

## **Submission to the Southeast Asia Free Trade Agreements (FTAs) modernisation review**

### **Low Carbon Australia**

#### **1. Introduction**

As the Trade 2040 Taskforce website notes, engagement on progressing the Australian Government's trade policy agenda - which includes modernising the suite of existing Southeast Asian Free Trade Agreements (FTAs) - takes place against the backdrop of an increasingly complex global environment including as Australia transitions to a net zero economy.<sup>1</sup>

Increasingly complex geopolitical dynamics, including rising protectionism and security considerations, underscore the importance of coherent governance arrangements and international cooperation. These will be essential if the global trading system is to support climate, environmental and sustainable development goals.<sup>2</sup> While trade agreements are not a substitute for domestic climate and nature policy, they can play an enabling role by reinforcing implementation, reducing costs and supporting cooperation where domestic frameworks are in place.<sup>3</sup>

While the primary objective of FTAs is economic, they are increasingly important for other reasons, such as signalling values and strategic alignment, driving innovation and indicating intent regarding longer term relationship development.<sup>4</sup> As a consequence, the term 'free trade agreements' (FTAs) is increasingly acknowledged as being misleading, because they are as much about regulating as liberalising trade and investment. Recent trade agreements are often referred to as 'economic partnerships' rather than FTAs in their official titles.<sup>5</sup>

In this context, Australia's economic, diplomatic, and normative leadership role in Southeast Asia is increasingly important. Modernised FTAs that meaningfully integrate climate, nature-positive, and other sustainable development objectives can further embed Australia's position as a valued regional partner, support shared security and prosperity, and reinforce a rules-based trading system that is fit for purpose in a climate-constrained and geopolitically complex world.

#### **2. Australian leadership for mutual benefit**

The modernisation of Southeast Asian FTAs presents Australia with a significant opportunity to exercise constructive regional leadership for mutual benefit. As the literature notes, unlike multilateral agreements, FTA negotiations involve a limited number of parties, are based on direct reciprocity, and are typically underpinned by enforceable dispute settlement mechanisms and as a result provide a practical and flexible platform for policy innovation and

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<sup>1</sup> "Trade 2040 Taskforce | Australian Government Department of Foreign Affairs and Trade."

<sup>2</sup> Deere Birkbeck, *Accelerating Progress on Nature, Climate Change, and Sustainable Development in a Shifting International Trading System*; Commonwealth of Australia, *Strengthening Australia's Approach to Trade Negotiations*.

<sup>3</sup> Deere Birkbeck, *Greening International Trade: Pathways Forward*.

<sup>4</sup> Commonwealth of Australia, *Final Report: Inquiry into the Understanding and Utilisation of Benefits under Free Trade Agreements*. Page 9.

<sup>5</sup> Deere Birkbeck, *Greening International Trade: Pathways Forward*.

experimentation; this makes FTAs well-suited to piloting and scaling innovative approaches to greenhouse gas mitigation, nature protection and restoration, and associated environmental governance.<sup>6</sup>

Recent initiatives demonstrate Australia's capacity to embrace climate and nature ambition in trade agreements but also highlight the gap that remains. The Singapore–Australia Green Economy Agreement and selected provisions within the Australia–United Kingdom FTA show that trade instruments can support climate and environmental objectives. However, these arrangements stop short of constituting comprehensive “green trade agreements,” and sustainability provisions remain largely supplementary rather than systemic.<sup>7</sup>

An evolving approach to FTAs is therefore required. Modernised FTAs should move beyond simply aligning trade with sustainability objectives to actively shaping and managing trade in ways that accelerate climate and nature-positive outcomes. While these types of provisions are sometimes characterised as non-tariff barriers, they in fact create systems that preference and facilitate trade in low carbon, nature-positive goods.

This shift is particularly relevant for energy, heavy industry and materials supply chains that underpin Asia Pacific regional economic development and also account for a large share of countries' Scope 1 and 3 greenhouse gas emissions and nature impacts.

