



-Australia-
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GENERAL FEATURES OF TRADE POLICY

OVERVIEW

The Commonwealth of Australia is a democratic federation of six States and two Territories within the British Commonwealth; each of the six states has its own constitution and government. The states and territories are responsible for a number of trade-related policies such as standardisation, government procurement, state trading and subsidisation.

Australia has 19,4 million inhabitants and a GDP of 400 billion Euro (2000-01). Its manufacturing industry accounts for almost 13% of GDP, the service sector accounts for around 79%, mining for 5%, and agriculture (including fishing and forestry) 3%.

Australia was an active participant in the Uruguay Round negotiations and continues to play an important role in the WTO negotiations. Until the early 1990s, Australia's official trade policy was based on a high level of protectionism. Since then, Australia has pressed on with its unilateral trade liberalisation programme, which has been central to the process of structural reform and the exposure of Australian business to increased competition.

Australia is both rich in natural resources (metallic minerals, coal and gas) and a major exporter of agricultural products, minerals, metals, and fossil fuels. The government is pushing for increased exports of manufactured goods, but competition in international markets continues to be severe.

In contrast, the bulk of Australia's imports continue to be in the manufacturing sector (83% of all imports). Machinery and transport equipment imports appear to have been the main cause for the increased share of manufactures in total merchandise imports (45%). Other significant imports of manufactures include chemicals (12%), textiles and clothing (12%).

Although Australia became a founding member of the WTO in 1995, it is not a member of any of the WTO plurilateral agreements, the Government Procurement agreement being the most important.

Australia provides tariff preferences to a number of countries. The Australia New Zealand Closer Economic Relations - Trade Agreement (CER) provides for reciprocal free trade between Australia and New Zealand. Australia has also bilateral trade agreements with Canada, Malaysia, Papua New Guinea (PATCRA II) and the South Pacific Forum (SPARTECA) island countries.

Australia is a founder member of the Cairns Group of agricultural producing and exporting countries, formed in 1986. The Australian Minister for Trade chairs its annual ministerial meetings. Also Australia is a founding member of Asia-Pacific Economic Cooperation (APEC) and participates in other regional forums

such as the Association of South East Asian Nations Free Trade Area (AFTA)/Australia and Southern Cone Common Market of South America initiatives.

EU- AUSTRALIA TRADE RELATIONS

The EU is Australia's largest economic and trading partner (EU retains a 21% share of all Australian overseas transactions). Exchanges in goods between the EU and Australia amounted in 2000 to 24,4 billion Euro in comparison to 12,6billion Euro in 1990. EU exports almost twice the amount (15,7billion Euro) to Australia, than EU imports from it (8,7billion Euro)

The long-term strength of the EU-Australia economic relationship is underpinned by a well-founded investment partnership. Not only is the EU the leading foreign investor in Australia but the EU is also the second major destination for Australian investment abroad. At the end of June 2000, the level of the EU's accumulated investment in Australia was about \$A235bn.

The EU negotiated for years a framework agreement with Australia covering trade and economic cooperation, including provisions for customs, competition, energy, environmental matters, research, etc. Due to the refusal by Australia of the inclusion of a standard human-rights clause, this proposed agreement has been replaced by a non-binding Joint Declaration, signed on 26 June 1997. In 1994 the EU and Australia negotiated an **agreement on trade in wine**, but a number of residual issues are still to be settled. In 1998 the EU and Australia signed a **Mutual Recognition Agreement on Conformity Assessment (MRA)** that came into effect on 1 January 1999.

The following table is an overview of the tradeflow between the European Union and Australia

Section	Year	Import(Euro)	Export(Euro)
Animals & animal products	1996	170,471,290	48,212,560
	1997	199,106,300	49,786,740
	1998	211,895,150	45,414,880
	1999	237,583,500	67,304,100
	2000	271,504,560	121,614,440
	2001	284,310,240	86,823,090
	2002	241,976,770	121,373,070
	2003	212,348,360	122,833,510
Vegetable products	1996	220,205,080	52,586,750
	1997	231,742,010	63,573,930
	1998	243,238,260	67,622,250
	1999	264,648,360	84,014,650
	2000	237,934,930	88,002,860
	2001	279,985,020	83,822,430
	2002	257,316,400	102,046,820
	2003	131,383,160	115,279,140
Animal or vegetable fats	1996	1,658,620	53,740,560
	1997	3,120,930	46,961,130
	1998	3,372,050	35,050,510
	1999	5,684,910	17,920,400
	2000	8,203,500	61,292,320
	2001	8,161,780	43,615,450
	2002	7,685,610	68,214,370
	2003	5,906,700	56,910,060
Prepared foodstuffs	1996	234,983,130	257,847,550
	1997	323,130,850	338,362,830
	1998	386,466,470	345,956,740
	1999	525,293,260	386,466,550
	2000	635,650,400	451,444,320
	2001	801,071,190	470,960,050
	2002	855,378,530	468,013,910
	2003	837,343,080	478,004,380
	1996	1,575,306,480	20,662,730

Mineral products	1997	1,896,199,190	38,088,870
	1998	1,829,802,210	31,648,760
	1999	1,909,265,000	28,255,720
	2000	2,586,027,640	47,288,010
	2001	2,758,293,580	30,191,130
	2002	2,559,214,140	36,974,480
	2003	2,473,455,380	37,000,100
Chemical products	1996	174,847,060	1,399,537,690
	1997	198,202,780	1,676,865,830
	1998	249,428,790	1,931,712,530
	1999	333,534,620	2,138,458,630
	2000	493,375,020	2,267,753,490
	2001	481,542,010	2,658,830,630
	2002	387,854,580	2,868,229,750
2003	358,088,370	3,148,246,880	
Plastics & rubber	1996	38,331,360	421,778,370
	1997	38,246,240	520,579,710
	1998	36,960,490	529,655,830
	1999	48,074,280	543,382,080
	2000	54,636,810	568,600,540
	2001	73,360,990	568,587,790
	2002	67,069,920	609,822,140
2003	50,413,960	643,841,080	
Hides & skins	1996	225,627,420	47,308,670
	1997	263,700,440	41,412,510
	1998	266,054,780	38,898,960
	1999	193,960,360	38,473,000
	2000	238,054,850	49,606,540
	2001	277,366,330	46,900,040
	2002	231,145,930	45,017,930
2003	196,934,120	41,287,960	
Wood & wood products	1996	12,208,510	65,270,450
	1997	11,806,040	81,703,790
	1998	12,618,180	89,645,650
	1999	14,845,060	115,132,550
	2000	13,576,020	135,386,060
	2001	17,161,070	126,506,580
	2002	21,198,040	163,128,660
2003	26,175,720	153,030,780	
Wood pulp products	1996	13,637,550	620,028,080
	1997	14,378,440	749,931,020
	1998	21,208,930	694,021,450
	1999	18,730,300	701,299,840
	2000	23,634,610	852,339,820
	2001	37,747,810	739,759,760
	2002	71,202,920	730,264,820
2003	49,531,680	735,345,500	
Textiles & textile articles	1996	672,002,380	308,397,480
	1997	903,674,750	338,165,340
	1998	744,654,350	327,449,300
	1999	497,949,780	336,899,850
	2000	676,766,280	349,145,020
	2001	820,984,130	325,605,360
	2002	653,839,470	359,395,010
2003	557,627,700	363,087,700	
Footwear, headgear	1996	3,732,300	72,316,720
	1997	5,879,810	85,487,370
	1998	4,709,750	91,221,270
	1999	5,991,640	84,229,740
	2000	6,900,250	87,725,360
	2001	7,424,970	87,131,970

