



# Submission to the Department of Foreign Affairs and Trade's Southeast Asia Free Trade Agreement Modernisation Review

31 December 2025

## Introduction & Executive Summary

[Global Shield Australia](https://globalshieldpolicy.org) is an independent, non-profit policy advocacy organisation dedicated to reducing global catastrophic risk. We take an all-hazards approach to preparedness, supporting governments to enact and implement policies that prevent and prepare for all forms of risk.

We welcome this opportunity to provide a submission to the Department of Foreign Affairs and Trade's (DFAT) Southeast Asia Free Trade Agreement (FTA) Modernisation Review (the **Review**).

The modernisation of Australia's FTAs with Southeast Asia is a key opportunity to ensure these agreements remain fit for purpose in a rapidly changing strategic, security, and technological environment that is characterised by increasing risk. As such, it is key that the Review examines how these FTAs can better support Australia's and the region's resilience to supply chain shocks and help deliver effective governance of artificial intelligence (AI).

To support that work, our submission makes recommendations in two priority areas:

- (a) **Supply chain resilience:** Australia should embed standing institutional mechanisms, cooperative initiatives, and crisis trade facilitation commitments in our Southeast Asian FTAs to strengthen regional resilience to supply chain disruptions; and
- (b) **AI governance:** Australia's trade agreements with Southeast Asia should establish baseline principles for regulating AI, commit parties to addressing AI risk and security issues, and ensure governments have the policy space necessary for effective oversight of AI.

We would welcome the opportunity to brief DFAT on these matters in more detail, including on the specific recommendations set out below and how provisions could be drafted to implement these in Australia's FTAs.

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## A. Context

Southeast Asia is a key region of growth and innovation. It is a global manufacturing base, services hub, and key node in maritime and air logistics routes. As recognised by the *Southeast Asia Economic Strategy*, “Australia’s prosperity and security is intimately linked to the prosperity and security of its neighbours, and their security and prosperity is similarly linked to ours.”<sup>1</sup>

In addition to being a region of economic opportunity, Southeast Asia is also increasingly subject to geostrategic rivalry and natural hazards. Natural hazards and climate-driven shocks, in particular, can disrupt trade and cause significant human suffering. Countries in the region are also grappling with how to effectively and appropriately govern AI and mitigate the potential catastrophic risk that advanced AI poses.

Australia has long benefited from its ties to Southeast Asia, particularly through work with the Association of Southeast Asian Nations (**ASEAN**) and engagement on trade. Our willingness to innovate on trade architecture and rules with ASEAN counterparts, and to work with the region to address pressing global and regional challenges, has been a key strength of Australia’s foreign and trade policy.

In this context, modernisation of Australia’s trade agreements with Southeast Asia must move beyond a narrow focus on trade liberalisation. While this remains a crucial part of any trade negotiation (and indeed can itself support supply chain resilience among other policy goals), FTA modernisation should also be seen as an opportunity to innovate Australia’s trade agreements to address modern challenges. This requires Australia to show leadership and a willingness to experiment, just as we have done in past years in the face of previous challenges.

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<sup>1</sup> Nicholas Moore AO, *Invested: Australia’s Southeast Asia Economic Strategy to 2040* (September 2023) (*Southeast Asia Economic Strategy*), 1.

## B. Supply Chain Resilience

### Trade agreements and supply chain resilience

Trade agreements play an essential role in making supply chains more resilient, including through commitments on tariff and non-tariff barriers, export controls, and trade facilitation. These provisions have enabled trade diversification, reduced friction in intra-supply chain trade, and enhanced certainty of access to goods and services.

In recent years, however, there has been increasing recognition of the need for trade agreements to do more to secure critical supply chains.<sup>2</sup> When disruptions occur, governments need standing contacts, clear triggers for action, defined procedures, and pre-agreed facilitation tools that can be quickly activated to respond. Joint testing of supply chains and disruption response plans ahead of crises is also essential, as is work with partners to map, assess, and reduce vulnerabilities to Australia's supply chains. These are all areas where trade agreements and associated instruments can make a difference.

