominantly fibre-optic network[210], the new Government announced a new approach in 2014, involving rollout of an "optimised multi-technology mix" (MTM). The MTM will involve NBN Co. rolling out a fixed-line network that contains a mix of fibre-to-the-premises, fibre-to-the-node, and HFC technologies. NBN Co. has announced an agreement with Telstra and Optus, which owned the majority of the existing copper and HFC infrastructure, to use the majority of the copper infrastructure and all of their HFC networks. This approach has been endorsed by an independent cost-benefit analysis undertaken by the Vertigan panel of different roll-out options.[211] The national broadband network operates on a wholesale-only, non-discriminatory basis; full completion is expected by 2020.[212] In its 2012-15 Corporate Plan, NBN Co. indicated it was seeking to maximise local content as part of its procurement processes; by mid-2012, local content level achieved was 51% of contract value.[213] However, its key objective in procuring goods and services is in getting the best value for money possible. Any future privatization of NBN Co. will be subject to Parliamentary approval.

4.101. In order to facilitate the smooth migration of retail customers from existing networks to the NBN, various steps have been taken. Agreements have been completed with Telstra to structurally separate its wholesale and retail businesses, and carriers operating broadband networks capable of delivering speeds above 25 megabits per second are now required to do so, on a structurally separated, wholesale-only basis.

4.102. In step with the rollout of the national broadband network, legislation was passed in 2012 to reform the administration and funding of the universal service obligation (USO) and other public-interest services.[214] The costs of establishing and managing contracts for the USO and other public-interest services with service-providers are met by government funding and revenue from

[207] The Facilities Access Code sets out how access to facilities owned by carriers should be provided to other carriers wishing to install their equipment on those facilities. Changes to the Code were introduced in 2013 (ACCC online information. Viewed at: http://accc.gov.au/media-release/accc-varies-the-facilities-access-code).

[208] New equipment labelling requirements entered into force in March 2013, to consolidate three compliance marks into one (the RCM) covering telecommunications, radio communications, electromagnetic compatibility and electromagnetic energy.

[209] As reported in Australia's previous Review, in spite of pro-competitive measures Telstra had retained considerable market power, with dominant positions in fixed-line, mobile, broadband and pay-TV segments; this was giving rise to some competition concerns.

[210] Originally the intention was for fibre-optic cables to serve 93% of Australian residential and business premises. The remaining 7% of premises would be served through wireless and satellite technologies.

[211] The MTM will rollout different technologies (i.e. FTTP, VDSL2, HFC, and wireless and satellite technologies) according to which technology is best suited to a particular locality. The long-term cost-benefit of the NBN using the MTM approach was estimated at $A 18 billion.

[212] As at October 2014, NBN Co. had a total of 681,766 premises passed/lots covered across all technologies (excluding satellite).

[213] NBN Co. (2012).

[214] Telecommunications Universal Service Management Agency Act 2012. Viewed at: http://www.comlaw.gov.au/Series/C2012A00043/Amendments; and Telecommunications (Industry Levy) Act 2012. Viewed at: http://www.comlaw.gov.au/Details/C2012A00045.

the Telecommunications Industry Levy (TIL). The TIL is levied on telecommunications carriers with eligible revenue of $A 25 million or more.[215]

4.103. The Satellite Phone Subsidy Scheme was terminated in June 2014. Under this scheme, the Government had subsidised the cost of handsets for individuals living outside the network for terrestrial mobile phones.[216] In the same year, the Commonwealth Government committed $A 100 million over four years to a Mobile Black Spot Programme to extend mobile phone coverage and competition in regional and remote Australia.[217]

4.104. In 2013, the Commonwealth Government held a spectrum auction, offering 90 MHz of digital dividend spectrum (700 MHz band)[218] and 140 MHz of spectrum from the 2.5 GHz band. The spectrum was optimised for the rollout of next-generation mobile broadband technologies. Three parties participated in the auction (Telstra, Optus and TPG); at its conclusion 30 MHz of the digital dividend spectrum was unsold.[219] In 2014, the Commonwealth Government started a review of spectrum policy arrangements in order to identify opportunities to boost innovation in the use of spectrum. The review is considering how to simplify the current framework, ensure the efficient allocation, ongoing use and management of spectrum and increase flexibility to support service innovation and the introduction of new technologies.[220] The review is expected to report in early 2015, with implementation of reforms to also commence in the same year.

4.5.6.2 Television broadcasting and film production

4.105. The main law governing television broadcasting is the Broadcasting Services Act 1992 (as amended). Foreign ownership above 5% in the media sector (daily newspapers, television, and radio) requires notification to, and approval by, the Foreign Investment Review Board (FIRB) (see section 2.6).

4.106. Television broadcasting remains subject to various local-content requirements; and licensees must report on compliance with these requirements.

4.107. Under the Australian Content Standard (2005), Australian free-to-air commercial television networks (which may operate in any licence area) are subject to at least 55% Australian content between 6:00 a.m. and midnight on their main channels; there are specific minimum yearly sub-quotas for adult dramas, documentaries, and children's programs. The Television Program Standard 23 – Australian Content in Advertising, requires 80% of Australian advertising to be broadcast between 6.00 a.m. and midnight.[221] These requirements have not changed since Australia's previous Review; however new legislative provisions have given broadcasters greater flexibility in allowing licensees to satisfy these quotas.[222]

4.108. The Broadcasting Services Act 1992 requires subscription television broadcasters that offer a subscription television drama service to ensure that expenditure on eligible drama programmes is at least 10% of total programme expenditure for the service, per financial year. Eligible drama programmes include New Zealand programmes.

4.109. Regional commercial television broadcasting licensees in certain regional areas (Regional Queensland, parts of Regional New South Wales, Regional Victoria, and Tasmania) are also required to broadcast a minimum quantity of content of local significance under Section 43A of the

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[215] The TIL replaced the former Universal Service Obligation (USO) Levy and the NRS Levy.

[216] Department of Communications online information. Viewed at: http://www.communications.gov.au/news/media_centre/satellite_phone_subsidy_scheme.

[217] Department of Communications online information. Viewed at: http://www.communications.gov.au/mobile_services/mobile_black_spot_programme.

[218] The term 'digital dividend' refers to the spectrum that has been freed up by the switch from analogue to digital television.

[219] Australian Communications and Media Authority (2013b).

[220] ACMA online information, "Spectrum Review Terms of Reference". Viewed at: http://www.communications.gov.au/__data/assets/pdf_file/0018/230166/Spectrum_Review_Terms_of_Reference.pdf.

[221] ACMA online information. Viewed at: www.acma.go.au/Industry/Broadcast/Television/Australian-content/australian-content-television.

[222] The Broadcasting Legislation Amendment (Convergence Review and Other Measures) Act 2013. Viewed at: http://www.comlaw.gov.au/Details/C2013B99954.

Broadcasting Services Act.[223] In July 2013, the Australian Communications and Media Authority (ACMA) launched an investigation into whether this requirement should also be extended to broadcasters in other regional areas, namely: South Australia and Western Australia.[224] In its report released in early 2014, ACMA found there was no clear case for an extension of the local-content rules to additional regional or remote areas.[225]

4.110. Commercial television broadcasting licensees are required to pay broadcasting licence fees, which are levied as a sliding percentage of their gross earnings (or advertising revenue). The Television Licence Fees Act 1964 was amended in March 2013 to provide a permanent 50% reduction in these fees. This effectively replaced temporary rebates (linked to content) made available in 2009/10 (16.5% of licence fees payable); 2010/11 (41.5%); and 2011/12 (50%).

4.111. Screen Australia, a Federal Government agency, continues to provide financial assistance to support the film and television industries. This assistance takes the form of grants, loans and recoupable equity investments for: feature and short films; documentaries; drama; online and multi-platform projects; indigenous programmes; talent development; film promotion; the distribution and marketing of films; film events; research partnerships; and state/industry partnerships. In 2014, Screen Australia launched a new programme called Enterprise Industry to assist companies to "mitigate the risks involved in dedicating resources to activities that can take time to generate commercial returns but are vital to ensuring the quality and viability of Australian screen production".[226] A $A 10 million grant fund has been allocated to this programme, to be spent over three years. Funding to support games production was terminated in 2014. The amount of support provided by Screen Australia in 2013-14 was $A 21.3 million for grants, $A 1.8 million for loans and $A 65.9 million for recoupable equity investments. Support only applies to the Australian component co-productions of feature films.[227] In certain cases, such as indigenous programmes and certain talent development programmes, financial support is restricted to Australian citizens or permanent residents.

4.112. Additional fiscal incentives for the production of film, television and other audio-visual projects in Australia continue to be available under the Australian Screen Production Incentive. This comprises three programmes offering refundable tax offsets (rebates) through the Australian company tax system: (a) the Producer Offset (administered by Screen Australia); (b) the Location Offset; and (c) the Post, Digital and Visual Effects (PDV) Offset.[228]

4.113. The Producer Offset is a rebate of 40% of qualifying Australian production expenditure (QAPE) incurred on a feature-film and 20% of QAPE incurred on other types of eligible programmes, for producers of eligible Australian audio-visual projects.

4.114. The Location Offset is a rebate of 16.5% (up from 15% at the time of Australia's previous review) of QAPE incurred on the production of large-budget films and television projects shot in Australia.[229]

4.115. The PDV Offset is a rebate of 30% (up from 15% at the time of Australia's previous review) of QAPE on post, digital and visual effects production in Australia, regardless of where the project is shot.

[223] Section 43A requires the ACMA to have in place a licence condition requiring commercial television licensees in seven regional aggregated licence areas (Regional Queensland; Northern New South Wales; Southern New South Wales; Regional Victoria; Eastern Victoria; Western Victoria; and Tasmania) to broadcast minimum levels of material of local significance to each local area within their licence area. Licensees must accumulate a minimum of 90 points of material of local significance per week within each local area and at least 720 points in each local area over a six-week period (material counts either one or two points per minute).

[224] ACMA online information. Viewed at: http://www.acma.gov.au/Industry/Broadcast/Television/Local--regional-content/local-regional-tv-content-under-the-spotlight.

[225] Australian Communications and Media Authority (2013c).

