



2013 Australian Investment Climate Statement



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The 2013 Investment Climate Statement for Australia uses the exchange rate of A\$1 = U.S. \$1.036 which was the average rate over the year.

Openness to Foreign Investment

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Australia welcomes foreign investment. The United States is the largest direct investor in Australia, while Australia is the tenth largest source of foreign direct investment (FDI) for the United States. In 2011, U.S. direct investment in Australia was US\$136 billion while Australian direct investment in the United States was US\$56 billion. U.S. FDI in Australia accounts for 24 percent of total foreign direct investment in the country and is concentrated largely in resources and energy, manufacturing and the nonbank financial services sector.

Inward foreign investment in Australia is regulated by the Foreign Acquisitions and Takeovers Act 1975 and Australia's Foreign Investment Policy. The Foreign Investment Review Board (FIRB), a division of Australia's Treasury, screens potential foreign investments in Australia above a threshold value of A\$248 million (US\$257 million) and A\$1,078 million for US investors (from January 1, 2013). Based on advice from the FIRB, the Treasurer may deny or place conditions on the approval of particular investments above that threshold on national interest grounds.

Under the AUSFTA, all U.S. “greenfield” investments are exempt from FIRB screening. AUSFTA also raised the threshold for screening of most U.S. acquisition investments in Australia, which now stands at A\$1,078 million (US\$1,117 million) (indexed annually). All foreign persons, including U.S. investors, must notify the Australian government and get prior approval to make investments of five percent or more in the media sector, regardless of the value of the investment.

Measures of Openness

Measure	Year	Index/Ranking
TI Corruption Index	2012	7th
Heritage Economic Freedom	2012	3rd
World Bank Doing Business	2012	10th
MCC Government Effectiveness	2012	Not listed
MCC Rule of Law	2012	Not listed
MCC Control of Corruption	2012	Not listed
MCC Fiscal Policy	2012	Not listed
MCC Trade Policy	2012	Not listed
MCC Regulatory Quality	2012	Not listed
MCC Business Start Up	2012	Not listed
MCC Land Rights Access	2012	Not listed
MCC Natural Resource Management	2012	Not listed

Conversion and Transfer Policies

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The Australian dollar is a fully convertible currency. The government does not maintain currency controls or limit remittance, loan or lease payments. Such payments are processed through standard commercial channels, without governmental interference or delay.

Expropriation and Compensation

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The Australian legal system is firmly grounded on the principles of equal treatment before the law, procedural fairness, judicial precedent, and the independence of the judiciary. Strong safeguards exist to ensure that people are not treated arbitrarily or unfairly by governments or officials. Private property can be expropriated for public purposes in accordance with established principles of international law. Due process rights are well-established and respected, and prompt, adequate and effective compensation is the norm.

Dispute Settlement

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Australia has an established legal and court system for the conduct or supervision of litigation and arbitration, as well as alternate dispute processes. The traditional approach to commercial dispute resolution involves litigation, arbitration and more modern methods of alternative dispute resolution. Australia is a world leader in the development and provision of non-court dispute resolution mechanisms. It is a signatory to all the major international dispute resolution conventions and has organizations that provide international dispute resolution processes.

Property and contractual rights are enforced through the Australian court system, which is based on English Common Law. There are few investment disputes involving foreign companies. Australia is a member of the International Center for the Settlement of Investment Disputes.

AUSFTA establishes a dispute settlement mechanism for disputes arising under the Agreement. In the first instance disputes are to be settled through consultation between the parties. Where these consultations are not effective in resolving the dispute, the Agreement provides for an arbitral panel to consider the matter.

The dispute settlement mechanism provides for compensation for breaches of the agreement, which may include requiring the breach to be corrected, trade compensation to be provided, or monetary compensation in lieu of trade compensation. The FTA does not allow private investors to directly challenge government decisions, but individual investors are able to raise concerns about their treatment by the Australian Government with the U.S. Government.

Performance Requirements and Incentives

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As a general rule, foreign firms establishing themselves in Australia are not subject to performance requirements and incentives.

Right to Private Ownership and Establishment

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The common law system which forms the basis of Australian jurisprudence guarantees the right to private ownership and the establishment of private business enterprises.

Protection of Property Rights

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A strong rule of law protects property rights in Australia and operates against corruption. Both foreign and domestically-owned businesses enjoy considerable flexibility in their licensing, regulation, and employment practices.