	2002	7,829,870	87,374,160
	2003	8,831,770	75,727,250
Articles of stone, plaster, cement, asbestos	1996	9,120,800	273,213,330
	1997	10,117,590	311,061,080
	1998	10,835,490	315,921,310
	1999	15,422,860	322,088,800
	2000	18,001,570	338,399,310
	2001	12,532,070	288,279,070
	2002	11,561,820	313,439,220
	2003	14,077,790	315,789,790
Pearls, (semi-)precious stones, metals	1996	297,829,290	77,083,290
	1997	401,361,930	87,580,620
	1998	1,321,549,860	88,273,090
	1999	835,270,120	115,883,290
	2000	846,992,550	142,916,290
	2001	746,731,520	122,513,190
	2002	811,999,410	131,539,880
	2003	1,382,627,710	126,336,190
Base metals & articles thereof	1996	396,890,010	499,845,780
	1997	418,170,410	627,549,960
	1998	521,231,200	614,517,090
	1999	487,169,960	568,404,950
	2000	841,431,090	639,154,640
	2001	842,933,750	584,785,810
	2002	753,690,950	655,819,910
	2003	689,138,430	694,195,640
Machinery & mechanical appliances	1996	324,062,530	3,625,011,650
	1997	368,476,650	3,908,880,460
	1998	429,881,860	3,820,878,850
	1999	544,337,980	4,054,014,570
	2000	673,882,340	4,704,259,970
	2001	664,258,360	4,288,503,280
	2002	639,727,720	4,529,812,470
	2003	655,102,310	4,580,811,210
Transportation equipment	1996	124,387,960	599,683,700
	1997	94,144,650	726,773,890
	1998	201,453,150	787,860,060
	1999	178,116,210	894,942,850
	2000	285,256,670	1,465,002,660
	2001	134,759,520	1,321,896,660
	2002	182,558,960	1,362,115,580
	2003	147,895,150	1,891,233,120
Instruments - measuring, musical	1996	102,048,300	429,780,760
	1997	118,001,500	566,025,190
	1998	126,038,660	521,650,750
	1999	151,318,850	561,523,480
	2000	194,268,200	652,949,990
	2001	238,725,650	708,132,840
	2002	265,735,910	782,053,060
	2003	257,093,400	791,193,380
Arms & ammunition	1996	1,179,600	12,131,380
	1997	548,970	23,305,690
	1998	2,027,590	12,614,480
	1999	1,178,600	12,427,940
	2000	2,870,280	22,594,550
	2001	888,190	20,780,160
	2002	2,428,990	36,673,430
	2003	1,845,550	25,322,660
	1996	22,177,380	196,419,110
	1997	21,884,330	234,665,370
	1998	24,243,090	248,363,930

Miscellaneous	1999	28,067,220	273,355,080
	2000	37,267,320	294,420,490
	2001	35,740,550	249,657,720
	2002	39,981,430	278,986,370
	2003	39,200,910	296,824,860
Works of art	1996	15,641,430	31,979,680
	1997	40,443,020	58,027,350
	1998	226,076,010	39,851,690
	1999	40,838,210	52,800,970
	2000	33,390,380	46,747,920
	2001	71,445,770	38,201,410
	2002	72,308,510	53,855,560
	2003	39,349,660	28,504,820
Other	1996	45,355,790	43,493,770
	1997	94,985,940	42,322,030
	1998	45,521,250	79,215,380
	1999	65,198,990	93,638,250
	2000	69,847,470	103,364,660
	2001	78,562,120	94,209,990
	2002	111,727,290	112,795,760
	2003	99,393,410	126,930,550

Agriculture and Fisheries
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Traditional Australian exports of agricultural products still form a relatively large share of Australias merchandise exports (27%), but have fallen as a proportion of exports due to stronger growth in exports of elaborately transformed manufactures and services.

Australian agricultural industries are, for the most part, not protected by tariffs, but there are some important agricultural and food products which continue to receive tariff protection. They include cheese, certain vegetables (such as spinach and mushrooms), some oilseeds, and various processed foods (such as ham, breakfast cereals, jams and orange juice).

Overall, the Australian agricultural sector receives about a billion A\$ worth of assistance. A\$ 630 million of assistance is provided for agricultural output plus a further A\$ 350 million of aid for rural adjustment, research funding and special income tax concessions are provided.

Australia requires that beef and beef products imported into Australia must be sourced from cattle herds which are free of Bovine Spongiform Encephalopathy (BSE). Following emergency interim measures announced on 5 January 2001 which banned all imports of beef from the European Union (EU), Australia has introduced a stringent certification system based on the categorisation of the exporting country via a formal application to the Australia New Zealand Food Authority (ANZFA).

Following the outbreak of Foot-and-Mouth Disease (FMD) in the European Union, Australia introduced an import ban on a wide range of products from all 15 Member States as from 14 March 2001. The ban was not based on international rules and was lifted very slowly, e.g. for Spain, Portugal, Luxembourg and Austria on 31 October. Restrictions are still being applied to the United Kingdom even though it was officially declared free by the OIE in January 2002.

Services - Other
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Real Estate

Approval is required for foreign acquisitions of interests in urban land (including interests that arise via leases, financing and profit sharing arrangements and the acquisition of interests in urban land corporations and trusts) that involve the:

- acquisition of developed non-residential commercial real estate, where the property is

- subject to heritage listing, valued at A\$5 million or more;
- acquisition of developed non-residential commercial real estate, where the property is not subject to heritage listing, valued at A\$50 million or more;
- acquisition of accommodation facilities irrespective of value;
- acquisition of vacant urban real estate irrespective of value;
- acquisition of residential real estate irrespective of value.

Services -
Communications
& Audiovisual
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2002-04-05

Telecommunications

Telstra Corporation Ltd (Telstra), the national telecommunications provider and the sole universal service provider, is predominantly owned by the Commonwealth of Australia. Since October 1997, the Government has partially privatised Telstra through the sale of 49.9% of its equity to institutional and individual investors.