### Australian leadership on supply chain resilience

Australia has been an early leader in integrating more explicit supply chain resilience provisions into trade instruments. It was a founding member of the Indo-Pacific Economic Framework for Prosperity (IPEF)<sup>3</sup> and agreed to innovative provisions on trade in humanitarian crises in the recent upgrade of the ASEAN-Australia-New Zealand free trade agreement (AANZFTA).<sup>4</sup>

Australia has also entered Memoranda of Understanding with key partners on supply chain resilience<sup>5</sup> and engaged in sector-specific supply chain work in areas such as critical minerals.<sup>6</sup> Most recently, Australia joined the Pax Silica initiative to better secure technology supply chains.<sup>7</sup>

Australia also has strong domestic foundations for advancing this agenda, including through the work of the Office of Supply Chain Resilience and under the Future Made in Australia initiative.

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<sup>2</sup> See, e.g., Marc Ablong, [Goeconomics at the Edge: How Australia Can Turn Strategic Vulnerability into Economic Power](#), Si Vis Pacem, Para Bellum (24 December 2025); and National Board of Trade Sweden, [The EU's Free Trade Agreements: A Tool to Enhance Crisis Preparedness](#) (2025).

<sup>3</sup> Indo-Pacific Economic Framework for Prosperity Agreement Relating to Supply Chain Resilience (entered into force 24 February 2024).

<sup>4</sup> Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (as amended 21 April 2025) (AANZFTA), Chapter 2, Article 14, and Chapter 4, Article 19.

<sup>5</sup> See, e.g., Department of Industry, Science and Resources, [Enhanced cooperation with the US and UK on critical supply chain resilience](#) (13 September 2024).

<sup>6</sup> See, e.g., Department of Industry, Science and Resources, [United States–Australia Framework for Securing of Supply in the Mining and Processing of Critical Minerals and Rare Earths](#) (21 October 2025); and Department of Industry, Science and Resources, [Memorandum of Understanding between the European Union and Australia on Strategic Partnership on Sustainable Critical and Strategic minerals](#) (28 May 2024).

<sup>7</sup> Department of Industry, Science and Resources, [Australia signs Pax Silica Declaration to secure our digital future](#) (13 December 2025).



## Supply chain resilience and Australia's Southeast Asian FTAs

Supply chain resilience is particularly relevant to Australia's FTAs with Southeast Asia, given:

- (a) Australia's current trade with, and reliance on trade through, the region and existing initial efforts on supply chain resilience under IPEF and AANZFTA;
- (b) Australia is a key source of food and energy for many Southeast Asian economies;<sup>8</sup>
- (c) Southeast Asia is particularly exposed to potential supply chain disruptions and crisis events, including due to severe weather, regional conflicts, and geopolitical volatility;
- (d) The diversity of Australia's Southeast Asian counterparts, which provides opportunities for different forms of innovation on supply chain initiatives with different partners;
- (e) The need in some Southeast Asian economies for assistance to enhance their supply chain resilience and better prepare to respond to crises; and
- (f) ASEAN's own recognition of the need to improve supply chain resilience and desire to address vulnerabilities it faces.<sup>9</sup>

## Recommendations to integrate supply chain resilience into Australia's Southeast Asian FTAs

Global Shield Australia has two key recommendations for how Australia's FTAs with Southeast Asia can be used to make supply chains more resilient. In broad terms:

- (a) **Australia should embed crisis response mechanisms within FTAs with Southeast Asian partners; and**
- (b) **Australia's FTAs with Southeast Asia should contain commitments to maintain and facilitate trade in essential goods and services in a crisis.**

### Recommendation 1: Embed supply chain resilience mechanisms within Southeast Asian trade agreements

In a crisis or shock, coordination between governments often starts too late and moves too slowly. Governments may lack standing channels and established procedures for quick engagement. As a result, valuable time can be lost to locating the right counterparts, negotiating response options, and improvising arrangements during a disruption. Further, without prior engagement between governments, vulnerabilities in supply chains can remain hidden until they fail during a crisis.

**Trade agreements can mitigate this risk by establishing bodies focused on enhancing supply chain resilience.** For example, the IPEF Supply Chain Agreement (**IPEF SCA**) established a Supply

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<sup>8</sup> Southeast Asia Economic Strategy, 43 and 53.