*Invested: Australia's Southeast Asia Economic Strategy to 2040* (“Australia's Southeast Asia Economic Strategy”) identified and explored the mutual ambition of Australia and its Southeast Asian trading partners to act on climate change and notes that “governments and multilateral organisations are seeking to ‘mainstream’ climate into their policy settings. This means the green energy transition will increasingly inform policy decisions and planning beyond the energy sector, including in Southeast Asia and Australia.”<sup>8</sup>

Recognising that climate change and nature loss are inextricably linked, this means using FTAs to shape markets and reduce risk by:

- Setting common standards for low-emissions and nature-positive goods
- Embedding industrial decarbonisation pathways (e.g. green steel, cement, fertilisers) within cooperation chapters
- Using FTAs to signal future market direction to reduce uncertainty for investors and producers.

Importantly, ongoing governance and cooperation is required to achieve maximum mutual benefit including:

- Joint committees that monitor climate and nature outcomes, not only tariff implementation
- Mechanisms to manage transition risks, carbon leakage, and competitiveness impacts

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<sup>6</sup> Young and Clough, “Net Zero Emissions and Free Trade Agreements.”

<sup>7</sup> Young and Clough, “Net Zero Emissions and Free Trade Agreements.”

<sup>8</sup> Commonwealth of Australia, *Invested: Australia's Southeast Asia Economic Strategy to 2040*.

- Cooperative approaches to carbon accounting, Monitoring, Reporting and Verification (MRV) , and trade-related data sharing
- Capacity-building to ensure partners can meet higher standards rather than be excluded.

FTAs should be used to accelerate climate and nature outcomes by:

- Leveraging preferential market access to pull low-carbon and nature-positive goods through regional markets
- Coordinating trade commitments with public finance, development assistance, and export finance
- Supporting regional supply chains for clean energy, green materials, and critical minerals
- Converting demand signals into investment certainty for first-of-a-kind and early-scale projects.

### 3. Supporting industry policy – Future Made in Australia

Australia's *Future Made in Australia* (FMIA)<sup>9</sup> legislation, policy and programs are inherently export-oriented. The design of trade rules, standards, and cooperation mechanisms will be critical to ensuring that Australian low-emissions industries, value-added processing and manufacturing, and clean-energy supply chains can access regional and global markets at scale.

Modernised FTAs represent a key lever for aligning Australia's trade architecture with its industrial policy ambitions, providing market certainty, reducing regulatory friction, and positioning Australian producers to compete and lead in emerging low-carbon and nature-positive markets across Southeast Asia and beyond.

While green industrial policies such as FMIA are increasingly introduced by governments as drivers of decarbonisation and economic transformation, their policies in several major economies are heavily domestically focused and framed around industrial competitiveness, economic security, and geopolitical advantage. While these objectives are legitimate and often necessary to secure domestic support for energy transition investment, there is growing concern that such approaches risk leaving emerging market and developing economies (EMDEs) behind.<sup>10</sup>

While not all of the trading partners subject to the review of Australia's Southeast Asian FTAs are EMDEs, prosecuting the FMIA agenda and a supportive FTA regime without sufficient alignment with principles of global fairness, mutual benefit, and coherence with global climate goals risks entrenching a "two-speed" transition, in which Australia moves into new green value chains while our Southeast Asian trading partners risk being steered toward more carbon-intensive development pathways due to constrained access to finance, technology, and

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<sup>9</sup> Future Made in Australia - <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023-24/operating-context/future-made-australia-plan>

<sup>10</sup> Maltais and Suljada, *Green Industrial Policy*.

markets.<sup>11</sup> Modernised Southeast Asian FTAs provide an opportunity to demonstrate a different model by ensuring that Australia's industrial transformation is aligned with regional development, supports shared decarbonisation and nature restoration pathways, and strengthens Australia's position as a trusted economic partner.

Sir Nicholas Moore AO, author of *Invested: Australia's Southeast Asia Economic Strategy to 2040* ('the SEA Strategy') recommended that it be "reviewed annually to examine outcomes and to take account of changing circumstances"<sup>12</sup>. The Australian Government's FMIA commitment in particular, with its focus on export-oriented industry development, warrants a review the SEA Strategy prior to renegotiation of the current FTAs, to ensure that opportunities such as the mutual benefits of Australian produced green iron, aluminium, ammonia and other commodities are considered.