According to the Australian telecommunications regulations and associated legislation, aggregate foreign ownership of Telstra is restricted to 35% of that privatised equity and individual foreign investors are only allowed to acquire a holding of no more than 5% of that privatised equity.

Prior approval is required for foreign involvement in the establishment of new entrants to the telecommunications sector or investment in existing businesses in the telecommunications sector. Proposals above the notification thresholds are dealt with case by case and will not be approved if judged contrary to the national interest.

Media

All direct (i.e. non-portfolio) proposals by foreign interests to invest in the media sector irrespective of size are subject to prior approval under the Government's foreign investment policy. Proposals involving portfolio share holdings of 5% or more must also be submitted for examination to the Australian Foreign Investment Review Board (FIRB).

Broadcasting

The existing control provisions under the Broadcasting Services Act 1992 limit foreign ownership and control.

While proposals for a foreign person to acquire an interest in an existing broadcasting service or to establish a new broadcasting service are subject to case-by-case examination under foreign investment policy, the following criteria also must be satisfied. A broadcasting regulatory regime, enacted through the Broadcasting Services Act 1992 (BSA), stipulates that:

- Foreign interests in commercial television broadcasting services continue to be limited to a 15% company interest for individuals and a 20% company interest in aggregate. A foreign person cannot exercise control of a commercial television broadcasting licence. No more than 20% of directors may be foreign persons.
- For all subscription television broadcasting services licences, foreign interests are limited to a 20% company interest for an individual and a 35% company interest in aggregate.

Newspapers

Foreign investment in mass circulation national, metropolitan, suburban and provincial newspapers is restricted. All proposals by foreign interests to acquire an interest of 5% or more in an existing newspaper or to establish a new newspaper in Australia are subject to case-by-case examination. The maximum permitted aggregate foreign interest (non-portfolio) investment in national and metropolitan newspapers is 30% with any single foreign shareholder limited to a maximum interest of 25%. Aggregate foreign interest direct involvement in provincial and suburban newspapers is limited to less than 50% for non-portfolio shareholdings.

Services -
Financial
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Foreign investment in the banking sector needs to be consistent with the Banking Act 1959, the Financial Sector (Shareholdings) Act 1998 and banking policy, including prudential requirements. Any proposed foreign takeover or acquisition of an Australian bank would be subject to examination and approval by the Australian **Foreign Investment Review Board (FIRB)**.

The Government will permit the issue of new banking authorities to foreign owned banks where the **Australian Prudential Regulation Authority (APRA)** is satisfied the bank is of sufficient standing, and where the bank agrees to comply with APRA's prudential supervision arrangements.

With regard to mergers, Australia retains its "four pillars" banking policy that prevents Australia's big four banks (National Australia Bank, Commonwealth Bank, Westpac and ANZ) from merging.

Services -
Transport
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Shipping

The **Shipping Registration Act 1981** requires that, for a ship to be registered in Australia, it must be majority Australian-owned (owned by an Australian citizen, a body corporate established by or under law of the Commonwealth or of a State or Territory of Australia), unless the ship is designated as chartered by an Australian operator.

Civil aviation

International airline carriers

Foreign interests may get approval to acquire up to 49% of the equity in an Australian international carrier (other than Qantas) individually or in aggregate provided the proposal is not contrary to the national interest. In the case of Qantas, the Australian airline, total foreign ownership is restricted to a maximum of 49% in aggregate, with individual holdings limited to 25% and aggregate ownership by foreign airlines limited to 35%. In addition, a number of national interest criteria must be satisfied, relating to the nationality of Board members and operational location of the enterprise.

Airports

Foreign investment proposals for acquisitions of interests in Australian airports are subject to case-by-case examination in accordance with the standard notification requirements. In relation to the airports offered for sale by the Commonwealth, the **Airports Act 1996 and associate regulations** stipulate a 49% foreign ownership limit, a 5% airline ownership limit and cross ownership limits between Sydney airport and Melbourne, Brisbane and Perth airports.

TARIFFS AND DUTIES

Applied Tariff Levels

Under a unilateral predetermined programme, which began in 1988, tariffs have been reduced to a simple average tariff of 4,5% in 2000. This includes the high tariffs applicable in the passenger motor vehicle (PMV) and textile, clothing and footwear (TCF) sectors.

On 1 January 2000, 40,8% of Australia's tariff lines were at zero and 39,9% per cent had tariffs between 1 per cent and 5 per cent. A further 4,5% had tariffs between 6 and 10 per cent; 7,9% between 11 and 15 per cent; 0,2% between 16 and 20 per cent and 6,4% were over 20 per cent. Current duty rates may be searched by either an HS Product Code (4 or 6 digits) or by Keywords describing the product in the **Applied Tariffs section** of this Database.

Australia's traditionally protected industries, passenger motor vehicles (PMV) and textiles, clothing and footwear (TCF), continue to receive tariff protection considerably in excess of the manufacturing average. Furthermore, the Government decided in favour of a pause in tariff reductions for the PMV and TCF industries between 2000 and 2005, favouring these two industries at the expense of others.

Tariff Predictability

Australia bound most of its tariff lines in the framework of the Uruguay Round and the Information Technology Agreement signed in 1997. 100% of all agricultural tariff lines, according to the Uruguay Round definition, were bound, compared to 94% for manufactured products. Unbound lines include yarns, textiles, clothing, rubber products and machinery in manufacturing.

Tariff Quotas

Australia maintains tariff quotas on some kinds of cheese, including fresh cheese and curd, grated or powdered cheese and non-grated or powdered processed cheese. Imports from New Zealand and the South Pacific Forum island countries are exempt from this quota.

A tariff of AU\$ 0,096/kg was imposed on imports up to a total of 11.500 tonnes, with imports above that level paying a penal rate (AU\$ 1,22/kg in 2000). Australia also maintains a tariff quota of 11.884 tonnes on unmanufactured tobacco.

Internal Taxation

A new Australian Tax System (Tax Administration Act 1999) started on the 1st of July 2000. A major element of The New Tax System is a Goods and Services Tax (GST) of 10%, which replaces the former wholesales tax. Under the wholesales tax system, there were several different tax rates, which were applied depending on the nature of the goods. According to the New Tax System, Australian Customs works out GST based on 10% of the value of the taxable importation. The value of a taxable importation is the customs value plus the cost of international transport, insurance, customs duty and any wine tax payable. Under the GST, with few exceptions, the flat rate of 10% is applied to all goods and services. Some examples of goods exempt from GST are certain basic foodstuffs and certain medical aids and appliances.