<sup>9</sup> See, e.g., ASEAN Secretariat, [Framework on ASEAN Supply Chain Efficiency and Resilience](#) (2024); and ASEAN Secretariat, [ASEAN Convenes Inaugural ASEAN Geoeconomics Task Force Meeting, Strengthening Regional Resilience amidst Global Trade Shifts](#) (16 May 2025).

Chain Council and a Crisis Response Network (among other bodies) to better understand regional supply chains and respond to crises. As recently as last month, work under the IPEF SCA included running supply chain crisis simulations and undertaking capability-building with IPEF members.<sup>10</sup>

In the context of Australia's FTAs with Southeast Asia, potential functions for such bodies include:

- (a) Establishing designated contact points and notification procedures for use during a crisis. Notifications could be required when a party declares a domestic emergency that could affect trade, anticipates disruptions to critical sectors, or is imposing emergency trade restrictions;
- (b) Mapping key supply chains between Australia and FTA partner(s), their critical inputs (particularly from non-FTA countries), and vulnerabilities. This should be followed by work to strengthen these supply chains and put in place joint contingency plans;
- (c) Undertaking regular stress testing of supply chains through tabletop exercises to identify and remediate points of failure, vulnerabilities, and obstacles to resilient trade;
- (d) Organising support for parties facing localised, targeted, or domestic disruptions, particularly where a humanitarian crisis or an emergency is likely; and
- (e) Coordinating preparedness for and responses to crises, including priority clearance arrangements for essential goods, deconflicting temporary emergency measures, regional stockpiling arrangements,<sup>11</sup> and supporting the continued supply of essential services (including temporary essential workers).

These functions are particularly suited for a body under the **AANZFTA**, given its region-wide coverage, recent language on trade in crises, and existing capacity-building programs. Australia's FTA with **Singapore** is a natural fit for such a body, given Singapore's participation in IPEF, centrality to regional trade, and existing deep FTA with Australia. **Indonesia** is also a strong candidate for an initiative of this kind, given its proximity to Australia and the potential for disruptions there to rapidly flow through to Australia.

### Recommendation 2: Commit to maintaining and facilitating trade on essential goods and services in a crisis

Governments often respond to crises with reflexive protectionist measures, which can then worsen the impact of the original disruption. These can exacerbate shortages and erode trust between governments. Many of these measures are also unnecessary, particularly where economies have complementary strengths and weaknesses in different sectors.

**Trade agreements can help prevent unnecessary trade disruptions during a crisis through trade continuity provisions.** Such provisions aim to (a) guarantee the supply of essential goods and

<sup>10</sup> See, e.g., Jang Yun-seo, [Korea leads IPEF crisis network to build joint supply chain response manual](#), ChosunBiz (11 December 2025).

<sup>11</sup> See, e.g., the ASEAN Plus Three Emergency Rice Reserves at [apterr.org](#).

services during a crisis, and (b) remove non-tariff barriers to trade to facilitate the flow of goods during a crisis.<sup>12</sup>

To **guarantee essential supplies in a crisis**, trade agreements can commit parties to not impose export restrictions or prohibitions on a negotiated list of essential goods (and potentially services) during an emergency or crisis, building on existing WTO and FTA rules. This would be subject to narrowly framed exceptions for genuine national security or similar reasons, with notification, consultation, and review obligations. The negotiated list could reflect Australia's specific areas of abundance and the products the Southeast Asian counterparty is best positioned to supply.

The New Zealand–Singapore *Agreement on Trade in Essential Supplies (AOTES)* is a useful precedent for this work, and demonstrates how innovative governments can put these rules into place to provide greater certainty during a crisis.<sup>13</sup>

**Facilitating trade in essential goods** is also key in a crisis. The recent upgrade to AANZFTA provides a good example of pathfinding work in this area, including best endeavours provisions to expedite the movement of essential goods, share information on non-tariff measures, and refrain from imposing new non-tariff barriers during a crisis.<sup>14</sup>

Building on this precedent, Australia should upgrade these provisions from best endeavours to binding commitments and consider what more specific obligations could be useful in a crisis. These could include, for example, streamlined rules of origin requirements for critical goods, expedited customs pathways for trusted traders, and temporary recognition of standards and conformity assessment for essential goods. Work to establish 'green' visa pathways for essential workers should also be considered.