Transparency of Regulatory System

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Australia subscribes to the 1976 declaration of the Organization for Economic Cooperation and Development (OECD) concerning International Investment and Multinational Enterprises. The instruments cover national treatment and investment incentives and disincentives, and spell-out voluntary guidelines for the conduct of multinational enterprises in member countries. Australia

also subscribes to two OECD codes of liberalization, one covering capital movements and the other invisible transactions.

Australia ranked third in 2012 (behind Hong Kong and Singapore) on the Heritage Foundation's rankings for 'economic freedom.' The survey has found that Australia ranks highly in the ten economic freedoms and that: "Australia's modern and competitive economy performs well on many of the 10 economic freedoms. The country has a strong tradition of openness to global trade and investment, and transparent and efficient regulations are applied evenly in most cases".

Tax Issues

U.S. businesses have expressed concern over changes to Australia's cross-border transfer tax regime which give the Australian Taxation Office (ATO) significant powers to investigate alleged retrospective tax avoidance. As a result U.S. companies could face significant, unexpected and backdated tax obligations back to 2004 based on the reconstruction by the ATO of "arms length" transactions between parent and subsidiary companies. Further, the amount of interest that can be deductible under "thin capitalization" can be disputed retrospectively if it is considered by the ATO to be in excess of arm's length dealing. In addition, the regime applies only to countries with tax treaties and other companies are exempt from this measure.

U.S. financial firms are subject to a 10 percent interest withholding tax on funding to bank branches from overseas head offices which can make it difficult to more compete with domestic financial services firms. The rate of withholding tax has been phasing down and was to go to 7.5 percent but this was delayed by one year for Budget policy reasons.

Intellectual Property Regime

Australia generally provides strong intellectual property rights (IPR) protection and enforcement through legislation that, among other things, criminalizes copyright piracy and trademark counterfeiting. Under the AUSFTA, Australia must notify the holder of a pharmaceutical patent of a request for marketing approval by a third party for a product claimed by that patent. U.S. and Australian pharmaceutical companies have raised concerns that unnecessary delays in this notification process restrict their options for action against third parties that would infringe their patents if granted marketing approval by the Australian Therapeutic Goods Administration.

Australia was an active participant in the Anti-Counterfeiting Trade Agreement (ACTA) negotiations and signed ACTA in October 2011. It has not yet ratified the agreement. ACTA establishes an international framework that will assist Parties in their efforts to effectively combat the infringement of intellectual property rights (IPRs), in particular the proliferation of counterfeiting and piracy, which undermines legitimate trade and the sustainable development of the world economy.

Australia is currently considering options to address piracy via peer-to-peer file sharing, but negotiation of a voluntary industry code of conduct between Internet service providers and content owners has yet to produce an agreement. A 2012 High Court ruling found ISPs were not responsible for policing online piracy. The court rejected an argument by the film industry that an Australian ISP, iiNet, had the power to prevent its customers from infringing copyright by issuing warnings and suspending or terminating customer accounts. Copyright holders, including U.S. companies, retain the option of suing individuals that breach copyright, but this option is costly.

Efficient Capital Markets and Portfolio Investment

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Australia has an AAA international credit rating with a well-developed, deep and sophisticated financial market, regulated in accordance with international norms. In terms of global turnover, Australia's foreign exchange market is the seventh largest in the world, and the Australian dollar/U.S. dollar is the fourth most traded currency pair globally (BIS, Triennial Central Bank Survey, December 2010).

Australia's four leading banks are highly ranked in terms of financial security and international rankings. Australian banks have one of the lowest non-performing loan ratios of economies surveyed by the IMF. Australia has an open and transparent approach to mergers and acquisitions. There are no "cross-shareholding and "stable shareholder" arrangements used by private firms to restrict foreign investment through mergers and acquisitions. Measures used by private firms to defend against hostile takeovers are not focused on foreign investors. In 2011, Chi-X became Australia's second stock exchange operator in a policy change designed to increase competition.

Competition from State Owned Enterprises

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Australia has steadily privatized most of its SOEs and few remain. Private enterprises are generally allowed to compete with public enterprises under the same terms and conditions with respect to markets, credit, and other business operations, such as licenses and supplies. Public enterprises are not generally accorded material advantages in Australia. Remaining SOEs do not exercise power in a manner which discriminates against or unfairly burdens foreign investors or foreign-owned enterprises.