Tax Discrimination

The Federal Government imposes a special luxury tax of 25% on vehicles with a retail value above a certain threshold. Luxury cars will pay the 10% GST of the Australia's New Tax System plus a 25% extra tax on any surplus over a given retail threshold, currently \$A 55.134. Although the Luxury Car Tax applies to both locally manufactured and imported passenger cars, however it is discriminatory in its effects in as much as the burden falls on predominantly EU imported cars, which are usually more expensive than the local ones.

Automotive

Internal Taxation

● 960237- *Luxury Car Tax* [2004-04-28]

In addition to duty of 15% (passenger cars) or 5% (commercial vehicles), and Goods and Service Tax (GST) of 10% (applicable on all retails), Luxury passenger cars are subject to a Luxury Car Tax (LCT). This takes the form of an extra tax on any surplus over the depreciation limit (or luxury tax threshold).

The depreciation limit is yearly indexed by the motor vehicle segment of the consumer price index (Motor Vehicle CPI) and for 2003 amounts to an Australian List price (excl. sales tax) of A\$ 57,009. The following formula is used to then calculate the LCT:

$25\% \times 10/11 \times (\text{luxury car tax value} - \text{luxury car tax threshold})$

Example: A car with a list price of A\$88,000 (GST-inclusive retail value) would be subject to LCT calculated as follows;

A\$ 88,000 - A\$57,009 (LCT Threshold) = 30,991. As the A\$30,991 amount includes GST, the next step is to multiply this amount by 10/11 to exclude GST: $30,991 \times 10/11 = 28,173.63$. This last figure is the GST-exclusive value that exceeds the threshold. This is then multiplied by the LCT rate of 25% to calculate the LCT payable: $25/100 \times 28,173.63 = 7,043.41$.

The Luxury Car Tax does not apply to motor homes and luxury campervans nor to commercial vehicles that are not principally designed to carry passengers. Although the Luxury Car Tax applies to both locally produced and imported passenger cars, it appears to be discriminatory in its effects in that the burden falls predominantly on EU imported cars which are more expensive than locally manufactured ones. It is also noticeable that other luxury goods such as jewellery, yachts etc, are subject only to the 10% GST, and not to a luxury tax.

Textiles and Leather

Tariff Levels

● 960236- *High tariffs* [2001-11-07]

Tariff rates in textile and clothing sector offer a high protection to the domestic industry, reinforced by tariff escalation. While imports of simply-processed inputs enter duty-free, those of semi-processed textiles face average nominal rates of 25%, processed textiles average rates of 27.5%, and fully-processed clothing rates of 35%.

Effective rates of assistance provided to the knitting mills industry amounted to 49% in 2000/01 with a 33% support rate applying to the clothing sector.

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TRADE DEFENCE INSTRUMENTS

A new anti-dumping and countervailing system became effective on 24 July 1998. Under the new arrangements, the Australian Customs Service (Customs) undertakes the entire investigation. Previously, in the case of a positive preliminary finding by Customs, the Anti-Dumping Authority (ADA) would conduct a review of the findings by Customs and also call for additional submissions and gather further information. ADA has been abolished and Customs is now the sole agency responsible for dumping and countervailing investigations. Domestic industry or foreign exporters may appeal against a final finding, but the appeal entails a review of the interpretation of existing information only, with no further investigation. The review is conducted by the new Trade Measures Review Officer (TMRO). Anti-dumping and countervailing action continues to be subject to a five-year sunset clause, with reviews undertaken prior to the expiry date, if there is a request for the action to continue.

Australian Customs and ADA have conducted numerous inquiries and reviews against imports from EU countries. Over a six-year period 1993/94-98/99, 39 cases (27% of the Australian total) were taken against the EU.

According to the monthly [Australian Customs status report](#), the Australian anti-dumping and countervailing actions in force at 31 May 2002 concern the following EU commodities:

- Anti-dumping duties on Airconditioners, split system caravan from Italy;
- Countervailing duties against Brandy (bulk and bottled), from France;
- Anti-dumping duties against Carpet Backing Woven from Belgium or UK;

- Anti-dumping duties on Copy A4 Paper from Germany or Finland;
- Anti-dumping duties on Woodfree Coated Paper imported from Austria, Germany or Finland;
- Countervailing duties on Canned Peaches from Greece;
- Anti-dumping duties on Polyvinyl Chloride Homopolymer Resin (PVC) imported from France;
- Anti-dumping duties on wound/skin closure strips from France; and
- Countervailing duties on Canned Tomatoes from Italy

Agriculture and Fisheries

Anti-Dumping Measure

● 970010- Duties on glacées cherries [2002-06-14]

In 1992 Australia imposed countervailing and anti-dumping duties on glacé cherries (HS 2006.00.90/ 05) from France and Italy. Both antidumping and countervailing measures have already expired: the antidumping actions expired on 8 April 1997 and the countervailing duties on 8 April 2002.

● 970012- Duties on canned peaches [2001-10-25]

In 1992 Australia imposed countervailing duties on imports of canned peaches from Spain and Greece, and anti-dumping duties against the same product imported from Greece.

Countervailing measures against imports from Spain and antidumping duties on imports from Greece expired on 19 February 1997. However, countervailing measures against imports from Greece were extended beyond initial 5 year period until 19-02-2002, as indicated in the Australian Customs Dumping Notice **2001/36 Anti-dumping and countervailing actions - Status Report as at 31 May 2001**.

● 000029- Duties on bulk brandy [2001-07-26]

On 28 February 2000 Australia extended countervailing duties (CVD) on bulk brandy from France for five more years. The CVD, in place since 1990, were due to expire on 27 February 2000. Following an application from the Winemakers Federation of Australia for the continuation of the CVD, Australian Customs Service (ACV) initiated an inquiry on 9 August 1999.

From its inquiries, ACV has established that the Australian market for bulk brandy is supplied by Australian production and by imports, predominantly from France. While the overall bulk brandy market declined by almost 20% over the past 5 years, imports of bulk brandy from France remained stable. In the same period, the market share held by the Australian industry declined by one third to around thirty per cent.

ACV found that the Australian industry has suffered reduced sales, price undercutting and loss of profits that could be linked to the imported subsidised French brandy. The investigation resulted in a **recommendation** to the Minister for Customs that the CVD on exports of bulk brandy from France should be continued for a further five-year period. The recommendation was accepted and the CVD were extended until 27 February 2005.

During the inquiry process the EC and the Federation des Exportateurs de Vins et Spiritueux de France (FEVS) argued against the continuation of the CVD.

Chemicals

Anti-Dumping Measure

● 970009- Dumping allegations [2001-07-25]

The Australian Customs and the Anti-Dumping Authority (ADA) have conducted numerous inquiries and reviews in relation to the alleged dumping of PVC from several EU countries. These are summarised as follows:

- Positive finding against France and negative finding against the Netherlands and Sweden in 1992. Measures were imposed against France.
- Positive finding against Finland in 1993;
- Review for France in 1994, 1995 and 1996;
- Positive finding against Belgium in July 1996. No measures were imposed; and
- Positive finding against Germany and the Netherlands in 1997; no measures were imposed.