#### **4. Comments on Terms of Reference**

##### **4.1 Do the rules and commitments contained in our Southeast Asian FTAs remain relevant and fit-for-purpose to assist in addressing the economic challenges confronting Australia and the region?**

While Australia's existing Southeast Asian FTAs continue to provide an important foundation for regional economic integration, they are no longer fully fit-for-purpose to address the scale and nature of the economic, climate and nature challenges now confronting Australia and the region. The agreements were largely negotiated for an earlier trade environment, with a primary focus on tariff reduction and market access, with climate change, nature loss, supply-chain resilience, and industrial transformation either absent or treated as secondary or largely aspirational considerations.

Since then, the economic and environmental context has shifted significantly. Climate change impacts are intensifying, geopolitical tensions are reshaping trade and investment flows, and green industrial policies are being adopted by major economies. These developments have profound implications for export competitiveness, regional development, and long-term economic resilience, particularly in Southeast Asia, where, as described in the SEA Strategy, future growth will be strongest and so choices made now will shape emissions and nature outcomes for decades.

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<sup>11</sup> Maltais and Suljada, *Green Industrial Policy*.

<sup>12</sup> Commonwealth of Australia, *Invested: Australia's Southeast Asia Economic Strategy to 2040*. (page 1)

## 4.2 Options for improving trade and investment including, but not limited to, modernising existing FTAs including regional FTAs and/ or entering into new agreements

FTAs and other arrangements can improve trade and investment outcomes by embedding climate and nature considerations at the heart of trade policy. Low-emissions heavy-industry supply chains illustrate how this approach can simultaneously support Australia's export-oriented industrial strategy and deliver shared economic, climate, and nature-positive outcomes across the region.

### a) Modernising existing FTAs

- **Mainstreaming climate and nature considerations** within relevant operational provisions of FTAs. This approach would be consistent with the Joint Standing Committee on Trade and Investment Growth's<sup>13</sup> recommendation to strengthen the treatment of environmental issues in trade agreements and could include clearer links to Parties' Nationally Determined Contributions and other relevant international commitments.
- **Strengthening regulatory cooperation and standards interoperability** to support trade in low-emissions and nature-positive goods including emissions measurement, reporting and verification. Initial efforts should prioritise sectors with high mitigation potential, such as heavy-industry supply chains (for example, green iron, aluminium and ammonia).
- **Including review and adaptation mechanisms** to allow FTAs to adjust as decarbonisation technologies mature, market conditions change, and regional production patterns shift.

### b) Improving trade and investment through cooperation and facilitation

In the context of evolving trade and geopolitical and regional security dynamics, there is increasing value in using trade agreements as platforms to deepen regional alignment, strengthen economic resilience, and support shared industrial transformation.:

- **Linking trade cooperation with investment facilitation** to support the development of enabling infrastructure for low-emissions industries, such as renewable energy generation, transmission infrastructure, ports, and processing capacity. This can help underpin export-oriented manufacturing, processing, and clean energy supply chains aligned with FMIA, while supporting partner-country development priorities.
- **Supporting cooperation on skills development and technology diffusion**, enabling partner economies to adopt cleaner industrial processes and participate in emerging green value chains, consistent with their national development and transition strategies.

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<sup>13</sup> Commonwealth of Australia, *Strengthening Australia's Approach to Trade Negotiations*.

- **Coordinating trade policy with existing investment, export finance, development finance, and aid-for-trade instruments** to improve investment certainty and mobilise private capital.
- **Facilitating collaboration and co-development of industrial decarbonisation technologies.**
- **Building institutional and workforce capacity** in partner countries to support compliance with evolving climate and nature expectations, reducing the risk of exclusion from new value chains and supporting inclusive regional growth<sup>14</sup>.
- **Reducing risk for first-of-a-kind and early-stage projects** through greater policy, regulatory and finance coordination and cooperation.
- **Demand-side cooperation initiatives**, including dialogue and potential coordination of public procurement practices in a manner consistent with domestic policy settings and international trade obligations.