Australian Commonwealth and state governments have followed policies of privatizing their remaining state-owned assets in areas such as electricity generation, transmission, distribution, and retailing to both domestic and foreign investors. Australia has one sovereign wealth fund, the Future Fund, which was established by the Future Fund Act 2006 to help future governments meet the cost of public sector superannuation (i.e. retirement pension) liabilities by delivering investment returns on contributions to the Fund. There is no regulation prescribing the proportion of the Future Fund's assets which must be invested in Australia or offshore. The Future Fund will increase its foreign exposure, but now has funds mostly invested in Australia.

Corporate Social Responsibility

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In Australia, there is a general awareness of corporate social responsibility among both producers and consumers. Both foreign and local enterprises tend to follow generally accepted corporate social responsibility (CSR) principles such as the OECD Guidelines for Multinational Enterprises. Firms that pursue CSR are often rated highly in surveys of corporate behavior.

Political Violence

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Instances of political violence are a rarity in Australia. As in all liberal democracies, political protests (e.g., rallies, demonstrations, marches, public conflicts between competing interests) form

an integral, though generally minor, part of Australian cultural life. Such protests seldom degenerate into violence.

Corruption

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Australia maintains a comprehensive system of laws and regulations designed to counter corruption. In addition, the government procurement system generally is transparent and well regulated, thereby minimizing opportunities for corrupt dealings. Corruption has not been a factor cited by U.S. businesses as a disincentive to investing in Australia, or to exporting goods and services here. Non-governmental organizations interested in monitoring the global development or anti-corruption measures, including Transparency International, operate freely in Australia. Australia is perceived internationally as having low corruption levels. Transparency International's Corruption Perception Index in December 2012 ranked Australia seventh, ahead of Korea, Japan and the United States.

Australia is an active participant in international efforts to end the bribery of foreign officials. Legislation to give effect to the anti-bribery convention stemming from the OECD 1996 Ministerial Commitment to Criminalize Transnational Bribery was passed in 1999. Legislation explicitly disallowing tax deductions for bribes of foreign officials was enacted in May 2000. At the Commonwealth level, enforcement of anti-corruption laws and regulations is the responsibility of the Attorney General's Department.

Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

U.S. Foreign Corrupt Practices Act: In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: <http://www.justice.gov/criminal/fraud/>

Other Instruments: It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to [add instrument to which this country is party], but generally all countries prohibit the bribery and solicitation of their public officials.

OECD Antibribery Convention: The OECD Antibribery Convention entered into force in February 1999. As of March 2009, there are 38 parties to the Convention including the United States (see <http://www.oecd.org/dataoecd/59/13/40272933.pdf>). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. [Insert information as to whether your country is a party to the OECD Convention.]

UN Convention: The UN Anticorruption Convention entered into force on December 14, 2005, and there are 158 parties to it as of November 2011 (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. [Insert information as to whether your country is a party to the UN Convention.]

OAS Convention: In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 34 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>) [Insert information as to whether your country is a party to the OAS Convention.]

Council of Europe Criminal Law and Civil Law Conventions: Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of

national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 49 member States (48 European countries and the United States). As of December 2011, the Criminal Law Convention has 43 parties and the Civil Law Convention has 34 (see www.coe.int/greco.) [Insert information as to whether your country is a party to the Council of Europe Conventions.]

Free Trade Agreements: While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: <http://www.ustr.gov/trade-agreements/free-trade-agreements>. [Insert information as to whether your country has an FTA with the United States: Country [X] has a free trade agreement (FTA) in place with the United States, the [name of FTA], which came into force. Consult USTR Website for date: <http://www.ustr.gov/trade-agreements/free-trade-agreements>.]

Local Laws: U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department’s U.S. and Foreign Commercial Service can provide assistance with navigating the host country’s legal system and obtaining a list of local legal counsel.

Assistance for U.S. Businesses: The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company’s overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs.

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department’s Advocacy Center and State’s Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center “Report A Trade Barrier” Website at tcc.export.gov/Report_a_Barrier/index.asp.