On 21 October 1997 antidumping measures on Polyvinyl Chloride Homopolymer Resin PVC (HS 3904.10.00/18) imported from France were extended beyond initial 5-year period until 21/10/02.

Over a six-year period 1992/93-97/98, 65 antidumping cases (32% of the Australian total) were in the chemicals sector. At 31 August 2001 the PVC imported from France remains subject to Australian antidumping measures.

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NON TARIFF BARRIERS

Registration, Documentation, Customs Procedures

A customs declaration must be made for goods with a value of over \$A250 per consignment. Importers of goods subject to quarantine restrictions, require special certificates issued by Government authorities in the country of export confirming that the goods meet Australian regulatory requirements.

Standards, Sanitary and Other Technical Requirements

The national infrastructure for standards in Australia consists of five main bodies, of which two are in the public sector. In October 1990 the governments of the Australian States and Territories, the federal Australian Government and that of New Zealand signed the Agreement on Standards, Accreditation and Quality which aimed to avoid standards inconsistencies among signatories and to align standards with international norms. It was complemented within Australia by a Commonwealth/State Agreement on Mutual Recognition, which entered into force on March 1993. The Agreement's approach is similar to that of the Community's internal market: a product can be sold throughout Australia whenever it meets the requirements for lawful sale in at least one state or territory. However, there are residual areas, where Commonwealth and the States share responsibilities on setting standards, which render market access more costly. It is notably so because the respective competences are not always clear-cut, and, in case of State competences, standards may differ (for example weights and measures). In addition, even where there is an agreement on a uniform standard across the States, rules are not always interpreted and/or implemented in a similar fashion.

Some regulatory authorities with their own standards-setting powers allow for the involvement of foreign companies.

Although Australia became a signatory to the GATT Standards Code on March 1, 1992 (and has now acceded to the WTO Agreement on Technical Barriers to Trade), it maintains restrictive standards requirements and design rules for automobiles, certain automobile parts, electronic equipment, medical and telecommunications equipment, and machinery parts and equipment. However, in light of commitments negotiated under the Uruguay Round negotiations, Australian standards are being rewritten in a number of areas to bring the standards into conformity with Australia's new international obligations.

The Community and Australia signed in 1998 a Mutual Recognition Agreement on Conformity Assessment, which covers the following sectors: pharmaceuticals, medical equipment, telecommunications terminal equipment, low voltage electrical equipment, machinery, pressure vessels, motor vehicles and parts, and electro-magnetic compatibility. The MRA includes all testing and certification procedures, including final approval.

Australia's quarantine regime restricts imports of a large number of agricultural and related food products. Some of the measures - related to sound health and sanitary conditions - are being challenged by WTO members. Foods must not only satisfy quarantine requirements to be sold in Australia, but also they need to comply with the Australia/New Zealand Food Standards Code.

Government Procurement

Australia is the only major industrialised country that has not joined the WTO Agreement on Government Procurement, which means that fair access to the Australian market is restricted, especially at State level. Purchases by Federal agencies subject to the Commonwealth Audit Act amount to some A\$ 5 billion per year, but the States purchases are more important. General acceptance that the value for purchasing by all

levels of Government is at least 10% of GDP.

The Government Procurement Agreement of 1991 between the Commonwealth, States, Territories and New Zealand requires signatories to use "value for money" as the primary decision-making rule for procurement and prohibits discrimination among themselves. However it also allows for preferential margins to be applied in favour of goods of services with a certain Australian or New Zealander content.

Four Australian states maintain such domestic preferences margins for their procurement of goods and related services, a practice that places foreign suppliers at a competitive disadvantage (New South Wales and South Australia at 20% and Western Australia and Tasmania at 10%). No states or territories apply preference margins for purchases of services alone (unrelated to goods).

Subsidies

The revised schemes for the textiles, clothing and footwear (TCF) and passenger motor vehicles (PMV) industries grant import duty credits as a reward for investment in production facilities in the domestic industry and for expenditure on R&D.

The new five-year, \$2 billion Automotive Competitiveness and Investment Scheme (ACIS) to further assist the development of Australia's automotive industry, began on 1 January 2001 and runs until 31 December 2005. The ACIS Scheme encourages Australian manufacturers to invest in R&D and plant and equipment.

The Textile Clothing and Footwear Import Credits Scheme, a part of the Textile, Clothing and Footwear Plan (TCFP), involves also a financial contribution in the form of import duty foregone.

There are other export subsidies at State level, for example, when payroll tax remissions are granted on the basis of export performance (Victoria, New South Wales, Queensland, and South Australia).

Other Non-Tariff Measures

Import Prohibitions

A range of legislation (Customs Act, Commerce/Trade Descriptions Act, Wildlife Protection - Regulation of Exports and Imports Act, Trademarks/Copyright Acts and Quarantine Act) provides for the importation of certain goods to be prohibited either absolutely, from a specified place or conditionally. Some goods may be subject to prohibition or other restrictions under the law of a State or Territory.

Quarantine controls effectively prohibit the importation of a whole range of meat, dairy and other products until they have undergone a risk assessment process. The technical standards ultimately set, e.g. cooked chicken, can effectively preclude the product from international commerce.

Import Licensing

Import permits are generally required for animals, plants and related products for protection against the entry and spread of pests and disease of quarantine significance. Imported foods are liable to inspection to ensure compliance with Australian food standards.

State Trading Enterprises

Pursuant to Article XVII of the GATT, Australia notified eight (*) statutory marketing boards to the WTO Working Party on State Trading Enterprises in September 2000. They were all in the area of agriculture.

Over recent years there has been a concerted attempt by the Federal government to extricate itself from involvement and to set the bodies free to operate as part of the free market.

The monopoly powers of the relevant Boards have been trimmed with this in mind, e.g. the loss of compulsory purchase by AWB Ltd (previously the Australian Wheat Board) and the withdrawal of government guarantee for its borrowings. AWB Ltd does still have an export monopoly power, however, as

does Queensland Sugar Ltd (previously the Queensland Sugar Corp). ABB Grains Ltd (previously the Australian Barley Board) retains strong legal power over barley marketing. The marketing boards have maintained control over the issue of quotas to exporters where particular markets are involved, e.g. the EU in meat and dairy goods.

(*) Aust.Dairy Corporation, Aust.Wheat Board, Queensland Sugar Corp., Grainco, New South Wales Grains Board, Aust.Barley Board, Grain Pool of Western Australia, New South Wales Rice Marketing Board.

Local Content Schemes

There are no manufacturing local-content schemes, in a strict definitional sense, either at the Commonwealth level or maintained by the States and Territories.