#### **4.3 Gaps and overlaps between Australia's bilateral and regional FTAs with Southeast Asian economies, and options to resolve**

Given the breadth of Australia's bilateral and regional FTAs covering Southeast Asia, and the differing ages and structures of these agreements, a practical first step would be to undertake a targeted audit against a common set of criteria to identify gaps, overlaps and priorities for modernisation to support coherent implementation, reduce business complexity, and strengthen climate and nature outcomes.

This approach aligns with the Joint Standing Committee on Trade and Investment Growth's recommendation 3.57 that Government adopt a consistent approach to assessing and reviewing trade and investment agreements, including consideration of environmental implications alongside economic and social impacts.<sup>15</sup>

#### **4.4 Trade data exchange arrangements with regional trading partners to better inform utilisation of trade agreements**

Trade data exchange arrangements with regional partners can strengthen economic outcomes by clarifying how trade and investment affect climate, nature and communities, and by enabling more targeted cooperation that supports resilience and long-term competitiveness. Technical assistance and capacity-building may be required for some trading partners.

Such exchanges could draw on existing data, for example:

- sector-level trade and investment data related to greenhouse gas emissions, resource efficiency and environmental pressures;
- information already reported through national processes on biodiversity and land use to understand nature-related risks; and

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<sup>14</sup> Deere Birkbeck, *Greening International Trade: Pathways Forward*.

<sup>15</sup> Commonwealth of Australia, *Strengthening Australia's Approach to Trade Negotiations*. Page

- qualitative and quantitative indicators on community and First Nations participation, employment and local value-adding.

#### **4.5 Relevant developments in trade and investment policy in international fora, including but not limited to the World Trade Organization, and whether our FTAs have kept pace with relevant international developments**

The Integrated Forum on Climate Change and Trade (IFCCT) was launched during the 30th Conference of the Parties (COP30) to the United Nations Framework Convention on Climate Change (UNFCCC). The IFCCT responds to the call of the Paris Agreement's first Global Stocktake for cooperation towards a "supportive and open international economic system aimed at achieving sustainable economic growth and development in all countries and thus enabling them better to address the problems of climate change. The IFCCT will be institutionally independent of both the WTO and the UNFCCC and will respect their mandates. It aims to develop practical solutions at the intersection of trade, climate action, deforestation, carbon accounting, and inclusive growth, reinforcing the role of trade as a lever for ambition and capacity-building.<sup>16</sup>

Unilateral climate measures have emerged as a trade reality. Instruments such as the EU Carbon Border Adjustment Mechanism demonstrate growing acceptance of trade measures addressing climate change and highlight the increasing relevance of embedded emissions, carbon competitiveness, and interoperable approaches to emissions accounting.<sup>17</sup>

There is scope for Australia's future FTAs to better align with evolving international practice by embedding climate and nature considerations more systematically, strengthening cooperation on trade-related climate measures, supporting low-carbon investment and green finance, and enabling clean, commercially viable and mutually beneficial low-emissions supply chains<sup>18 19</sup>

#### **4.6 Other matters relevant to Australia's FTAs.**

In addition to the issues addressed above, several cross-cutting process, governance and implementation considerations are relevant to ensuring Australia's FTAs remain effective and credible over time.

##### **a. Partnership-based design and cooperation**

There is increasing emphasis on cooperative, partnership-based approaches to the design and implementation of trade-related sustainability measures. Engagement of both producer and consumer countries in developing guidance and principles for climate and nature related trade

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<sup>16</sup> [Integrated Forum on Climate Change and Trade | Introduction](https://ifcct.org) <https://ifcct.org>

<sup>17</sup> Young and Clough, "Net Zero Emissions and Free Trade Agreements."

<sup>18</sup> Young and Clough, "Net Zero Emissions and Free Trade Agreements."