[226] Screen Australia online information. Viewed at: www.screenaustralia.gov.au/funding/Enterprise_Funding /EnterpriseIndustry.aspx.

[227] Detailed information on the various incentive programs was viewed at Screen Australia's website: www.screenaustralia.gov.au.

[228] Ministry for the Arts online information. Viewed at: http://arts.gov.au/film-tv/australian-screen-production-incentive.

[229] To qualify for this incentive, at least 70% of the total production budget must be spent in Australia.

4.5.7 Transport

4.116. In 2012/13, transport, postal, and warehousing services accounted for 5.2% of both GDP and employment (Table 1.2). Australia has 900,082 kilometres of roads (2012) and 33,404 route-kilometres of open railway (2013)[230], in addition to aviation and port infrastructure (see below).

4.117. The Department of Infrastructure and Regional Development holds overall responsibility for national transport policy in Australia, with various other Government agencies having subsector specific responsibilities.[231] The ACCC has a role with respect to: monitoring the performance of Australia's four largest airports and Australia's container stevedoring industry; assessing notifications of proposed price increases at Sydney airport (in relation to air services) as well as from Airservices Australia[232]; investigating complaints relating to international liner cargo-shipping conference arrangements; assessing access undertakings put forward by owners and operators of infrastructure facilities and, regulating rail services.[233]

4.118. In 2011, three new intergovernmental agreements were signed by the Council of Australian Governments (COAG) (excluding Western Australia) enabling the implementation of a single national law to regulate commercial vessel safety (the Marine Safety (Domestic Commercial Vessel) National Law Act 2012[234]), rail safety (the Rail Safety National Law (South Australia) Act 2012) and heavy vehicle operations (the National Law on Domestic Commercial Vessel Safety 2012). Single national regulators have also been established: the Australian Maritime Safety Authority (AMSA); the Office of the National Rail Safety Regulator (ONRSR)[235]; and the National Heavy Vehicle Operator. The intention of each of these reforms is to improve transport safety and to facilitate business operations by having one regulatory regime, rather than several.[236]

4.119. In July 2014, the Government embarked on the second phase of its Nation Building Programme (NB2). The objective of the programme is to increase the nation's productivity through improvements to land transport infrastructure and is structured along four themes: moving freight, connecting people, safety, and innovation.[237] As announced in the 2014-15 Budget, the Government is planning to spend $A 50 billion under its Infrastructure Investment Programme on road and rail infrastructure works (including land transport links to ports and airports) over a seven year period.[238] This is expected to catalyse state/territory and private-sector infrastructure investment of $A 125 billion.[239] Under the National Stronger Regions Fund $A 1 billion of funding will be made available over five years starting FY 2015-16 to finance priority infrastructure in regional communities.[240] Additionally a $A 5 billion Asset Recycling Fund has been proposed to encourage state governments to use the sale of public assets to fund nation-building infrastructure, particularly roads (section 3.4.5).

[230] Department of Infrastructure and Regional Development (2013b), Tables T1.4 and T5.2a.
[231] These agencies include: Airservices Australia; Australian Maritime Safety Authority; Australian Transport Safety Bureau; Civil Aviation Safety Authority; National Transport Commission; Infrastructure Australia; Australian Rail Track Corporation; and the International Air Services Commission.
[232] Airservices Australia provides air traffic control and aviation fire-fighting and rescue services to airports and airlines.
[233] ACCC online information. Viewed at: http://www.accc.gov.au/regulated-infrastructure.
[234] The Marine Safety (Domestic Commercial Vessel) National Law sets the National Standard for Commercial Vessels as the national standard for domestic commercial vessel construction, operation and seafarer qualifications.
[235] The ONRSR is responsible for regulatory oversight of rail safety in the jurisdictions of South Australia, New South Wales, Tasmania, the Northern Territory and Victoria. Subject to the passage of applied or mirror legislation, it is expected that Queensland, the Australian Capital Territory and Western Australia will also be subject to the regulation.
[236] COAG online information. Viewed at: http://www.coag.gov.au/a_seamless_national_economy.
[237] Department of Infrastructure and Regional Development (2013a).
[238] The Infrastructure Investment Programme is made up of a number of individual programmes. These include the: Investment Road and Rail Programme; Black Spot Programme; Roads to Recovery Programme; Heavy Vehicle Safety and Productivity Programme; and Bridges Renewal Programme.
[239] Commonwealth of Australia (2014a).
[240] Department of Infrastructure and Regional Development online information. Viewed at: http://investment.infrastructure.gov.au/funding/NSRF/.

4.120. In order to improve national planning of government-funded infrastructure projects, a new website, the National Infrastructure Construction Schedule (NCIS) was set up in 2012.[241] Key national investment planning initiatives relate to the short-, medium- and long-term aviation infrastructure and supporting surface transport requirements of the Sydney region, pre-construction activities for an inland rail link between Brisbane and Melbourne and a strategic study on the implementation of a high speed rail link on the east coast of Australia.

4.121. Over the review period, various initiatives have been undertaken to upgrade security. These have included a new Accredited Air Cargo Agent Scheme introduced in June 2012 to both facilitate and enhance the security of cargo transported by road for loading onto an aircraft.[242]

4.5.7.1 Maritime transport

4.122. The former Government enacted a raft of legislative and regulatory reforms with the aim of making Australian shipping industry more internationally-competitive, increasing the size of the shipping fleet and promoting employment in the sector. The Government's Stronger Shipping for Stronger Economy reform package was announced in 2011 and entered into effect in July 2012.[243] It was developed in response to concerns about the aging and diminution of Australia's trading fleet, a low participation of Australian companies in international maritime trade and an increased shortage of maritime skills in the country.[244] The package comprised: (a) the enactment of the Coastal Trading (Revitalising Australian Shipping) Act 2012; (b) tax reforms; (c) the launch of an Australian International Shipping Register as a competitive alternative for Australian ship-owners and operators to registering ships overseas; and (d) the creation of a Maritime Workforce Development Forum to provide advice on reforms to tackle skill shortages and to create a sustainable skills base in the maritime subsector (this forum was abolished in November 2013).

4.123. The Coastal Trading (Revitalising Australian Shipping) Act 2012 (and associated regulations) entered into force in 2012 and replaces Part VI of the 1912 Navigation Act.[245] The new Act prescribes a system of licences for coastal transport of cargo and passengers. A general licence is available to any vessel registered under the Australian General Register which requires them, *inter alia*, to be majority Australian-owned or be on demise charter to Australian-based operators and to employ crew with Australian work rights.[246] Foreign vessels can engage in coastal trading under a temporary licence, subject to a licensing process during which Australian General Licensed vessels have the opportunity to notify their availability to carry out the proposed voyage on competitive terms. Exemptions from the application of the Coastal Trading Act apply to large cruise vessels and voyages between Christmas Island and Australian States and Territories. In April 2014, the Department of Infrastructure and Regional Development released an options paper on approaches to regulating coastal shipping in Australia, to seek the views of stakeholders, *inter alia*, on the operation of the new Act.[247] In various submissions, including from the ACCC and the Business Council of Australia, concerns have been expressed that the objective of the regime of revitalising domestic shipping is not being met; the regime is adding to domestic freight costs; and the efficient operation of ships is being compromised by compliance with complex rules, as

[241] Department of Infrastructure and Regional Development (2012). The NICS website was viewed at: https://nics.gov.au.

[242] Department of Infrastructure and Regional Development (2012).

[243] The proposal was announced by the Minister for Infrastructure and Transport in Media Release AA169/2011 of 9 September 2011.

[244] As explained in the explanatory memorandum to the Tax Laws Amendment (Shipping Reform) Act 2012, the House of Representatives Standing Committee for Infrastructure, Transport, Regional Development and Local Government released a report on "Rebuilding Australia's Coastal Shipping Industry" in October 2008 identifying various shortcomings in the industry and making recommendations for reform. These recommendations were then taken up by an advisory group formed by the Minister for Infrastructure and Transport in February 2009 and thereafter became part of the Federal election campaign. Viewed at: http://www.comlaw.gov.au/Details/C2012B00056/Explanatory%20Memorandum/Text.

[245] The Coastal Trading (Revitalising Australian Shipping) Act 2012 was viewed at: http://www.comlaw.gov.au/Details/C2014C00575. The Coastal Trading (Revitalising Australian Shipping) Regulation 2012 was viewed at: http://www.comlaw.gov.au/Details/F2012L01474.

[246] As set out in the Shipping Registration Act 1981 (as amended) (Section 8), an Australian-owned ship is a ship that (a) is owned by an Australian national or Australian nationals and by no other person; (b) is owned by 3 or more persons as joint owners, where the majority of those persons are Australian nationals; or, (c) is owned by 2 or more persons as owners in common, where more than half of the shares in the ship are owned by an Australian national or Australian nationals.

[247] Department of Infrastructure and Regional Development (2014c).

well as administrative burdens arising from its related licensing regime.[248] The Government is currently considering submissions and developing options to remove unnecessary burdens on the coastal shipping industry.

4.124. Tax reforms are set out in the Tax Laws Amendment (Shipping Reform) Act 2012. They include: (a) corporate income tax exemptions for Australian ship operators who meet certain conditions[249]; (b) a reduction in the depreciation period from 20 to 10 years for qualifying vessels; (c) an exemption from royalty-withholding tax liability for foreign owners of vessels where the vessel is leased under a bareboat charter to an Australian company; and (d) a seafarers' tax concession for resident employers of Australian resident seafarers, who spend 91 days or more on international voyages on qualifying vessels in an income year. To benefit from tax incentives, registration on either the Australian primary or international shipping register is required. The estimated financial impact of these reforms over the period 2012-13 to 2015-16 prior to their introduction in 2012 was $A 254.5 million.[250] However, an assessment of the impact has not yet been formally undertaken.

4.125. The creation of the International Shipping Register was effected through amendments in 2012 to the Shipping Registration Act (1981).[251] It gives Australian ship-owners an alternative registration option when using vessels mainly for international trade. Ships registered on the International Register must be at least 24 metres in tonnage length and must be either (a) majority-owned by Australian nationals; (b) wholly-owned by Australian residents, or by Australian residents and Australian nationals; (c) operated solely by Australian residents or nationals (or both); or (d) trading ships that are on demise charter to Australian-based operators. Additionally ships must have an Australian national or resident as master or chief mate and chief engineer or first engineer. The advantage of the register is that operating costs may be reduced through lower crew wage structures while ships are on international voyages. There are currently no vessels on the International Register (December 2014).