However, in broadcasting services, 55% of a commercial licensee's average annual broadcasts (06.00-24.00) must be Australian programmes. A recent controversy has occurred with the classification of New Zealand programmes as Australian under the CER rules. There are also sub-quotas for dramas, children's and documentary programmes. Pay-TV channels focused on drama must allocate 10% of their acquisition expenditure on Australian material.

In addition to these, a number of Federal procurement initiatives are believed to have local content components in the guise of required local value-adding and research and development expenditure in order to secure access to contracts in telecommunications activities (Partnerships for Development and Fixed Terms arrangements) and to listing for pharmaceutical benefits pricing (Pharmaceutical Industry Investment Program) for pharmaceutical products.

Government Procurement

● 960239- *Government Procurement* [2001-07-31]

Australia is just about the only major industrialised country, which has not joined the WTO plurilateral agreement on Government Procurement. In September 97, Australia announced that it was making preparations for a review of the public procurement system. Under the Australia New Zealand Closer Economic Relations Trade Agreement (CER), Australia accords national treatment to New Zealand in government procurement.

A Government Procurement Agreement (GPA) between the Australian Commonwealth Government, the six State Governments, the two Commonwealth Territory Governments, and New Zealand requires signatories to use "value for money" as the primary decision-making rule for procurement and prohibits discrimination among themselves. However it also allows for preferential margins to be applied in favour of goods or services with a certain Australian or New Zealand content.

Moreover, necessary counter-trade/offset requirements are involved in certain purchases.

Several States apply preferential treatment for locally produced goods. The Federal Government, which does not apply such schemes, intends to source at least 10% from small and medium sized companies.

All Australian governments, and New Zealand, are parties to the revised Australia New Zealand Government Procurement Agreement. They have agreed on common approaches on key procurement issues, including assessing the implications of Australia's possible accession to the WTO Agreement on Government Procurement.

Agriculture and Fisheries Competition Issues

● 970014- *State Trading Enterprises* [2002-05-03]

Several producer owned agricultural marketing companies have statutory powers to act as a centralised buyer for the majority of imports and control all exports. Notably AWB Ltd (previously the Australian Wheat Board) which is the single desk seller for export wheat until at least 2004; the Queensland Sugar Ltd (previously Queensland Sugar Corporation) which is the exclusive marketer of Queensland's raw sugar crop; and ABB Grains Ltd (previously the Australian Barley Board) which operate in South Australia and Victoria with single desk export powers.

In September 2000 Australia notified to the WTO nine State Trading Enterprises, all in the area of agriculture.

Subsidies

● 000020- Dairy Industry Package [2002-04-26]

Australia's dairy industry has been long regulated at both Commonwealth and State levels. Until June 2000, the principal regulation was at the State level. Under State regulations farmers were guaranteed a farm-gate price for milk used in the fresh milk market (*market milk*) either through use of quotas (New South Wales, Queensland and Western Australia) or a premium pooling system (Victoria, South Australia and Tasmania). At the Commonwealth level, the Domestic Market Support (DMS) scheme provided support payments (0.95 c/l in 1999/2000) to farmers for production of *manufacturing milk*. The support payments were financed through levies on market milk and on manufactured milk products (cheeses etc) sold domestically.

Both the *Federal DMS on manufacturing milk* and the *States' market milk legislation* ended in June 2000 and have been replaced by a **Dairy Industry Adjustment Package (DIAP)**, which consists of 4 subsidy programs (including a new element announced in May 2001) with a total budget of \$A1,92 billion over 8 years. The main one is a Dairy Structural Adjustment Program (DSAP) totalling approximately \$1,63 billion. This program, funded by a new Commonwealth levy that began on 1 July 2000, is administered by the **Dairy Adjustment Authority (DAA)** established under the Dairy Industry Adjustment Act 2000.

● 000028- Sugar Industry Assistance Pack [2002-04-11]

On 1 September 2000 the government announced a comprehensive assistance package for cane growers. It was described as assistance to address a unique combination of adverse circumstances faced by growers, severely compounded by sustained low world sugar prices and corrupt international markets.

The support includes significant interest subsidies on loans of up to A\$50.000 (28.482 €) used for planting, interest subsidies on general loans up to \$A100.000 (57.000 €), family relief payments, etc. Depending on take-up rates, the cost could be over \$A83 million (42,3 million €). The income support element (the largest component) was extended on 27 June 2001 by six months to 31 December 2001. The package also includes **interest rate subsidies for the 2001/02 season**.

This scheme is additional to the 1993 **Sugar Industry Infrastructure Program (SIIP)** which provided \$A40 m (22,8 million €) for infrastructure development (transport, irrigation and drainage). Benefits claimed from this scheme to date include improved sustainability of approx. 80.000 ha of existing cane land and production of an additional 1,5 million tonnes of cane per annum.

Sanitary and phytosanitary measures

● 970015-Australia- Porkmeat import restrictions. [2004-09-15]

Uncooked pigmeat is prohibited to be imported into Australia from other countries than New Zealand, Canada

Ban on Imports from: Denmark, the Netherlands, France,...

Danish uncooked pigmeat can be imported under very restrictive conditions. Current import regulations require to process the meat, which must be in de-boned condition, in Australia to a core temperature of 56°C for 60 minutes or an approved equivalent heating process to prevent the spread of one specific disease (Porcine Reproductive and Respiratory Syndrome).

These quarantine measures hinder EU exports of fresh or frozen pig meat to the Australian market. If they were replaced by other equivalent measures proposed by EU exporters (heat treatment of 65 degrees Celsius for 10 minutes), EU exports would significantly increase. Even under current extremely hard market access conditions, the Danish exports of fresh or frozen cuts of pig meat to Australia increased from 9 tonnes in 1998 to 8.000 tonnes in 1999 and to 17.000 tonnes in 2000.

In November 1998 Australia launched a **Pigmeat Import Risk Analysis**, which is conducted on a generic basis so that it will examine access for pig meat from all countries.

A revised risk assessment was released and draft import conditions published in May 2004. The new conditions should make it possible to export fresh and frozen meat for processing, meat which has been processed by specified heat treatment and certain cured, dried hams such as Parma and Serrano. However, fresh/frozen meat from countries where PRRS and PMWS are

present will continue to be prohibited.

- The Australian risk analysis has been completed and draft import conditions published in May 2004. Discussions took place on 26/27 April 2004 between Commission and Australia with view to identifying possible solutions to outstanding problems.

● 980010- *Australia- Poultry meat import restrict.* [2004-09-07]

As indicated elsewhere, the Biosecurity Australia Service and the Australian Quarantine and Inspection Service (AQIS), together with the Australian Customs Service and the Australian New Zealand Food Authority (ANZFA) act collectively to impose strict import standards for reasons of health, safety, environment and wildlife protection.