Guidance on the U.S. FCPA: The Department of Justice’s (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department’s present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ’s Fraud Section Website at www.justice.gov/criminal/fraud/fcpa. Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who

have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at http://www.ogc.doc.gov/trans_anti_bribery.html. More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Anti-Corruption Resources

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a “Lay-Person’s Guide to the FCPA” is available at the U.S. Department of Justice’s Website at: <http://www.justice.gov/criminal/fraud/fcpa>.
- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: http://www.oecd.org/departement/0,3355,en_2649_34859_1_1_1_1_1,00.html. See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>.
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: http://www.ogc.doc.gov/trans_anti_bribery.html.
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: <http://www.transparency.org/research/cpi/overview>. TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See: <http://www.transparency.org/whatwedo/publications>
- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 213 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See <http://info.worldbank.org/governance/wgi/index.asp>. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://data.worldbank.org/data-catalog/BEEPS>.
- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the

rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/s?s=global+enabling+trade+report>.

- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at <http://www.state.gov/g/drl/rls/hrrpt/>.
- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 106 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

Bilateral Investment Agreements

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The Australian Government supports the negotiation of comprehensive Free Trade Agreements (FTAs) that are consistent with the World Trade Organization rules and guidelines and which complement and reinforce the multilateral trading system. Australia has FTAs with the United States, Thailand, Singapore, Chile, Malaysia, and a multilateral FTA with New Zealand and the countries of the Association of Southeast Asian States (ASEAN), all of which contain chapters on investment. The countries covered by these FTAs account for 28 percent of total trade.

Australia is currently engaged in eight FTA negotiations - five bilateral FTA negotiations: China, Japan, Korea, India and Indonesia; and four plurilateral FTA negotiations: the Trans-Pacific Partnership Agreement (TPP), the Regional Comprehensive Economic Partnership (RCEP, consisting of the ASEAN+6 group of nations), the Gulf Cooperation Council (GCC), and a Pacific trade and economic agreement (PACER Plus). The countries covered by these negotiations account for a further 44 percent of Australia's trade.

In December 2009, the United States announced its intention to enter into an Asia-Pacific trade agreement called the Trans-Pacific Partnership (TPP), with the objective of shaping a high standard, broad-based regional agreement. This agreement will create a potential platform for economic integration across the Asia-Pacific region, a means to advance U.S. economic interests with the fastest-growing economies in the world, and a tool to expand U.S. exports, which are critical to U.S. economic recovery and the creation and retention of high-paying, high-quality jobs in the United States. In addition to Australia and the United States, the TPP negotiating partners currently include Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

Australia-United States FTA (AUSFTA): The Australia-United States FTA (AUSFTA) entered into force on January 1, 2005. The comprehensive agreement covers goods, services, investment, financial services, government procurement, standards and technical regulations, telecommunications, competition-related matters, electronic commerce, intellectual property rights, labor and the environment. The agreement has guaranteed U.S. access to the Australian market and the gradual expansion of this access. Under the FTA, trade in goods and services as well as foreign direct investment has continued to expand. More than 99 percent of U.S. exports of manufactured goods are now duty-free. The FTA will also eliminate tariffs on textiles within 10 years of entry into force.

Other Free Trade Agreements: Australia signed a free trade agreement with the Association of Southeast Asian Nations and New Zealand, which became effective in January 2010. The 2003 Singapore-Australia Free Trade Agreement (SAFTA) eliminated most tariffs and increased market access for services. It also harmonized competition policy, government procurement, intellectual property, e-commerce, customs procedures, and business travel. The Thailand-Australia FTA cut tariffs to zero on virtually all goods from January 2010. The Australia-Chile FTA will eliminate tariffs on all merchandise trade between Australia and Chile by 2015.

The Australia-Malaysia FTA (MAFTA) took effect from January 1, 2013 and provides for 98 percent of Australian goods currently exported to Malaysia to be eligible for tariff-free treatment, rising to 99 percent in 2017. Service providers benefit from increased access to the Malaysian market and an easing of rules on control of Malaysian businesses. All remaining Australian tariffs on Malaysian goods have been removed.

OPIC and Other Investment Insurance Programs

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The Australian Government provides assistance to business for the development or expansion of export markets, and business advice on exporting and financial grants through the Export Market Development Grants scheme and the activities of Austrade, Australia's export promotion agency. The Export Finance and Investment Corporation (EFIC) provides export financing assistance to Australian businesses and sometimes overseas buyers. The U.S. Overseas Private Investment Corporation (OPIC) excludes Australia, which is not a developing country. In some cases, the U.S. Export-Import Bank (EXIM) can support major resources and energy projects in Australia to support U.S. jobs and exports.