4.126. The Navigation Act 2012 entered into force on 1 July 2013, replacing previous legislation dating back to 1912. It provides the framework by which the Government may regulate ship and seafarer safety, the shipping aspects of environmental protection and seafarer actions in Australian waters. It gives effect to the maritime conventions to which Australia is a signatory. The Navigation Act together with the Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (see above) allow the AMSA to be the sole regulator of maritime safety (for both domestic and international shipping), consolidating the work of the eight previously existing maritime safety regulators and implementing the above-mentioned COAG intergovernmental agreement on Commercial Vessel Safety Reform.

4.127. Liner shipping conferences remain regulated by a separate section of the Competition and Consumer Act (CCA) 2010 which is administered by the Registrar of Liner Shipping. Limited exemptions from the anti-competitive conduct provisions of the CCA are available to shipping lines allowing them to enter into agreements to supply shipping services to Australian exporters and importers. Under these agreements routes, capacity, sailing schedules and prices may be fixed, operational functions may be shared and commercial information exchanged.[252] The Department of Infrastructure and Regional Development is responsible for approving liner shipping arrangements (which may be viewed on the Register of Liner Shipping). During 2012-13 there were 17 final registrations and 27 in FY 2013-14.[253] Registration takes an average of six days per agreement.

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[248] Australian Competition and Consumer Commission (2014); and Business Council of Australia (2014).

[249] Prior to the implementation of package, shipping companies were not afforded tax incentives and were liable to pay 30% corporate income tax.

[250] Explanatory memorandum to the Tax Laws Amendment (Shipping Reform) Act 2012. Viewed at: http://www.comlaw.gov.au/Details/C2012B00056/Explanatory%20Memorandum/Text.

[251] Both the Shipping Registration Amendment (Australian International Shipping Register) Act (2012) and the Shipping Registration Act (1981) (which incorporates the 2012 amendments) were viewed at: http://www.comlaw.gov.au.

[252] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[253] There are three stages to the process for registration of conference agreements: (1) provisional registration is granted for the purpose of publishing details of a conference agreement in a public register and requiring parties to negotiate with, and provide information to, the designated shipper body; (2) conferences are required to negotiate and provide information to a designated shipper body in relation to minimum levels of service; and (3) final registration takes place after.

4.128. There are over 80 ports in Australia with more than 95% of volume being handled in 20 of them. Ports may be owned by the private sector, state or territory governments, or leased by state or territory governments to the private sector. Full information was not available on the ownership and management status of Australia's main ports. However, two major ports were privatized by the government of New South Wales during the Review period (section 3.4.5). Average clearance times for sea cargo have been reduced to 0.2 days (section 3.2.1). On average, port productivity in Australia appears comparable to similar overseas ports. However, it varies between Australia's ports. For example, Melbourne's port processed on average 67 TEUs per hour in 2013, while the port of Freemantle processed an average of 41 TEUs per hour.[254]

4.129. State/territory land use controls apply to port development and their adjacent land areas, including road and rail access. Commonwealth port-related activities include: environmental assessments on port developments; safety and security matters to detect and deter the unlawful movement of goods and people across the border; and implementing Australia's international maritime obligations as they relate to ports.

4.130. As noted by the authorities, priorities for action under current national ports and freight initiatives include the realisation of best practice master plans. Port master planning is considered to be central to increasing productivity, investment confidence and environmental protection.

4.131. In 2012-13, the most recent period for which data is available, a total of 38,073 port calls were made by ships involved in coastal or international voyages. Of these, 13,936 were made by ships on international voyages. In the same year 1,169 million tonnes of international sea freight was transported to and from Australia and 49.1 million tonnes of coastal freight was loaded at Australia's ports.

4.132. Charges incurred at Australian ports (with the exception of private ports) are determined by the ports authorities and any independent ports services providers, with the ACCC having broad regulatory oversight. Additionally, certain fees related to safety and environmental protection stemming from Australia's participation in international conventions and treaties are collected by the Australian Government. Charges for the top five major urban container ports are published annually by the Department of Infrastructure and Regional Development.[255] The level of charges on imported and exported goods may vary depending on the services required; for example, Australian border controls on imports may require higher levels of screening and testing.

4.5.7.2 Air transport

4.133. Over the review period the key focus of the Department of Infrastructure and Regional Development has involved implementation of the former Government's National Aviation Policy White Paper (released in 2009[256]) and implementation of the Coalition's Policy for Aviation (released in 2013[257]). The latter incorporates various measures designed to support the growth of the aviation industry, including: abolition of the carbon tax (sections 1.4.1, 3.4.1.2, and 4.3), the establishment of an Aviation Industry Consultative Council; safety and security measures; steps to enhance aviation skills as well as pursue aviation liberalization. Key initiatives over the review period include: an in-depth review of aviation safety and regulation; a more risk-based approach to aviation security; reforms to consumer protection through increased mandatory airline insurance coverage as well as implementation of consumer charters by airline companies; studies into expanding aviation capacity in different sites; cooperation between government agencies to harmonize civilian and defence aviation navigation systems; the enactment of legislation to enable Australia's accession to the Cape Town Convention which would give Australia access to cheaper financing for aircraft purchases; and the implementation of a national land use planning framework (the National Airports Safeguarding Framework).

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[254] Department of Infrastructure and Regional Development (2014d).

[255] These are published in the Department of Infrastructure and Regional Development's Waterline publication. Viewed at: http://www.bitre.gov.au/publications/publications.aspx?query=s:%22waterline%22&link-search=true.

[256] The key priorities contained the 2009 National Aviation Policy White Paper are described in the Secretariat Report for Australia's previous review (WTO document WT/TPR/S/244/Rev.1, 18 May 2011).

[257] Viewed at: http://www.nationals.org.au/Portals/0/2013/policy/Policy%20–%20Aviation.pdf.

4.134. There are five major airlines registered in Australia: Qantas Airways Ltd., Virgin Australia Holdings Ltd., Jetstar Airways, Regional Express Airlines and Tigerair Australia. For the year ending June 2014, Qantas held 16.4% of the international market share, Jetstar International (7.7%) and Virgin Australia (7.7%).[258]

4.135. Aggregate foreign investment in Australia's international airlines is limited to 49%[259]; 100% foreign-ownership of domestic airlines is permitted. In the context of this Review, the authorities indicated that no consideration is being given to lowering or removing this FDI cap. Qantas was previously subject to some additional restrictions under the Qantas Sale Act 1992, namely that ownership by a single foreign investor was limited to 25% and aggregate ownership by foreign airlines was limited to 35%. The Qantas Sale Amendment Act 2014 removed these restrictions and aligned Qantas' foreign-ownership restrictions with the framework applicable to other Australian airlines. [260] Qantas remains subject to other legislative restrictions on its operations, including restrictions on the makeup of the board of directors, the use of the name Qantas, the location of the head office, place of incorporation, and the location of facilities that support its international operations.

4.136. In August 2014, a total of 51 airlines operated international scheduled flights (passenger and freight) to and/or from Australia.[261] The top three airlines Qantas Airways, Emirates and Jetstar accounted for 34.9% of total passengers to and from Australia. The total number of passengers flying in and out of the country has steadily increased from just over 23 million in 2008 (as reported in Australia's previous review) to just over 31 million in 2013. Following a similar trend, the total volume of freight transported in and out of the country rose from just over 755,000 tonnes in 2008 to nearly 879,900 tonnes in 2013.[262]

4.137. All international flights operate under bilateral Air Services Agreements (ASAs) which are negotiated by the Department of Infrastructure and Regional Development's Air Services Negotiations Team.[263] The review period has witnessed a dramatic increase in the number of ASAs signed with third countries or economies. Australia has 90 such agreements in place, and just over one-third of these have been signed or initialled since 2011.[264] Additionally, various existing ASAs have also been enhanced.[265] According to the authorities, Australia is working to negotiate new and improve existing air services agreements with a wide range of markets. It is focused on providing capacity for Asian growth (with talks anticipated with various economies including: China; Indonesia; Hong Kong, China; Malaysia; and the Philippines); supporting Australia carriers' overseas networks (through facilitating Australian airlines' cooperative alliances into markets in Africa and the Middle East); and opening up South American markets (with talks anticipated with Chile; Brazil; Colombia; and Ecuador). Negotiations are ongoing with respect to a comprehensive air services agreement with the European Union. Its general approach is to push for liberal arrangements, offering unrestricted access to airports outside of Australia's four "gateway" cities. Seventh freedom rights for freight are regularly negotiated.

4.138. The total number of domestic scheduled passenger numbers has increased from 49.9 million passengers in 2008 to 57.7 million at end FY2014.[266] As a general principle Australia

[258] Department of Infrastructure and Regional Development (2014b).

[259] The legal basis for this restriction is the Air Navigation Act 1920.

[260] Parliament of Australia online information. Viewed at: http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r5187.

[261] Department of Infrastructure and Regional Development (2013a).

[262] Department of Infrastructure and Regional Development online information, "International Airline Activity: Time Series". Viewed at: http://www.bitre.gov.au/publications/ongoing/international_airline_activity-time_series.aspx.

[263] The Air Services Negotiations Team falls under the Department's Aviation and Airports Division.

[264] A full list of air services agreements/arrangements, together with links to the respective treaties, may be viewed at: http://www.infrastructure.gov.au/aviation/international/agreements.aspx. Since 2011, new agreements have been signed or initialled with: Azerbaijan; Belarus; Belgium; Croatia; Ethiopia; French Polynesia; Ghana; Iceland; Indonesia; Jordan; Kenya; Kuwait (State of); Lao PDR; New Caledonia; Oman; Palau; Paraguay; Peru; Philippines; Romania; Saudi Arabia (Kingdom of); Serbia; Seychelles; Solomon Islands; Sri Lanka; Sudan; The Former Yugoslav Republic of Macedonia; Uruguay; Vanuatu; Yemen; and Zambia.