**Singapore** would be a good partner for this work, given its existing agreement with New Zealand and reliance on imports. The existing wording within **AANZFTA** also provides a solid foundation for further development. Other bilateral partners could be considered based on historical trade patterns and where Australia sources critical supplies.

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<sup>12</sup> See, e.g., UNESCAP, [Model Chapter on Trade in Crisis Situations in Regional Trade Agreements](#) (2022); and UNESCAP, [Handbook on Provisions and Options for Trade in Times of Crisis and Pandemic](#) (2021).

<sup>13</sup> Ministry of Foreign Affairs and Trade (New Zealand), [Agreement on Trade in Essential Supplies](#) (2025).

<sup>14</sup> AANZFTA, Chapter 2, Article 14, and Chapter 4, Article 19.

## C. AI Governance

Advanced AI promises enormous benefits for our economies and societies. It also presents significant threats to global safety and security, including cross-border threats that require international cooperation to mitigate.<sup>15</sup> A coherent and effective approach to regulating AI, developed in collaboration with regional partners, will be essential to maximising its benefits and minimising the risk.

Modernising Australia's Southeast Asia trade agreements can help in these efforts by: embedding recognition of baseline principles for AI governance, putting in place commitments to regulate high-risk AI, enabling capacity building and technical assistance, and ensuring existing trade rules do not inappropriately limit effective action on AI governance.<sup>16</sup>

### Trade agreements and AI: existing practice

Trade agreements already include a range of provisions relevant to AI. This includes commitments on tariffs and export controls, which are relevant to physical inputs into AI supply chains (ranging from critical minerals through to semiconductors); measures aimed at harmonising technical barriers to trade; digital and AI-enabled services market access and non-discrimination commitments; data flows and data localisation rules; and provisions that protect intellectual property and source code.

Trade agreements have also begun to incorporate AI-specific language. However, the prevailing approach to these provisions focuses on cooperation, best endeavours, and recognition, with little clear evidence of impact or implementation efforts yet.<sup>17</sup>

Australia has again been an early leader in this area. We have agreements with Singapore, the United Arab Emirates, and the United Kingdom containing AI-specific provisions.<sup>18</sup> These provisions generally:

- (a) Emphasise cooperation and collaboration, information sharing, and promoting responsible use and adoption;

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<sup>15</sup> See the [Bletchley Declaration by Countries Attending the AI Safety Summit](#), 1–2 November 2023, which noted that: “Many risks arising from AI are inherently international in nature, and so are best addressed through international cooperation”.

<sup>16</sup> See also Siqi Li and Rojjanakajorn Tanita, ‘AI-Related Disciplines: A Comparative Analysis of Regional Trade Agreements and National Regulatory Approaches’ (2025) 59(1) *Journal of World Trade* 23, 49ff, which discusses how FTA commitments on AI can be strengthened.

<sup>17</sup> Siqi Li, [Shaping AI rules through trade agreements](#), UNESCAP Blog (28 August 2024); United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), [Asia-Pacific Trade and Investment Trends 2024/2025: Preferential Trade Agreements](#) (2024), 20.

<sup>18</sup> *Singapore-Australia Free Trade Agreement* (as amended 8 December 2020) (**SAFTA**), Chapter 14, Article 31; *Free Trade Agreement between Australia and the United Kingdom of Great Britain and Northern Ireland* (entered into force 31 May 2023) (**AUKFTA**), Article 20.4; *Comprehensive Economic Partnership Agreement between the Government of Australia and the Government of the United Arab Emirates* (entered into force 1 October 2025), Article 12.24.



- (b) Recognise the importance of ethical governance frameworks, and enabling trusted, safe, and responsible AI; and
- (c) Commit the parties to collaborate on AI governance in international fora.

While these are all strong starting points, there is significantly more that FTAs could be doing to reduce AI risk, promote trusted, safe, and responsible AI, and thereby support greater adoption of AI and trade in AI products.