Australia's quarantine requirements for the importation of COOKED CHICKEN MEAT are beyond the extent necessary to protect human or animal life or health. Cooked chicken meat must be cooked at much higher temperatures and for longer periods than normal. Quarantine regulations operating from 10 August 1998 require chicken to be cooked at 74°C for 165 minutes or equivalent combinations of up to 80°C for 125 minutes. The time and temperature required would appear to make the poultry meat unusable for most uses except pet food.

Though the conditions required are based on scientific principles and designed to remove risks from infectious bursal disease virus strain CS88, they appear to constitute a disguised restriction on international trade. Australia's recommended temperature and time requirements create an extreme and unnecessary barrier to trade that has been criticised by its major trading partners as providing high levels of protection to local industry.

A risk analysis based on Australia's new procedures is due in 2004.

- Currently waiting for risk assessment to be published - due mid 2004, following which appropriate discussions will ensue.

● 040033- *Australia- Bovine meat* [2004-12-20]

Import ban on bovine meat because of BSE

- General statement on BSE to all Third Countries during the SPS Committee on 17/03/2004 in reaction on the statement of the USA. During the XXXI SPS Committee in October 2004 the Commission has given a general statement on BSE (Bovine Spongiform Encephalopathy). Some WTO members started to lift the ban due to BSE for some EU live ruminants and ruminant derived products (e.g.: China, New Zealand, Brazil, Philippines). The EC requested other WTO members to follow the same line and to respect guidelines as set up by international organizations (OIE).

Automotive

Quantitative Restrictions and Related Measures

● 960238- *Used vehicle prohibition* [2002-04-11]

Imports of second-hand passenger cars are subject to an ad valorem tariff rate of 15%, with an additional flat rate of \$A 12.000 (\$ US 8.760) charged per vehicle in the case of high volume imports (over 25 cars per licensee or compliance plate holder).

Before a vehicle can be registered in Australia for the first time, it must be fitted with a Compliance Plate. For a passenger car, there is a significant number of Australian Design Rules (ADR) which require formal test evidence to be submitted in the process of gaining Compliance Plate Approval.

Compliance Plate Approval may be obtained under ordinary "full volume" procedures in the case of high volume trade (over 25 cars per licensee or compliance plate holder) or under "low volume" procedures when a manufacturer offers for sale in Australia fewer than a total of one hundred (100) or twenty five (25) vehicles per year depending on the vehicle category, provided the models are eligible for "low volume" certification.

The principle of the eligibility criterion is that the low volume concession should not be extended to the same vehicle which is already available in Australia which has normal volume compliance plate approval. Also Low Volume Compliance Plate Holders must be independent of all other Low Volume Compliance Plate Holders. Otherwise the 25 vehicles/annum limit will be applied to the combined output of the related businesses.

Where Compliance Plate Approval must be obtained under ordinary "full volume" procedures, it is estimated that the cost of testing is likely to be in the \$A 100.000 to \$A 300.000 range. This does not include the cost of at least one, and probably two, vehicles destroyed or very severely

damaged in the test process. Furthermore, in the case of imported used passenger cars approved under the full volume scheme, there is the above mentioned special flat rate of \$ A12.000 tariff on each vehicle.

People dealing in imported used passenger cars under the low volume scheme will be authorised to fit up to 25 Compliance Plates per annum.

Vehicles for use on public roads in Australia are required to be Right Hand Drive (RHD). Left-handed drive cars must be converted to right hand before they may be driven in Australia. Only approved (licensed) garages are permitted to make these conversions. Because of these requirements, only a small number of used cars are imported into Australia each year. In 2000 Australia imported 551 European used vehicles (306 from UK, 201 from Belgium and 21 from Germany).

Subsidies

● 960243- *Export facilitation* [2002-04-26]

Under the terms of the old Passenger Motor Vehicle Export Facilitation Scheme (EFS), automobile manufacturers of vehicles and components offset tariffs payable on the importation of specified automotive products by exporting Australian-made high value added automotive products.

Participants in the EFS program received **subsidies based on the level of exports** of specified automotive products. The subsidies were in the form of duty rebate "credits" which recipients could, in turn, used to offset their duty liability on imports of specified automotive products. In general, the level of the subsidy was determined based on the sales value of the eligible exports, but the calculation was also done in a way, which rewarded domestic value-added. The greater the value of any qualifying exported product, the greater the import credit granted. Significantly, however, there was no requirement that the imported products be physically incorporated into the exported product. Imports of finished vehicles for consumption on the Australian market were fully eligible for duty rebates under this Scheme.

The EFS was replaced in October 1999 by the Automotive Competitiveness and Investment Scheme (ACIS). The ACIS began on 1 January 2001 and is running for five years. Like its EFS predecessor, the ACIS benefits are in the form of transferable import duty credits. The Scheme provides benefits in the form of duty credits to be redeemed on imports of eligible automotive producers. The credits earned through investment are transferable. The benefit is capped at \$A2 billion over the five years. **In contrast to the EFS, the ACIS makes no overt export contingency references. However, the aim to be a "competitive player in the world markets" clearly implies a related export intention.**

Eligible participants in ACIS are passenger motor vehicle (PMV) manufacturers; automotive component producers; and automotive machine tool and tooling producers, and automotive service providers.

Chemicals

Standards and Other Technical Requirements

● 970016- *Rigid Technical Requirements* [2001-07-31]

The operation of the Industrial Chemicals (Notification and Assessment) Act of 1989 and the **National Industrial Chemicals Notification and Assessment Scheme (NICNAS)** is cause of concern. The problem surrounds the export of EU products containing chemical ingredients and their entry for sale in Australia.

According to the 7th Amendment of the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) legislation, company registration is compulsory for companies importing or manufacturing chemical substances incorporated in cosmetics accounting for more than A\$500.000 a year.

Only the chemical substance is taxed. The NICNAS **registration fee** is A\$1.200 when the total value of relevant industrial chemicals imported annually is A\$500.000 or more, but less than A\$5.000.000 (lower level) and A\$7.000 when the value exceeds A\$5.000.000 (upper level).

Iron, Steel and Non-Ferrous Metals

Government Procurement

● 960240- *Local price preference* [2001-07-27]

British Steel, which had hoped to break into the Australian market for rails, has been hit by the local price preference schemes. The terms of tenders by the State Rail Authority of Queensland (in 1994) and in 1996 by the State Rail Authority of New South Wales (worth 55 million) both contained a 20% preference margin to be added to the imported content of goods prior to comparison of prices in the evaluation process. This effectively excludes Community steel producers, and bolsters the monopoly position of BHP, the leading Australian producer.