[265] Since 2011, enhanced ASAs have been negotiated with Indonesia; India; Japan; Macao, China; and Switzerland.

[266] Department of Infrastructure and Regional Development online information, "Domestic Aviation Industry Annual Summary 1984-2013/14". Viewed at:

does not permit cabotage in aviation services. However, exceptions may be made on a case-by-case basis where it is deemed that the granting of such rights may result in demonstrable benefits to the country.[267] There are two main airline groups operating in the domestic market; the Qantas group which has a 60-65% market share and Virgin Australia.[268]

4.139. Australia operates a Regional Aviation Access Programme (RAAP) under which it subsidises regular non-commercial air services (for both passengers and goods) to 363 remote communities and cattle stations as well as providing funding for works to assist access and safety at these airstrips. The funding allocation for RAAP over the four-year period from 2014-15 to 2017-18 is $A 56 million. Assistance for commercial services to regional remote locations is provided through the Payment Scheme for Airservices Australia Enroute Charges. This scheme rebates the enroute navigation charges, levied by Airservices Australia, on commercial passenger flights as well as aeronautical services. Funding of $A 8 million has been committed to the Scheme over the period 2014-15 to 2017-18.

4.140. Australia has 349 airports with paved runways, of which nine serve international flights. Australia's main international airport is Sydney (Kingsford-Smith) Airport. The Government has announced that Badgerys Creek will be the site for a new airport in Western Sydney. Right of first refusal to operate this airport will be given to Sydney (Kingsford-Smith) Airport.[269] To meet growing demand for air travel, Australia's other major airports at Melbourne, Brisbane and Perth are all planning new runways and have undertaken extensive terminal development.

4.141. Twenty-one airports are owned by the Federal government, all of which are operated by private sector entities under leases with the Government, under the conditions set out in the Airports Act 1996.[270] These include a 49% ownership cap on foreign equity participation in airport-operator companies, a 5% limit on airline ownership of airport-operator companies and a 15% limit on the cross-ownership of the following paired airport-operator companies: Sydney/Melbourne; Sydney/Brisbane; and Sydney/Perth. In the context of this Review, the authorities indicated that no consideration is being given to reducing or eliminating FDI caps in place. A master plan must be developed for each leased federal airport (except for those at Mt. Isa and Tennant Creek) which sets out the lessee companies' planning and development vision for the airport for a 20-year period. These master plans are reviewed every five years by the Department of Infrastructure and Regional Development and are subject to public consultations.

4.142. The remaining airports are mainly owned by local governments, with some owned by state governments. Airports can be privately owned. A privately-funded and built airport (Brisbane West Wellcamp) commenced services in 2014. The authorities indicated that they maintain an open regime for ground-handling services. Commitments on ground-handling and airport-operation services are contained in many of Australia's RTAs.

4.143. In March 2012, the Productivity Commission released its review into airport pricing and economic regulation at Australia's major airports. The Department of Infrastructure and Regional Development notes that the review "found that the current approach to airport economic regulation strikes an effective balance between maintaining scrutiny over major airports to ensure they use their market position appropriately, while providing the regulatory certainty necessary for continued private sector investment in airport infrastructure". Hence, the Commission recommended no changes to the regime and that it should be reviewed in 2018. However continued monitoring of quality of service needed to take place for Brisbane, Melbourne, Perth, and Sydney airports.[271]

http://www.bitre.gov.au/publications/ongoing/domestic_airline_activity-time_series.aspx; and Department of Infrastructure and Regional Development Domestic Aviation Activity (2014a).

[267] WTO document WT/TPR/S/244/Rev.1, 18 May 2011.

[268] The Qantas group includes Jetstar and Virgin Australia includes Tiger Air.

[269] Information was viewed at: http://www.infrastructure.gov.au/aviation/airport/western_sydney/index.aspx. It is estimated that demand for passenger journeys in the Sydney region will more than double from 40 to 87 million in the next 20 years, and will double again to 165 million by 2060.

[270] Airports Act 1996. Viewed at: http://www.comlaw.gov.au/Details/C2014C00261/Download.

[271] Productivity Commission (2011).

4.5.8 Tourism

4.144. According to the authorities, Australia is the world's eighth largest tourism market (and ranked in 43rd place globally for visitor arrivals). As at end 2013, the industry directly employed over 540,000 people, and was worth $A 101.6 billion (end-June 2014). While tourism-related services remain Australia's major services export, domestic tourism still accounts for over two-thirds of the industry's value. As at June 2014, New Zealand was the main origin of international visitors, followed by China, the United Kingdom, and the United States.[272] The authorities project visitor arrivals to increase by nearly 5% annually over the next five years, with strongest growth coming from China and India.[273]

4.145. Tourism Australia is the government agency responsible for the international marketing of Australia. Its regular budget was $A 129.8 for the year 2014/15, with additional funding of $A 13.5 million being provided for the Asia Marketing Fund (launched in 2012). The current marketing campaign "Restaurant Australia" builds on the "There's Nothing Like Australia" campaign to raise awareness of Australia produce and location offerings.

4.146. Australia's national strategy for the tourism sector is Tourism 2020, launched in December 2011. It amalgamates into a single plan the objectives contained in the 2009 National Long Term Tourism Strategy (NLTTS)[274] and the growth targets contained in subsequent strategy, the 2020 Tourism Industry Potential. The overarching objective of Tourism 2020 is to enhance growth and competitiveness within the industry through a focus on six strategic areas, namely to: (1) grow demand from Asia; (2) build competitive digital capability; (3) encourage investment and implement a regulatory reform agenda; (4) ensure the tourism transport environment supports growth; (5) increase the supply of labour, skills and indigenous participation; and (6) build industry resilience, productivity and quality. A key goal is to grow overnight visitor expenditure to between $A 115 billion and $A 140 billion by 2020. The first phase of the strategy has been focused on putting in place the foundations upon which the strategies' aims can be achieved. As noted in a 2013 evaluation of Tourism 2020, focus has been placed on targeting best prospect customers and developing the kinds of products and services that they want as well as increasing investment in tourism and ensuring sufficient capacity on relevant air transport routes.[275] Other strategies which have been released over the review period were the China 2020 Strategic Plan and the India 2020 Strategic Plan.[276]

4.147. Industry-specific support to the tourism sector is provided through the Tourism Demand Driver Infrastructure Programme, unveiled in the 2014/15 Federal Budget. The Federal Government has committed $A 43.1 million over four years towards this scheme which provides grant funding to States and Territories for infrastructure projects which drive demand, improve quality and increase tourism expenditure to assist the tourism industry to meet the Tourism 2020 targets.[277] Two other grant programs run by the Federal Government, the Tourism Industry Regional Development Fund (TIRF) Grants Program (launched in 2012) and the TQUAL Grants Program (launched in 2009) were terminated in 2013; all existing projects under these programs will be completed by 2015.[278] The authorities confirmed there are no other sector-specific incentive schemes in operation.

[272] Tourism Research Australia (2014).
[273] Australian Trade Commission & Tourism Australia (undated).
[274] For more information on this strategy, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011.
[275] Tourism Australia (2013).
[276] More information on each of these strategies may be viewed at: http://www.tourism.australia.com/statistics/tourism-2020.aspx.
[277] Australian Trade Commission online information. Viewed at: www.austrade.gov.au/Tourism/Tourism-and-business/tddi.
[278] For more information on the grants which were available under this scheme, see WTO document WT/TPR/S/244/Rev.1, 18 May 2011; and Australian Trade Commission online information. Viewed at: www.austrade.gov.au/Tourism/Tourism-and-business/previous-grants-programmes.

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5 APPENDIX TABLES

Table A1. 1 Net foreign debt structure, 2009/10-2013/14

($A million, end-period)

	2009/10	2010/11	2011/12	2012/13	2013/14
Net foreign debt	675,246	671,174	746,170	796,595	864,194
Public sector	112,136	146,128	216,303	204,508	226,105
General government	83,364	114,064	182,011	177,263	217,459
Financial corporations	..	..	..	..	..
Central Bank	-41,798	-38,474	-44,014	-46,026	-59,154
Central Borrowing Authorities	77,125	80,473	88,160	80,038	79,118
Other financial corporations	..	..	..	..	..
Non-financial corporations	..	..	..	..	..
Private sector	563,110	525,047	529,867	592,087	638,090
Financial corporations	373,830	315,006	283,294	281,454	293,336
Non-financial corporations	189,280	210,041	246,574	310,633	344,754

.. Included in totals where applicable but not available for publication.

Source: Australian Bureau of Statistics, "Balance of Payments and International Investment Position - 5302.0, September Quarter 2014".