<sup>19</sup> Deere Birkbeck, *Accelerating Progress on Nature, Climate Change, and Sustainable Development in a Shifting International Trading System*.

measures can support more effective, equitable, and implementable outcomes.<sup>20</sup> This approach reduces the risk of fragmentation or unintended impacts and is particularly important for EDMs.

b. Substantive policy levers: environmentally harmful subsidies and trade measures

There is growing international momentum to address environmentally harmful subsidies, particularly for fossil fuels, given their trade-distorting effects and significant contribution to greenhouse gas emissions. Fossil fuel production subsidies—estimated in 2015 at US\$444 billion annually for G20 countries alone—can disadvantage renewable energy and lock in high-emissions pathways.<sup>21</sup>

Recent agreement practice illustrates emerging approaches. The UK–New Zealand FTA recognises fossil fuel subsidies can be trade-distortive and contribute significantly to greenhouse gas emissions and commits each Party to ‘take steps to eliminate harmful fossil fuel subsidies where they exist, with limited exceptions in support of legitimate public policy objectives’.<sup>22</sup>

c. Clean economy corridors, infrastructure and finance

Delivering climate- and nature-positive trade outcomes increasingly depends on enabling infrastructure and associated finance, including clean energy, ports, logistics, and shipping. Cooperation on decarbonising maritime transport—such as the development of green and digital shipping corridors, joint low-carbon fuel supply chains, workforce training, and digital optimisation of port activities—demonstrates how trade cooperation can support practical emissions reduction while strengthening supply-chain resilience, as reflected in the Singapore–Australia Green Economy Agreement.

There is scope to link trade cooperation with climate finance and green investment, supporting low-carbon investment and discouraging high-carbon lock-in across sectors beyond energy, including agriculture, transport, and buildings in a way that is consistent with multi-lateral trade commitments.<sup>23</sup>

d. Implementation effectiveness and impact assessment

Australia currently relies primarily on economic impact assessments and public submissions in the negotiation of FTAs, rather than formal climate, nature or sustainability impact assessments. Comparative practice, such as the European Commission’s sustainability impact assessments, emphasises structured, participatory processes that assess economic, environmental, and social impacts and inform negotiating positions. Strengthening impact

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<sup>20</sup> Maltais and Suljada, *Green Industrial Policy*.

<sup>21</sup> Young and Clough, “Net Zero Emissions and Free Trade Agreements.”

<sup>22</sup> Young and Clough, “Net Zero Emissions and Free Trade Agreements.”

<sup>23</sup> Young and Clough, “Net Zero Emissions and Free Trade Agreements.”



assessment and ongoing monitoring can improve policy coherence, transparency, and the evidence base for future modernisation.<sup>24</sup>

e. Institutions, transparency and stakeholder participation

Effective implementation is supported by dedicated institutions and stakeholder platforms, such as the Australian-Indonesia's KATALIS initiative, which facilitate coordination, capacity-building, and engagement. The literature identifies limited transparency and public participation as recurring weaknesses in some trade negotiations, including the Australia–UK FTA, and notes that stronger consultation processes are associated with more ambitious and credible outcomes in other agreements, such as the UK–New Zealand FTA.<sup>25</sup>

Australia is not a party to the Aarhus Convention<sup>26</sup>, and concerns regarding consultation and transparency have largely remained informal. However, the Joint Standing Committee on Treaties has consistently recommended timely, meaningful, and responsive consultation, noting that Australian practice has often lagged behind comparable jurisdictions<sup>27</sup>. Strengthening institutional support and stakeholder engagement can enhance legitimacy, improve implementation, and support more durable outcomes across economic, climate, nature, and social dimensions.

Stronger ties between Australia's Department of Foreign Affairs and Trade (DFAT) and economic, climate, nature and social civil-society organisations will ensure Australia's modernised Southeast Asian FTAs reflect emerging expectations and opportunities. Closer engagement will help align trade policy with climate and nature expectations and commitments and enhance clean energy and industry decarbonisation in the region, while simultaneously contributing to other goals identified in the SEA Strategy such as raising Southeast Asian awareness, literacy and expertise.

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<sup>24</sup> Young and Clough, "Net Zero Emissions and Free Trade Agreements."

<sup>25</sup> Young and Clough, "Net Zero Emissions and Free Trade Agreements."

<sup>26</sup> The Aarhus Convention is an international agreement that promotes environmental democracy by giving citizens access to information, public participation and access to justice in environmental matters: *Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters* [cep43e.pdf](#)

<sup>27</sup> Young and Clough, "Net Zero Emissions and Free Trade Agreements."

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