## ASEAN and AI governance

ASEAN's current focus on digital economy issues and AI in particular also makes AI governance a key area of joint interest for engagement under the Southeast Asia FTA Modernisation Review.<sup>19</sup>

ASEAN is in the final stages of negotiation of its Digital Economy Framework Agreement (DEFA). It has also recently released the ASEAN Guide on AI Governance and Ethics (2024) and Expanded ASEAN Guide for Generative AI (2025), which help establish baseline principles and guidelines for the region and also recognise the “*frontier and systemic risks*” associated with “*highly advanced Gen AI models*”.<sup>20</sup>

The ASEAN Responsible AI Roadmap (2025-2030) also clearly articulates ASEAN's vision for responsible AI and sets out ASEAN's priorities in this area, which include to:

**1. Enhance ASEAN public-sector capacities on AI:** Strengthen governmental and institutional capabilities through targeted training and development programs, ensuring effective AI policy alignment and implementation in the provision of digital services across the region.

...

**7. Multiply cross-border collaboration initiatives on AI and AI governance:** Increase regional and international cooperation on AI projects and governance strategies, leveraging the ASEAN Guide on AI Governance and Ethics to mobilize the exchange of knowledge, expertise, best practices, and resources for shared benefits.

**8. Sustain global engagement and collaboration for responsible AI:** Maintain active participation in global AI forums and partnerships, ensuring that ASEAN's voice is heard and recognized in global AI governance discussions and that its experience is used to both shape and follow international norms and best practices.<sup>21</sup>

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<sup>19</sup> See, e.g., Faiza Saleem, [Which way for ASEAN's AI governance approach?](#), The Interpreter (23 September 2025).

<sup>20</sup> ASEAN Secretariat, [Expanded ASEAN Guide on AI Governance and Ethics – Generative AI](#) (January 2025), 2, 17.

<sup>21</sup> ASEAN Secretariat, [ASEAN Responsible AI Roadmap \(2025–2030\)](#) (March 2025), 7



## Building a ‘trusted AI trade’ agenda

In this context, the modernisation of Australia’s Southeast Asian FTAs is an ideal opportunity for Australia to pioneer a modern ‘trusted AI trade’ agenda with ASEAN partners. Such an agenda would support innovation and adoption by embedding measures in FTAs that reduce AI risk, build trust across the region, and help to advance ASEAN’s internal AI agenda, through provisions that:

- (a) Establish common baseline principles to guide AI regulation;
- (b) Commit parties to implement and enforce domestic AI governance frameworks (including commitments not to derogate from such rules to attract trade or investment); and
- (c) Enable capacity building and technical assistance to bridge capability gaps and support equitable access to this technology.

Such provisions could be placed within existing chapters (such as those on digital trade or institutional provisions), or within a specific AI Chapter.<sup>22</sup> An AI Chapter may be the preferable approach to incorporating these provisions, as it would highlight their presence, make the application or regulation of dispute settlement more straightforward, ensure they are consistently scoped and drafted, and enable easier upgrades and amendments.

In addition to these new provisions, a review of existing trade rules should also be undertaken to ensure they do not unduly limit the government’s ability to regulate this rapidly evolving technology.

### Recommendation 3: Recognise common principles and standards to guide approaches to AI regulation in Australia’s Southeast Asian FTAs

Divergent approaches to AI governance and regulation risk regulatory fragmentation and a potential ‘race to the bottom’ between jurisdictions. This creates uncertainty for businesses, gaps in regional governance, and barriers to cross-border trade.<sup>23</sup>

In line with the existing practice on AI in trade agreements summarised above, **Australia’s modernised Southeast Asian FTAs should include recognition provisions that establish common reference points and minimum principles for how parties will approach AI governance and regulation.**<sup>24</sup>

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<sup>22</sup> Note, while it may also be possible to utilise an Annex to an existing chapter to cover some of these provisions, depending on how extensive the contents is it may not be possible to find a single chapter with an appropriately broad scope (for example, if the Annex contains provisions relating to trade in AI products, AI services, and AI intellectual property).

<sup>23</sup> See Siqi Li, [Shaping AI rules through trade agreements](#), UNESCAP Blog (28 August 2024), who notes that “[w]ithout coordination, AI-related trade policy risks becoming fragmented, reducing interoperability, and limiting economic growth”.

<sup>24</sup> See Pacific Economic Cooperation Council, [Modernizing Digital Trade: Updating the CPTPP’s Digital Economy Measures](#) (October 2025), 7.