Table A1. 2 Merchandise exports, by product groups, 2010-13

	2010	2011	2012	2013
Total exports (US$ billion)	**212.5**	**270.1**	**256.6**	**253.7**
Total exports ($A billion)	231.1	261.7	247.8	262.0
	(% of total)			
Total primary products	77.3	79.8	79.0	80.4
Agriculture	13.9	14.3	15.5	15.8
Food	10.9	10.3	11.0	10.9
0412 Other wheat (including spelt) and meslin, unmilled	1.8	2.3	2.6	2.3
0112 Bovine meat, frozen	1.1	1.1	1.2	1.4
2226 Rape, colza, mustard seeds	0.2	0.4	0.6	0.9
0121 Meat of sheep or goats	0.7	0.6	0.7	0.8
0111 Bovine meat, fresh, chilled	0.8	0.7	0.8	0.8
1121 Wine of fresh grapes (including fortified wine)	0.9	0.7	0.8	0.7
Agricultural raw material	2.5	3.0	3.0	3.0
2631 Cotton (other than linters), not carded or combed	0.5	1.0	1.1	1.0
2681 Wool, greasy (including fleece-washed wool)	0.9	1.0	0.9	0.9
Mining	63.4	65.5	63.5	64.6
Ores and other minerals	30.1	33.1	31.1	34.9
2815 Iron ores and concentrates, not agglomerated	21.2	24.4	21.8	26.4
2852 Alumina (aluminium oxide)	2.2	2.0	2.0	2.0
2831 Copper ores and concentrates	2.2	2.1	2.1	2.0
Non-ferrous metals	4.5	4.3	4.0	3.9
6841 Aluminium and aluminium alloys, unwrought	1.8	1.6	1.4	1.3
6821 Copper anodes; alloys; unwrought	1.1	1.2	1.2	1.2
Fuels	28.8	28.0	28.4	25.8
3212 Other coal, whether or pulverized, not agglomerated	18.6	17.8	16.6	15.2
3431 Natural gas, liquefied	4.1	4.2	5.4	5.6
3330 Crude oils of petroleum and bituminous minerals	4.5	4.4	4.4	3.4
Manufactures	13.1	11.6	12.4	11.7
Iron and steel	0.6	0.5	0.3	0.3
Chemicals	3.5	3.0	3.4	3.0
5429 Medicaments, n.e.s.	1.4	1.1	1.4	1.0
Other semi-manufactures	1.5	1.3	1.3	1.3
Machinery and transport equipment	5.3	4.8	5.4	5.2
Power generating machines	0.2	0.2	0.2	0.2
Other non-electrical machinery	1.7	1.5	1.7	1.5
Agricultural machinery and tractors	0.1	0.0	0.1	0.0
Office machines and telecommunication equipment	1.0	0.9	0.9	1.0
Other electrical machines	0.6	0.5	0.5	0.5
Automotive products	1.3	1.0	1.3	1.2
7812 Motor vehicles for the transport of persons, n.e.s.	0.8	0.5	0.7	0.8
Other transport equipment	0.6	0.7	0.8	0.8
Textiles	0.1	0.1	0.1	0.1
Clothing	0.1	0.1	0.1	0.1
Other consumer goods	2.0	1.8	1.9	1.8
Other	9.5	8.6	8.6	7.8
Gold, non-monetary (excl. gold ores and concentrates)	6.2	5.8	6.3	5.3

Source: WTO Secretariat calculations, based on data provided by the Australian authorities in SITC four-digit classification.

Table A1. 3 Merchandise imports, by product groups, 2010-13

	2010	2011	2012	2013
Total imports (US$ billion)	**193.5**	**234.2**	**250.5**	**232.9**
Total imports ($A billion)	210.5	226.9	241.8	240.5
	(% of total)			
Total primary products	21.2	24.6	24.0	25.3
Agriculture	5.9	5.8	5.6	6.3
Food	5.2	5.1	5.0	5.7
0989 Food preparations, n.e.s.	0.6	0.6	0.6	0.6
Agricultural raw material	0.7	0.6	0.6	0.6
Mining	15.3	18.9	18.4	19.0
Ores and other minerals	0.4	0.6	0.4	0.3
Non-ferrous metals	1.2	1.4	1.1	1.1
Fuels	13.7	16.9	16.9	17.5
3330 Crude oils of petroleum and bituminous minerals	7.7	9.2	8.9	8.4
3346 Petroleum oils and oils obtained from bituminous minerals, other than crude	4.7	6.3	6.6	7.6
3432 Natural gas, in the gaseous state	0.8	0.9	0.9	1.0
Manufactures	72.3	69.2	71.2	70.6
Iron and steel	1.8	1.6	1.8	1.5
Chemicals	10.8	10.7	10.1	10.0
5429 Medicaments, n.e.s.	3.3	3.2	2.8	2.7
5416 Glycosides; glands, etc. and extracts; antisera/vaccines, etc.	0.4	0.5	0.5	0.6
Other semi-manufactures	6.8	6.8	6.9	7.3
6911 Iron or steel structures, tubes and the like, for use in structures	0.3	0.6	0.7	1.0
Machinery and transport equipment	39.1	36.9	39.6	37.9
Power generating machines	1.4	1.4	1.4	1.3
Other non-electrical machinery	8.6	8.6	10.2	9.3
7232 Mechanical shovels, etc., self-propelled	0.6	0.8	1.0	0.6
7436 Filtering and purifying machines for liquids/gases	0.3	0.3	0.4	0.5
Agricultural machinery and tractors	0.6	0.7	0.8	0.6
Office machines and telecommunication equipment	10.8	10.1	9.2	9.2
7641 Telephone sets, incl. for cellular networks	2.7	2.8	2.8	3.0
7522 Portable automatic data processing machines	1.5	1.5	1.5	1.5
7519 Other office machines	0.9	0.8	0.7	0.7
7523 Automatic data processing machines	0.8	0.7	0.7	0.7
Other electrical machines	4.0	3.9	3.9	4.1
7731 Insulated wire, cable etc.; optical fibre cables	0.4	0.5	0.5	0.6
Automotive products	12.1	10.6	12.3	11.9
7812 Motor vehicles for the transport of persons, n.e.s.	7.6	6.2	7.0	7.6
7821 Goods vehicles	2.8	2.7	3.5	2.6
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.1	1.1	1.1	1.1
Other transport equipment	2.2	2.3	2.6	2.2
Textiles	1.2	1.1	1.0	1.1
Clothing	2.6	2.5	2.4	2.7
Other consumer goods	10.2	9.6	9.4	10.1
8722 Instruments used in medical, surgical or veterinary sciences	0.7	0.6	0.7	0.7
8996 Orthopaedic appliances; artificial parts of the body; hearing aids etc.	0.6	0.6	0.6	0.6
8211 Seats (excl. of 872.4), and parts				
Other	6.5	6.1	4.8	4.1
Gold, non-monetary (excl. gold ores and concentrates)	3.3	2.8	2.4	2.0

Source: WTO Secretariat calculations, based on data provided by the Australian authorities in SITC four-digit classification.

Table A1. 4 Merchandise exports, by destination, 2010-13

	2010	2011	2012	2013
Total exports (US$ billion)	**212.5**	**270.1**	**256.6**	**253.7**
Total exports ($A billion)	231.1	261.7	247.8	262.0
	(% of total)			
America	6.0	5.8	5.6	5.0
United States	4.0	3.7	3.8	3.7
Other America	2.0	2.0	1.9	1.3
Canada	0.5	0.6	0.7	0.5
Europe	8.5	8.0	7.5	5.7
EU(28)	8.1	7.5	6.9	5.0
United Kingdom	3.6	2.9	2.7	1.5
Netherlands	1.1	1.3	1.2	0.9
Germany	0.8	0.9	0.8	0.7
EFTA	0.2	0.3	0.3	0.4
Other Europe	0.2	0.2	0.3	0.4
Commonwealth of Independent States (CIS)	0.5	0.4	0.4	0.3
Africa	1.6	1.4	1.4	1.2
South Africa	0.8	0.6	0.6	0.5
Middle East	2.6	2.5	2.7	3.3
United Arab Emirates	0.9	0.9	0.8	1.0
Saudi Arabia (Kingdom of)	0.7	0.6	0.7	0.8
Asia	80.0	80.9	81.5	83.4
China	25.3	27.3	29.5	36.1
Japan	18.9	19.3	19.3	18.1
Six East Asian traders	20.1	20.3	19.2	17.4
Korea, Rep. of	8.9	8.9	8.0	7.5
Chinese Taipei	3.6	3.5	3.2	2.8
Singapore	2.1	2.4	2.9	2.1
Malaysia	1.6	1.7	2.0	2.1
Thailand	2.5	2.6	2.0	1.9
Hong Kong, China	1.4	1.2	1.0	1.0
Other Asia	15.8	14.1	13.6	11.7
India	7.1	5.8	4.9	3.6
New Zealand	3.5	2.9	3.0	2.8
Indonesia	1.9	2.1	2.0	2.0
Papua New Guinea	0.9	0.9	1.1	0.9
Viet Nam	0.7	0.8	0.7	0.8
Philippines	0.5	0.6	0.7	0.5
Other	0.9	0.9	0.8	0.9
Memorandum:				
APEC	77.1	79.5	80.8	83.6
ASEAN	9.4	10.2	10.4	9.5

Source: WTO Secretariat calculations, based on data provided by the Australian authorities.

Table A1. 5 Merchandise imports, by origin, 2010-13

	2010	2011	2012	2013
Total imports (US$ billion)	**193.5**	**234.2**	**250.5**	**232.9**
Total imports ($A billion)	210.5	226.9	241.8	240.5
	(% of total)			
America	15.2	15.7	15.9	14.2
United States	12.6	12.9	12.9	11.3
Other America	2.6	2.8	3.0	2.9
Mexico	0.7	0.8	0.8	0.9
Europe	20.4	20.4	19.5	19.6
EU(28)	19.0	18.7	18.0	17.9
Germany	5.0	4.7	4.6	4.8
United Kingdom	2.8	3.0	2.8	2.6
Italy	2.3	2.2	2.2	2.4
France	2.5	2.6	1.9	2.0
Spain	0.8	0.8	1.2	1.1
Sweden	1.0	1.1	1.0	0.9
EFTA	1.2	1.5	1.3	1.4
Switzerland	1.0	1.3	1.2	1.2
Other Europe	0.2	0.2	0.2	0.3
Commonwealth of Independent States (CIS)	0.3	0.5	0.4	0.6
Africa	1.6	2.3	2.9	2.4
Middle East	2.1	2.8	2.3	2.5
United Arab Emirates	1.1	1.8	1.3	1.6
Asia	58.9	56.8	57.5	58.9
China	18.6	18.5	18.4	19.6
Japan	8.6	7.9	7.9	7.9
Six East Asian traders	20.3	19.0	20.3	20.4
Singapore	5.0	6.2	6.0	5.4
Thailand	5.2	3.7	4.2	4.7
Korea, Rep. of	3.4	3.1	4.1	4.2
Malaysia	4.3	3.8	4.0	3.9
Chinese Taipei	1.7	1.7	1.5	1.7
Other Asia	11.4	11.4	11.0	11.0
New Zealand	3.4	3.3	3.0	3.1
Indonesia	2.5	2.6	2.6	2.4
Viet Nam	1.5	1.2	1.3	1.6
Papua New Guinea	1.4	1.6	1.4	1.2
India	0.9	1.0	1.1	1.0
Other	1.5	1.5	1.6	1.7
Memorandum:				
APEC	72.4	70.7	71.4	71.2
ASEAN	19.3	18.3	18.8	18.8

Source: WTO Secretariat calculations, based on data provided by the Australian authorities.