Labor

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The Australian Government is a party to all International Labor Organization (ILO) conventions.

Australia's unemployment rate was 5.3 percent in November 2012, seasonally adjusted, down from 5.6 percent in early 2010. In the year to May 2012, annual average weekly earnings in Australia grew 3.5 percent, seasonally adjusted. The core inflation rate was 2.5 percent for the year to September 2012. Real wages have grown strongly over the last decade and the mining boom has led to skills shortages in that sector, particularly in Western Australia.

The Fair Work Act provides a safety net of enforceable minimum employment terms and conditions through the National Employment Standards (NES). The NES sets out ten minimum workplace entitlements which apply to all employers and employees in the national workplace relations system, though only certain entitlements apply to casual employees. In 2010, a new body, Fair Work Australia, took over the functions of the former Industrial Relations Commission as an arbitrator of industrial disputes and sets minimum wages for lower paid workers. Other Commonwealth laws set specific employment conditions.

The number of industrial disputes is low by historical standards but has been increasing. In the year ended September 2012, 302,000 working days were lost due to strikes compared to 214,000 during the previous year. 206 industrial disputes were recorded compared to 190 during the

previous year.

The Superannuation Guarantee (Administration) Act 1992 requires employers to contribute a minimum of nine percent of each employee's base salary into that employee's superannuation (i.e., retirement pension) account. Employees may make additional contributions and are entitled to choose their superannuation fund. In the 2010-11 Federal Budget the government announced that the superannuation guarantee rate will gradually increase from 9 percent to 12 percent between July 2013 and July 2019.

In 2001, the Government established the General Employees Entitlements Redundancy Scheme (GEERS), a taxpayer-funded insurance scheme, in response to growing community concerns about the loss of employee entitlements after several companies collapsed. GEER is a basic payment scheme established to assist employees who have lost their employment due to the liquidation or bankruptcy of their employer and who are owed certain employee entitlements. The scheme covers capped unpaid wages, annual and long-service leave, capped payment in lieu of notice, and capped redundancy pay. Employees currently stand ahead of unsecured creditors, but behind lenders with fixed security in the creditors' queue following a company collapse.

General Skilled Migration Program: Immigration has always been an important source for skilled labor in Australia. The Immigration Department has a 'skilled occupations list' (SOL) which can be used by potential applicants seeking to nominate skilled occupations which are acceptable for permanent and temporary skilled migration to Australia under the General Skilled Migration program, and the Employer Nominated Scheme. Applicants must have a nominated occupation when they apply which is applicable to their circumstances.

In 2010–11, 168,685 people migrated to Australia, with a skilled worker component of 113,725. There was an increase in the employer-sponsored program to 39 percent of the skill stream, part of the government's policy to directly target skills shortages through a more demand-driven approach. For the first time, China was Australia's largest source of migrants with a total 29,547 places or 17.5 percent, followed by the United Kingdom (23,931) and India (21,768) respectively. In 2010–11, the government continued to provide for family reunions with 54,543 family places (32 percent of the total migration program).

The number of places available in the Migration Program for 2012-13 is 190,000, which is 5,000 more than the 2011-12 planning level. Of the 5,000 places, 3,400 are allocated to the skilled stream. This is to help meet the demand for skilled migrants. The Family stream has increased to 60,185 places. This is an increase of 1,585 places from the 2011-12 program year. Most of this increase will be in the uncapped Child and Partner visa categories to help keep families together.

The 457 Long Stay Business visa: If an overseas business decides to establish a presence in Australia and relocate for its business operations, it may apply for the status of a Business Sponsor and sponsor personnel for a 457 visa through the Department of Immigration. Business can use the 457 visa program to gain access to priority processing and approval to sponsor skilled workers for six years under a new accreditation scheme. The scheme applies to business that used 457 visas for three years and has a commitment to ensure 75 percent of their workforce is Australian. The 457 visa program aims to alleviate skill shortages in sectors such as mining.

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Australia does not have free trade zones.