As has been done in many environment and labour chapters in Australia's past FTAs,<sup>25</sup> these recognition provisions should cross-reference relevant regional and international instruments (where the relevant parties have endorsed them) or draw on their language to avoid unnecessary divergence from emerging global norms. Examples of potentially relevant instruments include:

- (a) The **Bletchley Declaration**,<sup>26</sup> **Seoul Declaration**,<sup>27</sup> and **Paris Statement**;<sup>28</sup>
- (b) The **OECD AI Principles**,<sup>29</sup> **G20 AI Principles**,<sup>30</sup> and **G7 Hiroshima AI Process Guiding Principles for Organizations Developing Advanced AI System**;<sup>31</sup>
- (c) **UNESCO's Recommendation on the Ethics of AI**;<sup>32</sup> and
- (d) **United Nations General Assembly (UNGA) Resolution 78/265 on seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development**.<sup>33</sup>

The recognition provisions should at minimum recognise that where AI systems cause harm this undermines confidence in their adoption,<sup>34</sup> that advanced AI systems pose a significant risk of harm, that parties should adopt a risk-based approach to AI regulation,<sup>35</sup> and the importance of regulations enabling trusted, safe and responsible use of AI. These are principles that Australia and others have supported in various fora (see **Box 1**). The recognition provisions should also include commitments to cooperate on AI standards and principles in other international fora, and be accompanied by bodies under each FTA tasked with supporting this work.

**AANZFTA** would be a good vehicle for including baseline recognition language as it would support regulatory coherence across ASEAN and help set regional norms. **Malaysia, Thailand, and Vietnam** are all actively considering or enacting AI regulation, making them strong candidates for early bilateral alignment on basic principles to guide this work. Existing language in Australia's FTA with **Singapore** could also be updated to reflect current best practice.

<sup>25</sup> See, e.g., AUKFTA, Article 21.7.

<sup>26</sup> [The Bletchley Declaration by Countries Attending the AI Safety Summit](#) (1-2 November 2023).

<sup>27</sup> [Seoul Declaration for Safe, Innovative and Inclusive AI by Participants Attending the Leaders' Session of the AI Seoul Summit](#) (21 May 2024).

<sup>28</sup> [Statement on Inclusive and Sustainable Artificial Intelligence for People and Planet](#) (11 February 2025).

<sup>29</sup> OECD, [Recommendation of the Council on Artificial Intelligence](#), OECD/LEGAL/0449 (2019, updated 2024).

<sup>30</sup> G20, "[G20 AI Principles](#)", Annex to G20 Ministerial Statement on Trade and Digital Economy (8-9 June 2019).

<sup>31</sup> G7, [Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI System](#) (30 October 2023).

<sup>32</sup> UNESCO, [Recommendation on the Ethics of Artificial Intelligence](#), SHS/BIO/PI/2021/1 (23 November 2021).

<sup>33</sup> UN General Assembly, [Seizing the Opportunities of Safe, Secure and Trustworthy Artificial Intelligence Systems for Sustainable Development](#), A/RES/78/265 (1 April 2024).

<sup>34</sup> See similar language in relation to cybersecurity in, e.g., the WTO Joint Statement Initiative on Electronic Commerce, [Agreement on Electronic Commerce](#), INF/ECOM/87 (26 July 2024), Article 17(1).

<sup>35</sup> See also Siqi Li and Rojjanakajorn Tanita, 'AI-Related Disciplines: A Comparative Analysis of Regional Trade Agreements and National Regulatory Approaches' (2025) 59(1) *Journal of World Trade* 23, 49.