Table A2. 1 Notifications under WTO Agreements, 1 January 2010 to 31 December 2014

Agreement	Requirement	Symbol and date of latest notification
Agreement on Agriculture		
Articles 10 and 18.2	Export subsidy (ES:1, ES:2, ES:3)	G/AG/N/AUS/92, 15/08/2014
Article 16.2	Net food-importing decision: food and other assistance (NF:1)	G/AG/N/AUS/93, 08/10/2014
Article 18.2	Domestic support: total aggregate measure of support (DS:1)	G/AG/N/AUS/89, 17/10/2013
Article 18.2	Market access: tariff and other quota commitments (MA:1)	G/AG/N/AUS/1/Rev.1, 27/08/2010
Article 18.2	Market access: volume of imports under tariff and other quotas (MA:2)	G/AG/N/AUS/94, 21/10/2014
Article 18.3	Domestic support: new or modified exempt domestic support measures (DS:2)	G/AG/N/AUS/88, 17/10/2013
Articles 5.7 and 18.2	Special safeguard provisions (MA:5)	G/AG/N/AUS/85, 26/04/2012
General Agreement on Trade in Services		
Article III:3	Laws/regulations (transparency; new or changes to existing laws)	S/C/N/718, 06/02/2014
Article V:7(a)	Economic integration agreements: Malaysia and Australia Economic integration agreements: ASEAN-Australia-New Zealand FTA Economic integration agreement: Korea (Rep. of) and Australia	S/C/N/695, 13/05/2013 S/C/N/545/Add.1, 09/05/2012 S/C/N/786, 22/12/2014
Article VII:4	Recognition agreements/arrangements; autonomous recognition measures	S/C/N/538, 18/03/2010
Agreement on the Implementation of Article VI GATT 1994 (anti-dumping)		
Article 16.4	Anti-dumping actions (preliminary and final)	G/ADP/N/266, 18/12/2014
Article 16.4	Anti-dumping actions (taken within the preceding six months)	G/ADP/N/259/AUS, 01/09/2014
Article 16.5	Authorities and procedures	G/ADP/N/14/Add.36; G/SCM/N/18/Add.36, 14/10/2013
Article 18.5	Laws/regulations (and changes thereto, including changes in the administration of such laws)	G/ADP/N/1/AUS/2/Suppl.12, 12/02/2014
GATT 1994		
Article XVII:4(a)	State-trading activities	G/STR/N/15/AUS, 07/07/2014
Article XXIV:7(a)	Agreement establishing a free-trade area: Malaysia and Australia Agreement establishing a free-trade area: ASEAN-Australia-New Zealand FTA Agreement establishing a free trade area: Korea (Rep. of) and Australia	WT/REG340/N/1, 13/05/2013 WT/REG284/N/1, 09/05/2012 WT/REG359/N/1, 22/12/2014
Article XXVIII:5	Modification of schedules (reserve the right to modify schedules for a three-year period)	G/MA/268, 23/11/2011
Agreement on Import Licensing		
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/AUS/6, 18/12/2013
Agreement on Subsidies and Countervailing Measures		
Article 25.1	Subsidies	G/SCM/N/253/AUS, 11/09/2013
Article 25.11	Countervailing duty actions (preliminary and final)	G/SCM/N/282, 19/12/2014
Article 25.11	Countervailing duty actions (taken within the preceding six months)	G/SMC/N/274, 01/09/2014
Article 25.12	Authorities and procedures	G/SCM/N/18/Add.36, 14/10/2013

Agreement	Requirement	Symbol and date of latest notification
Article 32.6	Laws/regulations (and changes thereto, including changes in the administration of such laws)	G/SCM/N/1/AUS/2/Suppl.11, 12/02/2014
Agreement on Safeguards		
Termination	Termination of a safeguard investigation with no safeguard measure imposed	G/SG/N/9/AUS/4, 06/01/2014
Article 12.1(a)	Safeguard measures (initiating an investigation relating to serious injury or threat thereof and the reasons for it)	G/SG/N/6/AUS/4, 03/07/2013
Article 12.1(b)	Safeguard measures (making a finding of serious injury or threat thereof caused by increased imports)	G/SG/N/8/AUS/3, 30/09/2013
Agreement on Sanitary and Phytosanitary Measures		
Article 7, Annex B	Sanitary/phytosanitary regulations	G/SPS/N/AUS/258, 23/03/2011 to G/SPS/N/AUS/353, 18/12/2014
Agreement on Technical Barrier to Trade		
Article 2.9	Technical regulations	G/TBT/N/AUS/65, 01/02/2011 to G/TBT/N/AUS/99, 22/10/2014
Articles 2.9 and 5.6	Technical regulations	G/TBT/N/AUS/71, 06/02/2012
Article 5.6	Conformity assessment procedures	G/TBT/N/AUS/72, 29/02/2012
Article Unspecified	Technical regulations	G/TBT/N/AUS/98, 15/07/2014
Trade-Related Aspects of Intellectual Property Rights		
Article 63.2	Laws/regulations made effective by the notifying Member; amendment of a law/regulation	IP/N/1/AUS/C/15, 21/10/2013
Article 67, §37 and §38	Contact points for technical cooperation on TRIPS	IP/N/7/AUS/1, 07/06/2013
Article 69	Specification of contact points; changes to the information on specified contact points	IP/N/3/AUS/2, 11/06/2013
Decision on Notification Procedures for Quantitative Restrictions		
G/L/59/Rev.1	Quantitative restrictions	G/MA/QR/N/AUS/1, 30/10/2012

Source: WTO Secretariat.

Table A2. 2 RTAs in force, 2014

Korea-Australia Free Trade Agreement (KAFTA)	
Parties	Australia and Korea (Rep. of)
Date of entry into force (Australia)	12 December 2014
End of transition period for Australia (goods liberalization)	2022
Coverage (selected features)	Services, government procurement, intellectual property, competition policy, environment, and labour
Australia's merchandise trade with Korea (2013)	4.2% of total imports; 7.5% of total exports
WTO legal cover	GATT Art. XXIV & GATS Art. V
WTO consideration status	None
WTO document series	WT/REG359
Free Trade Agreement between Australia and Malaysia	
Parties	Australia and Malaysia
Date of entry into force (Australia)	January 2013
End of transition period for Australia (goods liberalization)	Fully implemented upon entry into force of agreement. All of Australia's tariffs on imports from Malaysia have been removed
Coverage (selected features)	Services, competition policy, environment, intellectual property rights, investment, and labour
Australia's merchandise trade with Malaysia (2013)	3.9% of total imports; 2.1% of total exports
WTO legal cover	GATT Art. XXIV & GATS Art. V
WTO consideration status	Factual presentation distributed. WTO consideration on 23.10.2014
WTO document series	WT/REG340
Association of Southeast Asian Nations (ASEAN) - Australia - New Zealand (AANZFTA)	
Parties	Australia, New Zealand, Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Myanmar, Malaysia, the Philippines, Singapore, Thailand, and Viet Nam
Date of entry into force (Australia)	January 2010
End of transition period for Australia (goods liberalization)	2020. At end of transition period all of Australia's tariffs on imports from AANZFTA parties should be removed. Of the tariffs to be liberalized at the end of the implementation period, most relate to textiles and textile articles[a]
Coverage (selected features)	Services, investment, intellectual property rights, e-commerce, competition policy and economic cooperation
Australia's merchandise trade with ASEAN and New Zealand (2013)	21.9% of total imports; 12.4% of total exports
WTO legal cover	GATT Art. XXIV & GATS Art. V
WTO consideration status	Factual presentation distributed. WTO consideration on 23.09.2014
WTO document series	WT/REG284
Australia - Chile Free Trade Agreement (AUSFTA)	
Parties	Australia and Chile
Date of entry into force (Australia)	March 2009
End of transition period for Australia (goods liberalization)	2015

Australia - Chile Free Trade Agreement (AUSFTA)	
Coverage (selected features)	Services, investment, government procurement, competition policy, e-commerce and intellectual property rights
Australia's merchandise trade with Chile (2013)	0.4% of total imports; 0.1% of total exports
WTO legal cover	GATT Art. XXIV & GATS Art. V
WTO consideration status	WTO consideration June 2010
WTO document series	WT/REG263
Thailand - Australia Free Trade Agreement (TAFTA)	
Parties	Australia and Thailand
Date of entry into force (Australia)	January 2005
End of transition period for Australia (goods liberalization)	2015. At end of transition period all of Australia's tariffs on imports from Thailand should be removed. Of the tariffs to be liberalized at the end of the implementation period, most relate to textiles and textile articles
Coverage (selected features)	Services, investment, movement of natural persons, e-commerce, competition policy and intellectual property rights
Australia's merchandise trade with Thailand (2013)	4.7% of total imports; 1.9% of total exports
WTO legal cover	GATT Art. XXIV & GATS Art. V
WTO consideration status	WTO consideration May 2007
WTO document series	WT/REG185
Australia - United States Free Trade Agreement (AUSFTA)	
Parties	Australia and United States
Date of entry into force (Australia)	January 2005
End of transition period for Australia (goods liberalization)	2015. At end of transition period all of Australia's tariffs on imports from the United States should be removed, with the exception of eight lines (used passenger motor vehicles)
Coverage (selected features)	Services, investment, government procurement, competition policy, e-commerce, intellectual property rights, labour issues and environmental matters
Australia's merchandise trade with the United States (2013)	11.3% of total imports; 3.7% of total exports
WTO legal cover	GATT Art. XXIV & GATS Art. V
WTO consideration status	WTO consideration September 2007
WTO document series	WT/REG184
Singapore - Australia Free Trade Agreement (SAFTA)	
Parties	Australia and Singapore
Date of entry into force (Australia)	July 2003 (with amendments in 2011)
End of transition period for Australia (goods liberalization)	Fully implemented upon entry into force of agreement. All of Australia's tariffs on imports from Singapore have been removed
Coverage (selected features)	Services, intellectual property rights, government procurement, competition policy and investment
Australia's merchandise trade with Singapore (2013)	5.4% of total imports; 2.1% of total exports
WTO legal cover	GATT Art. XXIV & GATS Art. V