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Levels of Foreign Investment: The level of foreign investment in Australia increased by A\$59 billion (US\$61 billion) in 2011 to reach A\$2,030 billion (US\$2,103 billion). Portfolio investment accounted for A\$1,171 billion (US\$1,213 billion) or 58 percent, direct investment for A\$507 billion (US\$525 billion or 25 percent), other investment liabilities for A\$244 billion (US\$253 billion or 13 percent), and financial derivatives for A\$95 billion (US\$98 billion or 5 percent). Of the portfolio investment liabilities, debt securities accounted for A\$858 billion (US\$889 billion or 73 percent) and equity securities for A\$313 billion (US\$324 billion or 27 percent).

The leading investor countries in 2011 by level of investment were the United States, with A\$556 billion (US\$576 billion or 27 percent), the United Kingdom with A\$471 billion (US\$488 billion or 23 percent), Japan with A\$123 billion (US\$127 billion or 6 percent), the Netherlands with A\$44 billion (US\$46 billion or 2 percent), Singapore with A\$41 billion (US\$42 billion or 2 percent) and the Hong Kong Special Administrative Region with A\$39 billion (US\$40 billion or 2 percent). Note: Australian foreign investment statistics are based on current market values.

The stock of foreign direct investment (FDI) in Australia in 2011 was A\$507 billion (US\$525 billion) and the ratio of FDI to GDP of A\$1,487 billion was 34 percent. There is no official listing of major foreign investments by U.S. companies or other companies. The Australian Bureau of Statistics collects this information, but does not release it on a disaggregated basis due to confidentiality provisions. A list of major new resources and energy projects, which often involve significant foreign investment, is compiled by the Australian Bureau of Resources and Energy Economics (BREE). In October 2012 BREE reported 87 committed projects worth A\$268 billion of which 73 percent are gas and petroleum projects.

Australian Investment Abroad: The level of Australian investment abroad reached A\$1,175 billion (US\$1,217 billion) in 2011, an decrease of A\$21 billion (US\$22 billion) in the previous year. Direct investment abroad accounted for A\$339 billion (US\$351 billion or 29 percent), portfolio investment for A\$447 billion (US\$463 billion or 38 percent), other investment for A\$243 billion (US\$252 billion or 21 percent), reserve assets for A\$46 billion (US\$48 billion or 4 percent), and financial derivatives for A\$100 billion (US\$104 billion or 9 percent). Equity has been the leading form of Australian investment abroad during the past decade but this share has declined and in 2011, equity of A\$582 billion (US\$603 billion) represented 50 percent of the total level of investment.

The leading destination country in 2011 was the United States, which accounted for A\$411 billion (US\$426 billion) or 35 percent of the stock of Australian investment abroad. Other major countries of investment were the United Kingdom with A\$193 billion (US\$200 billion, 16 percent), New Zealand with A\$74 billion (US\$77 billion, 6 percent), Canada with A\$43 billion (US\$45 billion, or 3 percent), Japan with A\$35 billion (US\$36 billion, or 3 percent), France with A\$27 billion each (US\$28 billion, 2 percent) and the Netherlands with A\$27 billion (US\$287 billion or 2 percent).

Investment Inflows: Foreign investment in Australia recorded a net inflow of A\$87 billion (US\$90 billion) for 2011, a decrease of A\$15 billion (US\$16 billion) over the previous year. The leading

investor countries were the United States with A\$37 billion (US\$38 billion) or 43 percent, the United Kingdom with A\$17 billion (US\$17 billion) or 20 percent, Germany with A\$17 billion (US\$18 billion) or 20 percent and France with A\$11 billion (US\$11 billion) or 13 percent.

Investment Outflows: Australian investment abroad recorded a net outflow of A\$55 billion (US\$57 billion) for 2011, a decrease of A\$8 billion (US\$8 billion). The leading destination countries were the United States with A\$38 billion (US\$39 billion) or 69 percent, the United Kingdom with A\$17 billion (US\$18 billion), Japan with A\$5 billion (US\$5 billion) or 10 percent and Canada with A\$7 billion (US\$7 billion) or 13 percent.

Web Resources

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Investment Climate Statement - Australia

<http://www.state.gov/e/eb/rls/othr/ics/2013/204594.htm>

Investment Climate Statement - Index

<http://www.state.gov/e/eb/rls/othr/ics/2013/index.htm>

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.

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