Pharmaceuticals **Subsidies**

● 960242- *Factor F* [2001-07-30]

Directly export-related support elements was removed from the "Factor f" Scheme in the Australian Pharmaceutical Industry Development Program (PIDP), because of their GATT-inconsistency. Under the Scheme, pharmaceutical manufacturers received price increases for products listed on the Pharmaceutical Benefits Scheme. In return, these companies committed to increases in manufacture, research, product and process development in Australia.

Factor (f) was the sixth pricing factor taken into account by the **Pharmaceutical Benefits Pricing Authority** when recommending the price of pharmaceuticals. The Scheme, intended to offset the adverse impact of tight price controls on industrial innovation, investment, and research and development, was one of the most generously endowed support programmes for individual manufacturing sectors.

Furthermore, the scheme provided an incentive for the use of domestic over imported goods, where it imposed a commitment for the beneficiary to increase value-added in Australia by 50% in 3 years. In addition, participating companies were required to establish export targets.

The Factor (f) Scheme terminated on 30 June 1999 and was replaced by the Pharmaceutical Industry Investment Program (PIIP), which will run for 5 years from July 1999 to June 2004.

Shipbuilding **Subsidies**

● 960244- *Production subsidies* [2001-10-25]

Under the Bounty (Ships) Act of 1989, a production-oriented subsidy ("bounty") is granted for costs linked to vessels constructed in Australia on the basis that the contracts concerned are entered into on or before 31 December 2000 and that the vessel is delivered on or before 31 December 2003. The subsidy is paid to registered shipbuilders at the rate of 3% of eligible costs.

Furthermore a **Shipbuilding Innovation Scheme (SIS)** provides special assistance for product R&D and design innovation. SIS provides assistance at a rate of 50% of eligible expenditure, up to a total of 2% of the construction or modification costs, carried on during the period July 1999/June 2004.

Textiles and Leather

Subsidies

● 960245- *Export subsidies* [2001-07-26]

The Import Credit Scheme for Textile, Clothing and Footwear (TCF), applicable until 30 June 2000, gave companies credits for duty-free imports at a rate of currently 30% of the exported value added. The credits were transferable and could be used to reduce duty payments on imports of textile, clothing and footwear. In 1994/1995, A\$ 143 million worth of credits were granted to the textile industry, giving an average 15.5% rate of export subsidy. Federal government tax expenditure on this scheme between 1996/97 and 1999/00 amounted to \$A455m.

In 1998 the Australian government introduced new legislation to replace the existing TCF scheme. The new **Textiles, Clothing and Footwear Strategic Investment Program (TCF SIP)** commenced on 1 July 2000 and involves a five year \$A 700m subsidy scheme designed to encourage investment. Companies can claim 20% of expenditure on plant and equipment, 45% for R&D and 5% of TCF value-added. There is an aggregate package limit of 5% of a company's sales.

INVESTMENT RELATED BARRIERS

Most foreign investment proposals must be submitted to the **Foreign Investment Review Board (FIRB)**, which makes recommendations to the Government on whether those proposals are suitable for approval under the Government's policy.

The Foreign Acquisitions and Take-overs Act 1975 provides for government's discretion to block specific foreign investment based on "national interest". Australia applies restrictions in more sensitive sectors such as the media and developed residential real estate.

Foreign investment proposals, which require prior approval and therefore should be submitted to the FIRB screening process, are as follows:

- acquisitions of substantial interests in existing Australian businesses with total assets over A\$50 million;
- proposals to establish new businesses involving a total investment of A\$10 million or more;
- portfolio investments in the media of 5% or more and all non-portfolio investments irrespective of size;
- take-overs of offshore companies whose Australian subsidiaries or assets are valued at A\$50 million or more, or account for more than 50% of the target company's global assets;
- direct investments by foreign governments or their agencies irrespective of size;
- acquisitions of interests in urban land that involve the acquisition of developed non-residential commercial real estate (valued over A\$5 million), or the acquisition of vacant urban real estate irrespective of value as well as the acquisition of residential real estate irrespective of value; and
- proposals where any doubt exists as to whether they should be notified.

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IPR

IPR Overview

As an original Member of the WTO, Australia was obliged to bring its laws into conformity with TRIPS by January 1996. In general, Australia provides sound intellectual property protection, including for copyrights, patents, trademarks, designs and integrated circuits, and plant breeder's rights.

Australia currently does not give adequate data protection for agricultural and veterinary chemicals, however changes to the legislative framework being considered should largely meet concerns.

As part of the national competition policy reform of 1995, on 24 June 1999 the Federal Government announced a review of Australia's intellectual property framework. The review covers the Patents Act 1990, the Trademarks Act 1995 and the Designs Act 1906 as well as the Copyright Act 1968 and the Circuit Layouts Act 1989.

International Agreements

Australia is a party to the following agreements:

- Convention Establishing the World Intellectual Property Organisation (1967)
- Paris Convention of 20 March 1883 for the Protection of Industrial Property
- Nice Agreement of 15 June 1957 concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (ratification of the Geneva Act)
- Washington Patent Cooperation Treaty of 19 June 1970
- Strasbourg Agreement of 24 March 1971 concerning the International Patent Classification
- Budapest Treaty on the International recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure of 28 April 1977
- International Convention for the Protection of New Varieties of Plants (1961).

Legislation on Appellations of Origin and Geographic Indications

● 020075-*Rejection of Traditional Expressions* [2002-07-16]

The European Union and Australia signed a Wine Agreement in 1994, which is the legal framework for trade in wines between both parties. In recent years EU and Australian representatives have been discussing amendments to the 1994 Agreement to protect a number of EU geographical indications and traditional expressions, and to improve access of Australian wines to the EU market.

The new agreement is not yet concluded and the negotiations are blocked, mainly as a result of Australia's refusal to accept the concept of traditional expressions among intellectual property rights, and consequently to protect the traditional terms used by EU wine producers.

Chemicals

Other IPR Related Problems

● 970013- *Chemicals patent protection* [2001-07-30]

Proprietary data submitted to obtain marketing authorisation of agricultural and veterinary chemical products are not adequately protected against unfair commercial use in Australia, as required under Article 39(3) TRIPS. In particular, during the 8-12 years that elapse between the filing of the patent and the beginning of the commercial marketing of the product, other companies are allowed to use this information. In addition, the duration of the so far envisaged protection would only last 5 years, instead of the 6 to 10 years data protection in the EC.

While comprehensive legislation is still not in place despite 5 years of negotiation with government, some movement has taken place.

There is now data protection (of up to 7 years) for existing chemicals under review. Since March 1999 there is a period of 5 years exclusive protection for new chemical entities but not for the products made therefrom.

The legislation under draft would extend the new chemical entities protection by 5 years and give downstream product protection; there would be 5 years exclusive protection for data for changes to existing chemicals with a provision for a fixed 10 years protection for all ag/vet chemicals.