Singapore - Australia Free Trade Agreement (SAFTA)	
WTO consideration status	WTO consideration October 2004
WTO document series	WT/REG158
Australia - New Zealand Closer Economic Relations Trade Agreement (ANZCERTA)	
Parties	Australia and New Zealand
Date of entry into force (Australia)	January 1983 (goods); January 1989 (services)
End of transition period for Australia (goods liberalization)	Completed in 1995. All of Australia's tariffs on imports from New Zealand have been removed
Coverage (selected features)	Services, competition policy, investment. The Agreement is supplemented by bilateral arrangements on: movement of people; mutual recognition of standards; government procurement; and, aviation
Australia's merchandise trade with New Zealand (2013)	3.1% of total imports; 2.8% of total exports
WTO legal cover	GATT Art. XXIV & GATS Art. V
WTO consideration status	Report adopted (Goods); factual abstract distributed (services)
WTO document series	WT/REG40
Canada - Australia Trade Agreement (CANATA)	
Parties	Australia and Canada
Date of entry into force (Australia)	October 1973
End of transition period for Australia (goods liberalization)	Information not available
Coverage (selected features)	Goods only. It is a partial scope agreement with tariff preference of 5% on 300 lines and 15% on 70 lines (for Australia)
WTO legal cover	This agreement has not been notified to the WTO
WTO consideration status	Not applicable
Australia's merchandise trade with Canada (2013)	0.8% of total imports; 0.5% of total exports
WTO document series	Not applicable.
Agreement on Trade and Commercial Relations between the Government of Australia and the Government of Papua New Guinea (PATCRA II)	
Parties	Australia and Papua New Guinea
Date of signature/entry into force (Australia)	February 1991/September 1991
End of transition period for Australia (goods liberalization)	100% of Australia's tariffs on imports from Papua New Guinea have been removed
Coverage (selected features)	Goods only. Investment
Australia's merchandise trade with Papua New Guinea (2013)	1.2% of total imports; 0.9% of total exports
WTO legal cover	GATT Art. XXIV
WTO consideration status	Working party meeting held on 2 March 1977
WTO document series	L/4571

a For more information on Australia's tariff liberalization schedule, see WTO document WT/REG284/1, 27 June 2014.

Source: WTO Secretariat.

Table A2. 3 Selected bilateral treaties relating to trade and investment

Partner	Title	Date of entry into force
Lebanon	Agreement on Economic, Trade and Technical Cooperation between the Government of Australia and the Government of the Republic of Lebanon	2000
Ukraine	Agreement on Trade and Economic Cooperation with the Government of Ukraine	1999
Mexico	Trade and Investment Agreement with the Government of the United Mexican States	1997
Romania	Agreement with the Government of Romania on Trade and Economic Cooperation	1997
Papua New Guinea	Agreement on Trade and Commercial Relations between the Government of Australia and the Government of Papua New Guinea	1991
Thailand	Agreement on Economic Cooperation with the Government of the Kingdom of Thailand	1990
Pakistan	Trade Agreement between the Government of Australia and the Government of the Islamic Republic of Pakistan	1990
Viet Nam	Agreement on Trade and Economic Cooperation with the Socialist Republic of Vietnam	1990
Turkey	Agreement on Trade, Economic and Technical Cooperation with the Government of the Republic of Turkey	1989
Jordan	Trade Agreement between the Government of Australia and the Government of the Hahshemite Kingdom of Jordan	1988
Egypt	Trade Agreement between the Government of Australia and the Government of the Arab Republic of Egypt	1988
Philippines	Trade Agreement with the Government of the Republic of the Philippines	1979
Brazil	Trade Agreement between the Government of Australia and the Government of the Federative Republic of Brazil	1978
India	Trade Agreement between the Government of Australia and the Government of India	1976
Korea (Rep. of)	Agreement with the Republic of Korea on the Development of Trade and Economic Relations	1975
Indonesia	Trade Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia	1973
China	Trade Agreement between the Government of Australia and the Government of the People's Republic of China (as amended in 1986)	1973
Japan	Agreement between the Government of Australia and the Government of Japan on Commerce	1957

Source: Department of Foreign Affairs and Trade Treaty Database. Viewed at: http://www.dfat.gov.au.

Table A3. 1 Australia's tariff summary, 2014

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
Total	**6,185**	**3.0**	**0-215.4**	**6.4**	**47.6**
HS 01-24	989	1.2	0-27.1	2.6	78.1
HS 25-97	5,186	3.4	0-215.4	6.8	41.8
By WTO category					
WTO agricultural products	838	1.4	0-27.1	2.7	73.0
Animals and products thereof	111	0.4	0-5	1.3	92.8
Dairy products	23	5.0	0-27.1	9.5	73.9
Fruit, vegetables, and plants	220	1.5	0-5	2.3	69.1
Coffee and tea	24	1.0	0-5	2.0	79.2
Cereals and preparations	95	1.2	0-5	2.1	74.7
Oils seeds, fats, oil, and their products	84	1.5	0-5	23.0	70.2
Sugars and confectionary	18	1.8	0-5	2.3	61.1
Beverages, spirits, and tobacco	113	3.2	0-5	2.4	36.3
Cotton	5	0.0	0-0	0.0	100.0
Other agricultural products, n.e.s.	145	0.4	0-5	1.3	92.4
WTO non-agricultural products	5,347	3.3	0-215.4	6.8	43.6
Fish and fishery products	224	0.0	0-5	0.3	99.6
Minerals and metals	952	2.8	0-5	2.5	44.7
Chemicals and photographic supplies	942	1.9	0-10	2.4	61.4
Wood, pulp, paper and furniture	445	3.7	0-5	2.2	26.3
Textiles	667	4.3	0-10	2.1	17.2
Clothing	258	8.4	0-10	3.3	10.9
Leather, rubber, footwear, and travel goods	196	4.2	0-10	2.1	18.4
Non-electric machinery	630	2.9	0-5	2.5	41.3
Electric machinery	311	3.0	0-5	2.5	40.8
Transport equipment	226	8.9	0-215.4	29.3	28.8
Non-agricultural products, n.e.s.	444	1.6	0-10	2.4	68.5
Petroleum	52	0.0	0-0	0.0	100.0
By ISIC sector					
ISIC 1 - Agriculture, hunting and fishing	375	0.3	0-5	1.1	94.7
ISIC 2 - Mining	100	0.5	0-5	1.4	91.0
ISIC 3 - Manufacturing	5,710	3.2	0-215.4	6.6	43.7
Manufacturing excluding food processing	5,058	3.4	0-215.4	6.9	40.4
ISIC 4 - Electrical energy					
By stage of processing					
First stage of processing	758	0.4	0-5	1.4	91.8
Semi-processed products	1,979	2.9	0-10	2.5	43.0

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
Fully processed products	3,448	3.7	0-215.4	8.2	40.5
By HS section					
01 Live animals and products	339	0.4	0-27.1	2.8	97.9
02 Vegetable products	314	0.7	0-5	1.7	86.0
03 Fats and oils	49	1.8	0-5	2.4	63.3
04 Prepared food, beverages, and tobacco	287	2.6	0-5	2.5	48.4
05 Mineral products	198	0.4	0-5	1.3	92.9
06 Chemicals and products thereof	873	1.4	0-5	2.3	71.6
07 Plastics, rubber, and articles thereof	238	4.5	0-10	1.6	10.1
08 Raw hides and skins, leather, and its products	92	3.6	0-10	2.6	31.5
09 Wood and articles of wood	143	3.3	0-5	2.4	35.0
10 Pulp of wood, paper, and paperboard	283	3.7	0-5	2.2	25.4
11 Textiles and textile articles	911	5.3	0-10	3.2	17.6
12 Footwear, headgear, etc.	60	2.5	0-5	2.5	50.0
13 Articles of stone, plaster, cement	161	3.4	0-5	2.3	31.1
14 Precious stones and metals, pearls	53	1.0	0-5	2	79.2
15 Base metals and articles thereof	583	3.5	0-5	2.3	29.3
16 Machinery, electrical equipment, etc.	953	2.9	0-5	2.5	42.5
17 Transport equipment	238	8.6	0-215.4	28.6	30.3
18 Precision equipment	240	0.9	0-5	1.9	81.7
19 Arms and ammunition	19	1.6	0-5	2.3	68.4
20 Miscellaneous manufactured articles	144	3.7	0-10	2.4	28.5
21 Works of art, etc.	7	0.0	0-0	0	100.0

Note: Calculations include AVEs for non-*ad valorem* rates as provided by the authorities.

Source: WTO Secretariat calculations, based on data provided by the Australian authorities.

Table A3. 2 Subsidies notified under WTO provisions, 2011/12 and 2012/13

($A)

	Type of subsidy	Duration	2011/12	2012/13
FEDERAL PROGRAMMES				
Environment				
Clean Technology Investment Program (CTIP)	Grants	16 February 2012 to 30 June 2019	..	..
Clean Technology Food and Foundries Investment Program (CTFFIP)	Grants	16 February 2012 to 30 June 2018	..	..
LPG Vehicle Scheme	Grants	1 July 2006 to 30 June 2014	..	..
Sustainable Rural Water Use and Infrastructure Program (SRWUIP)				
Private Irrigation Infrastructure Operators Program for New South Wales	Funding agreement	19 June 2009 to 2017/18	140,000,000	182,500,000
Private Irrigation Infrastructure Program for South Australia	Funding agreement	December 2009 to 2017/18	6,200,000	5,200,000
Queensland Healthy Headwater Water Use and Efficiency Program	Funding agreement	1 June 2010 to 2017/18	6,200,000	6,600,000
Northern Victoria Irrigation Renewal Program Stage 2 – On-Farm	Funding agreement	November 2011 to May 2014	11,600,000	28,800,000
Goulburn Murray Water Connection Project Stage 2 (formally Northern Victoria Irrigation Renewal Program Stage 2)	Funding agreement	November 2011 to June 2019	156,400,000	17,500,000
New South Wales State Basin Pipe – Stock and Domestic	Funding agreement	June 2012 to October 2017	5,000,000	15,000,000
New South Wales State Water metering Scheme (including pilot)	Funding agreement	June 2012 to October 2017	22,500,000	3,200,000
New South Wales State Irrigated Farm Modernisation Project (and pilot)	Funding agreement	June 2012 to October 2017	350,000	14,300,000
Forestry				
Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program	Grants	26 October 2011 to 30 June 2012	42,430,000	n.a.
Innovation				
Clean Technology Innovation Program	Grants	6 July 2012 to 22 October 2013	n.a.	2,200,000
Climate Ready	Grants	28 July 2008 to 30 June 2012	5,100,000	900,000
Commercialisation Australia	Grants	4 January 2010. This programmed was closed in the 2014 Budget	48,800,000	63,000,000
Collaborative Research Networks	Grants	2010/11 to 2015/16	..	..
Industry Collaboration Fund	Grants	Released on 21 June 2013	n.a.	..
Industry Innovation Precincts	Grants	1 May 2013; ongoing	n.a.	..[b]
Passenger motor vehicles				
Automotive Transformation Scheme (ATS)	Payments arrears	1 January 2011 to 31 December 2020	..	..