**Box 1. Statements from selected international documents on AI risk and regulation**

- **The Bletchley Declaration:** *“AI also poses significant risks... Substantial risks may arise from potential intentional misuse or unintended issues of control relating to alignment with human intent. ... There is potential for serious, even catastrophic, harm, either deliberate or unintentional, stemming from the most significant capabilities of these AI models. ... we affirm that deepening our understanding of these potential risks and of actions to address them is especially urgent. ... [cooperation will focus on] identifying AI safety risks of shared concern [and] ... building respective risk-based policies across our countries to ensure safety...”*
- **The Seoul Declaration:** *“It is imperative to guard against the full spectrum of AI risks... We recognize our role to establish frameworks for managing risks posed by the design, development, deployment and use of commercially or publicly available frontier AI models or systems in our respective jurisdictions. ... We recognize that such severe risks could be posed by the potential model or system capability to meaningfully assist non-state actors in advancing the development, production, acquisition or use of chemical or biological weapons, as well as their means of delivery. ... We further recognize that such severe risks could be posed by the potential model or system capability or propensity to evade human oversight...”*
- **The Paris Statement:** *“Harnessing the benefits of AI technologies to support our economies and societies depends on advancing Trust and Safety.”*
- **The OECD AI Principles:** *“AI systems should be robust, secure and safe throughout their entire lifecycle so that...they function appropriately and do not pose unreasonable safety and/or security risks. Mechanisms should be in place, as appropriate, to ensure that if AI systems risk causing undue harm or exhibit undesired behaviour, they can be overridden, repaired, and/or decommissioned safely as needed.”*
- **UNGA Resolution 78/265:** *“Recognizing also that the improper or malicious design, development, deployment and use of artificial intelligence systems, such as without adequate safeguards or in a manner inconsistent with international law, pose risks that could...increase the potential risk for accidents and compound threats from malicious actors....”*

#### Recommendation 4: Commit to implement and enforce national AI governance frameworks

To effectively support trusted AI trade, **Australia's FTAs will ultimately need to move beyond mere recognition and 'best endeavours' commitments, and also include binding obligations on parties to have appropriate legal frameworks in place that address AI risk.** Weak regulatory frameworks in one jurisdiction can create vulnerabilities for others (including Australia), particularly when AI supply chains span countries or AI is embedded in goods and services crossing borders.

Locking in specific AI regulations under an FTA is unrealistic and potentially counterproductive, given the pace of AI development. However, obligations to maintain regulatory frameworks governing high-risk AI and to address safety, security, and the protection of human dignity would be valuable and could be agreed with counterparts. These would set high-level requirements while remaining flexible about how they are implemented.

This approach would be similar to existing digital trade rules on issues such as personal information protection or online consumer protection.<sup>36</sup> These establish obligations to, for example, “*adopt or maintain a legal framework that provides for the protection of the personal information of the users of digital trade*” and provide minimum principles the parties are to take into account when doing so.<sup>37</sup>

These provisions should also include commitments to not derogate from AI governance laws to attract trade or investment, similar to those found in environment chapters. For example, Article 22.3 of the *Australia-United Kingdom Free Trade Agreement* requires the parties to “*not waive or otherwise derogate from...[their] environmental laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment...*”.<sup>38</sup> This language could be readily adapted for the AI context.

Given the higher ambition of these provisions, they are more likely to be appropriate in bilateral FTAs at first instance. **Singapore** is well positioned to negotiate these provisions, given its leadership on AI governance in the region and maturity in other areas of digital trade rules. **Malaysia, Thailand, and Vietnam** may also be strong prospects, given their recent moves to adopt AI regulation. **Indonesia** has also announced plans to establish a legal framework for artificial intelligence, which may make it a plausible early candidate. The **Philippines** also has multiple AI bills before its legislature, so it may have an interest in this work.

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<sup>36</sup> See, e.g., AUKFTA, Article 14.16.

<sup>37</sup> AUKFTA, Article 14.12.

<sup>38</sup> See also AUKFTA, Article 21.5.

### Recommendation 5: Invest in capacity building and technical assistance on AI governance

AI provisions in FTAs risk becoming merely symbolic if regulators lack the tools, training, and institutional capacity to implement them effectively. While many governments seek to keep pace with best practice approaches to AI regulation, capacity and capability gaps can limit their ability to do so.<sup>39</sup>

As such, **capacity building and technical cooperation will be critical to building trusted AI trade in and with Southeast Asia.** This should include support for regulator training, assurance capabilities, incident response and information sharing, and piloting pathways towards regulatory alignment. This work would not only promote AI inclusion, by facilitating broader access to trusted AI systems, but also bolster regional safety and security, enabling Australia to integrate into the region's AI supply chains with confidence.

AANZFTA's Implementation Support Program is a natural home for this work, given its existing capacity building and technical assistance work across ASEAN.