	Type of subsidy	Duration	2011/12	2012/13
Automotive Industry Structural Adjustment Program (AISAP)	Grants	1 January 2009 to 30 June 2012	..[a]	..[a]
Automotive Market Access Program (AMAP)	No direct financial assistance provided but representation, intelligence, and advice services	2009/10 to 2011/12	n.a.	n.a.
Automotive New Markets Program (ANMP)	Grants	1 July 2012 to 30 June 2016	..	..
Automotive Supply Chain Development Program (ASCDP)	Grants	1 July 2009 to 30 June 2013	..[a]	..[a]
Ford Australia Environmental Grant	Grants	30 March 2012 to 31 May 2015	..[a]	..[a]
Green Car Innovation Fund (GCIF)	Grants	2009/10 to January 2011	125,000,000	47,500,000
Regional development				
Australian Paper Maryvale Pulp and Paper Mill Assistance Grant	Grants	2012/13 to 2014/15	n.a.	4,220,000
Briquette Restructuring Package	Grants	29 June 2012 to 2014/15	50,800,000	9,500,000
Illawarra Region Innovation and Investment Fund (IRIIF)	Grants	2011/12 to 2013/14	..	..
Premium Fresh Tasmania	Grants	2012/13	n.a.	500,000
South East South Australia Innovation and Investment Fund (SESAIIF)	Grants	6 May 2011 to 30 June 2013	..[a]	..[a]
Tasmanian Innovation and Investment Fund (TIIF)	Grants	2011/12 to 2013/14	3,797,000	2,868,000
Textiles, clothing, and footwear				
Textile, Clothing and Footwear Restructuring Initiative Grant Scheme (TCF RIG Scheme)	Grants	Ceased on 30 June 2013	4,500,000	-
TCF Small Business Program	Grants	Will cease on 30 June 2016	..[b]	..[b]
Textile, Clothing and Footwear (TCF) Strategic Capability Program (SCP)	Grants	Will cease on 30 June 2015	..[a]	..[a]
Clothing and Household Textile (Building Innovative Capability) Scheme (BIC scheme)	Grants	Will close on 30 June 2015	..[b]	..[b]
Steel				
Steel Transformation Plan (STP)	Advance payments	1 July 2012 to 30 June 2016	164,000,000	..
Vocational training				
National Workforce Development Fund	Grants	2011/12. This programmed was closed in the 2014 Budget	..[a]	..[a]
SUB-FEDERAL PROGRAMME				
Total			123,910,000	130,580,000
No. of companies packages offered			196	253
Australian Capital Territory				
Investment Facilitation Programme	Waivers of payroll tax liability	Undefined[d]	..	..
Innovation Connect (ICon)	Grants	Ongoing	..	..

	Type of subsidy	Duration	2011/12	2012/13
New South Wales				
Regional Industries Investment Fund	Unspecified (limited financial assistance)	Undefined	18,751,000	20,058,000
State Investment Attraction Scheme	Unspecified (limited financial assistance)	Undefined	..	..
Northern Territory				
Industry and Business Assistance	Grants	Ongoing	..	..
Queensland				
Business and Industry Transformation Incentives	Grants	Launched in October 2007. No longer active	7,336,000	-
Future Resources Program – Collaborative Drilling Initiative	Grants	2013/14 to 2016/17	n.a.	n.a.
Greenfields 2020 Program – Collaborative Drilling Initiative	Grants	2010/11 to 2013/14	559,810	1,183,919
Queensland Investment Incentives Scheme	Payroll tax and land tax refunds, stamp duty refund, and grants	Ongoing	..	..
Proof of Concept Fund	Grants	Launched in October 2008. No formal end date	340,000	-
Regional Queensland Investment Incentives Scheme	Payroll tax refund, grants, and other kind of assistance[c]	Closed	..	..
Smart Mining – Future Prosperity Program grant initiative	Grants	2006/07 to 2010/11	n.a.	n.a.
What's Your Big Idea Queensland	Grants	Undefined	1,450,000	-
South Australia				
Business Sustainability Alliance – Energy Efficiency Program	Grants	Completed in June 2013	..	..
Cleantech Partnering Program	Grants	Completed on 30 June 2013	..	..
Innovation Voucher Program	Grants	Ongoing	..	..
Medical Device Commercialisation Program	Grants	Completed on 30 June 2012	..[b]	..[b]
Small Business Innovation Research Pilot Program	Grants	Ongoing	..	..
Tasmania				
Investment Attraction Programme	Grants, concessional loans, payroll tax exemptions, rental assistance, reduced stamp duty, workforce training, and development of feasibility/technical studies	Ongoing	..	..
Victoria				
Beyond Waste Fund	Grants	Was to conclude in September 2014	..	649,398
Community Regional Industry Skills Program (CRISP)	Grants	Undefined	251,490	255,000
Driving Investment for New Recycling	Grants	Until June 2015	262,820	734,268

	Type of subsidy	Duration	2011/12	2012/13
Energy Technology Innovation Strategy	Grants	Undefined[e]	8,000,000	17,250,000
First Farm Grant	Grants	Concluded on 30 June 2012	1,155,000	n.a.
Food and Fibre Marketing Cooperative Grants Program	Grants	Until 30 June 2015 or until funding has been exhausted	..[a]	..[a]
Industry Transition Fund	Not specified[f]	Closed in June 2010	3,021,324	743,000
Innovation Voucher Program	Vouchers	2012/13	n.a.	78,425
Investing in Manufacturing Technology	Grants	2012/13 to 2015/16	n.a.	1,240,000
Investment Support Programme	Not specified[f]	Ongoing	..	..
Linking Farms and Catchments with Irrigation Modernisation Stage II Initiative	Grants	Until 2015/16	3,000,000	2,000,000
Smarter Resources, Smarter Business	Grants	Until June 2015	..	80,220
Technology Voucher Program	Vouchers	4 September 2012 to 4 September 2014	-	-
Victorian Automotive Manufacturing Action Plan (VAMAP)	Grants	2009/10 to 2012/13	403,707	255,500
Western Australia				
Industry Facilitation and Support Program	Grants	Ongoing	..[b]	..[b]
Innovation Capability Development Program	Grants	Ongoing	..[b]	..[b]
Innovation Co-Investment Program	Grants	Ongoing	-	..[b]
Innovation Investment Facilitation Program	Grants	Ongoing	..[b]	..[b]
Innovation Promotion Program	Grants	Ongoing	..[b]	..[b]

n.a. No applicable.
.. Not available.

a Annual subsidy not available; only total value of programme available.
b Annual subsidy not available; only total annual value of programme available.
c The State may offer contributions to the cost of establishing common user infrastructure or other forms of assistance such as land tax and stamp duty at the Minister's discretion.
d The duration of IFP assistance to ACT companies is agreed between the ACT Government and the proponent, with a maximum period of five years.
e The duration depends on the project.
f Financial assistance is linked to the achievement of milestone conditions, is determined on a case-by-case basis.

Source: WTO documents G/SCM/N/253/AUS, 11 September 2013; G/SCM/N/253/AUS/Suppl.1, 24 September 2013; and G/SCM/N/253/AUS/Corr.1, 24 September 2013.

Table A4. 1 Effective rate of combined assistance, by industry grouping, 2008-09 to 2012-13[a]

(%)

	2008-09	2009-10	2010-11	2011-12	2012-13
Primary production[b]	**4.7**	**4.3**	**3.2**	**3.3**	**2.6**
Horticulture and fruit growing	4.4	3.3	3.1	2.9	2.7
Sheep, beef cattle, and grain	6.3	5.7	3.5	3.0	2.3
Other crop growing	2.0	1.9	1.0	1.6	1.5
Dairy cattle farming	4.5	5.9	3.5	2.7	2.1
Other livestock farming	1.2	1.1	0.9	1.4	0.8
Aquaculture and fishing	3.5	4.1	3.7	2.9	2.9
Forestry and logging	-1.3	4.5	5.3	6.6	4.9
Primary production services	0.3	0.1	0.0	0.0	0.0
Mining	**0.2**	**0.2**	**0.2**	**0.4**	**0.2**
Manufacturing[b]	**4.6**	4.5	4.2	4.3	4.2
Food, beverages, and tobacco	3.4	3.4	3.4	3.4	3.4
Textile, clothing, and footwear	13.8	12.2	9.8	8.0	8.1
Wood and paper products	5.2	4.9	4.9	4.8	4.9
Printing and recorded media	3.5	3.5	3.5	3.6	3.7
Petroleum, coal, and chemicals	3.1	3.1	3.1	3.1	3.2
Non-metallic mineral products	2.9	3.0	2.9	3.0	3.1
Metal and fabricated products	4.5	4.5	4.4	4.9	4.5
Motor vehicle and parts	13.1	12.8	9.5	10.3	8.9
Other transport equipment	0.9	0.9	0.8	0.8	0.8
Machinery and equipment	3.2	3.3	3.1	3.1	3.3
Furniture and other products	4.6	4.7	4.7	4.9	5.1

a Combined assistance comprises budgetary, tariff, and agricultural pricing and regulatory assistance.
b Sectoral estimates include assistance to the sector that has not been allocated to specific industry groupings.

Source: Productivity Commission (2014), *Trade & Assistance Review 2012-2013*, 27 June. Viewed at: http://www.pc.gov.au/__data/assets/pdf_file/0007/137788/trade-assistance-review-2012-13.pdf.

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