### Recommendation 6: Review existing trade rules, in particular on source code, to ensure governments have appropriate policy space to regulate AI

Australia's FTAs with Southeast Asia contain a range of rules that constrain how governments can regulate. These rules are accompanied by exceptions for public policy and security objectives to ensure they do not unduly impinge on legitimate government action. Given the significant impact advanced AI is likely to have on economies and societies, **governments need to ensure that existing trade rules and exceptions are appropriately scoped and provide sufficient policy space to address emerging issues associated with AI.**

A key example of this need can be seen in source code protections that are common across digital trade rules. These are important provisions that ensure companies cannot be improperly forced to transfer the source code in their products to governments.<sup>40</sup> However, where these are drafted too broadly or without sufficiently clear exceptions, they may hinder legitimate oversight of AI model development and deployment.<sup>41</sup> In particular, if these provisions cover AI model weights or other aspects of AI model development, and do not include clear exceptions for regulatory access, they could hamper the access regulators need to enable trusted AI trade.

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<sup>39</sup> Siqi Li, [Shaping AI rules through trade agreements](#), UNESCAP Blog (28 August 2024), who suggests there is a "need for targeted assistance, regulatory cooperation, and capacity-building initiatives".

<sup>40</sup> See, e.g., *Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (entered into force 30 December 2018), Article 14.17.

<sup>41</sup> See Andrew D. Mitchell, et al, 'AI Regulation and the Protection of Source Code' (2023) 31(4) *International Journal of Law and Information Technology* 283; Emily Jones et al., '[AI Governance and the Future of Digital Trade Policy: Options for the UK](#)', *Blavatnik School of Government Policy Brief* (9 October 2024); and Luca Bertuzzi, [How trade commitments narrowed EU rules to access AI's source codes](#), Euractiv (3 May 2023).

In relation to source code protection articles, Australia should ensure the scope of these rules and their exceptions clearly allows for mandatory access to AI models for testing and compliance purposes. Australia's practice under its FTA with Singapore provides a useful precedent to build upon for this, in particular the exception it contains to this rule for an "*investigation, inspection, examination, enforcement action, or judicial or administrative proceeding*".<sup>42</sup> Consideration should be given, however, to clarifying that the exception also covers conformity assessment bodies and monitoring compliance with codes of conduct and other standards, as other countries have done.<sup>43</sup>

However, the concerns identified with source code protection provisions merely highlight the broader need to review Australia's standard approach to other trade rules, including in relation to digital trade, services, intellectual property, and other areas, to assess whether they provide sufficient policy space for AI governance regulations.<sup>44</sup> Such a review would also align with the Government's reliance on agencies to "*identify and manage harms and report any gaps in laws*" regarding AI.<sup>45</sup>

## Conclusion

Australia should seize the opportunity presented by the Southeast Asia FTA Modernisation Review to ensure these agreements are equipped to meet modern challenges. In particular, these agreements should be treated not only as instruments for trade liberalisation, but also as tools for building supply chain resilience and enabling effective AI governance across the region.

By embedding crisis response mechanisms and trade continuity commitments in FTAs, Australia and its Southeast Asian partners can better withstand and respond to future supply chain shocks. By prosecuting a trusted AI trade agenda – grounded in common principles, commitments on domestic governance frameworks, and capacity building – these agreements can also help realise the benefits of AI while reducing the risk of serious harm.

Global Shield Australia would welcome the opportunity to engage further with DFAT on our recommendations, including to share the analysis underpinning our submission and treaty drafting options to implement our proposals in specific FTAs.

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<sup>42</sup> SAFTA, Chapter 14, Article 28.

<sup>43</sup> See, e.g., *Free Trade Agreement between the European Union and New Zealand* (entered into force 1 May 2024), Article 12.11(4)(a); and *Digital Economy Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Singapore* (entered into force 14 June 2022), Article 8.61-K(3).

<sup>44</sup> For example Emily Jones et al., '[AI Governance and the Future of Digital Trade Policy: Options for the UK](#)', *Blavatnik School of Government Policy Brief* (9 October 2024), 13, suggests cryptography provisions as potentially being in need of review; and Marta Soprana, 'Compatibility of emerging AI regulation with GATS and TBT: the EU Artificial Intelligence Act' (2024) 27(4) *Journal of International Economic Law* 706, discusses the compatibility of the EU AI Act with WTO rules related to technical barriers to trade.

<sup>45</sup> See Department of Industry, Science and Resources, [National AI Plan](#) (2025), 36.