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**SESSION 2**

**IP AND REGIONAL TRADE  
AGREEMENTS / FREE TRADE  
AGREEMENTS**

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**trading ideas**

**THE FUTURE OF IP IN ASIA PACIFIC**



# **Australia's Experience in Establishing Free Trade Agreements in Relation to the Protection of Intellectual Property**



# IP in FTAs

## Overview

- The importance of intellectual property
- Australia's IP policy framework
- Australia's FTA experience
- Conclusions on Australia's IP chapters in FTAs



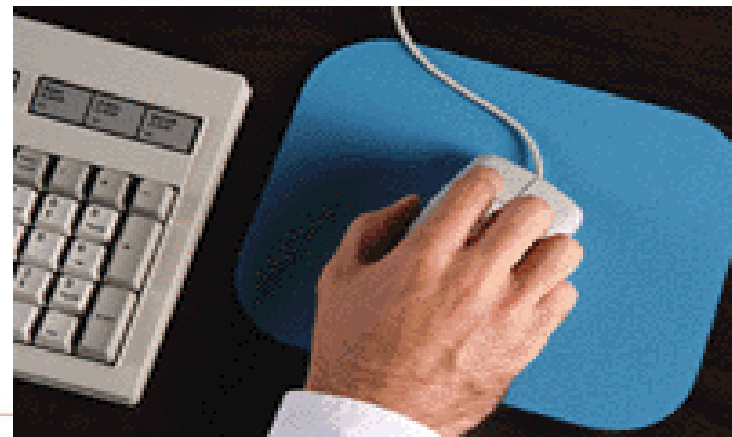
# IP in FTAs

## The Importance of IP

- In 1998 intangible assets constituted 80% of value of Fortune 500 companies.
- Est. 2007, around 90% of the value of the world's top 2000 enterprises will consist of intangibles.  
(PWC)
  - IP is estimated to comprise of value of intangibles.

## IP in FTAs

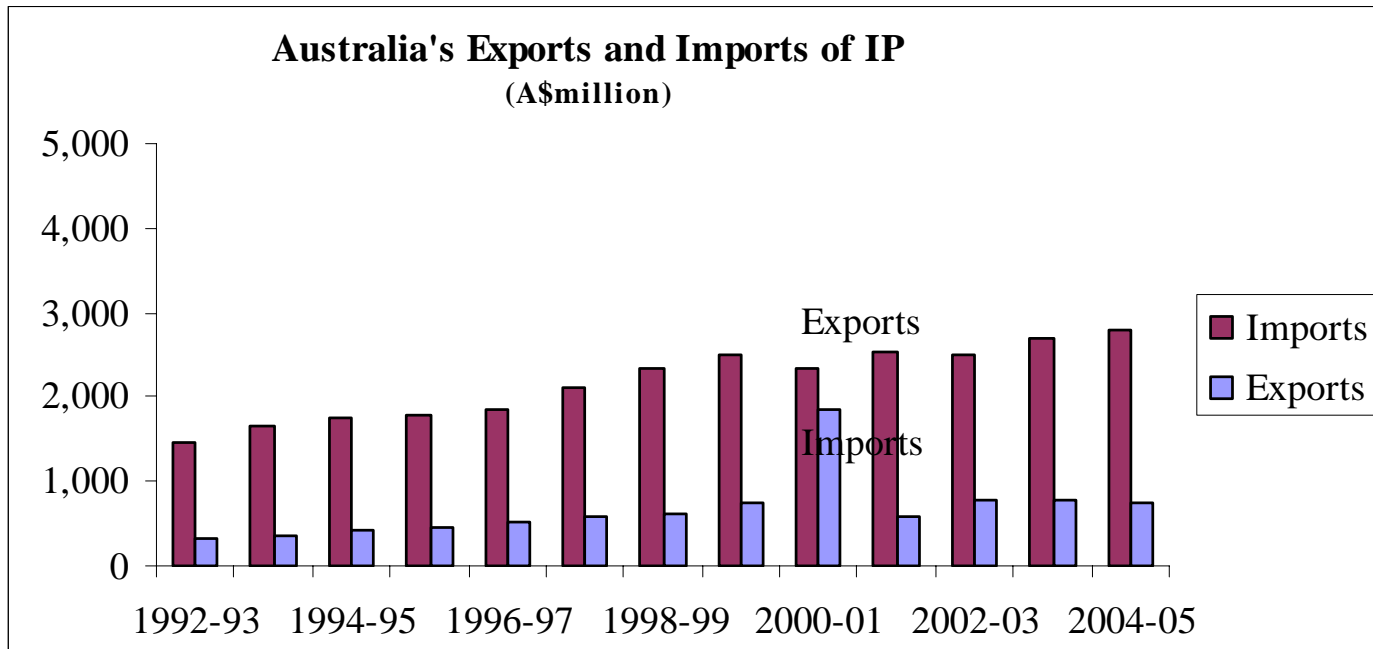
- Software (patent & copyright)
- Knowhow
- Integrated circuit layout
- Registered design
- Trade mark
- Packaging, instructions, documentation (copyright)
- Certification mark
- Silicon, plastic and copper





# IP in FTAs

## Australia's IP Policy Framework





# IP in FTAs

## Australia's IP Policy Framework

- The importation of IP contributes to technological and industrial upgrading
- It is an investment in productivity and marketing capacity
- In contrast, piracy (unauthorized copying) entrenches an imitative commercial culture and undercuts the creative and enterprising elements in a national economy. It limits comprehensive transfer of know-how.



# IP in FTAs

## Australia's IP Policy Framework

### Article 7 TRIPS (balance)

- The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the **mutual advantage of producers and users of technological knowledge** and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.



# IP in FTAs

## Australia's IP Policy Framework

- review the links between IP and trade-related economic/technological development
- stocktake of the potential benefits of the IP system
- consider how to integrate intellectual property management and trade policy



## IP in FTAs

### **Australia's IP Policy Framework**

- IP can play a useful role in national development and bilateral trade.
- Few countries can create sustainable industrial growth and international competitiveness without an effective, well administered IPR system.
- Australia's IP chapters reflect the bilateral trading relations with FTA partner.



# IP in FTAs

## Australia's IP Policy Framework

- Use the opportunity of the FTA negotiations to
  - foster domestic development
  - enhance bilateral trade relations and
  - enhance intellectual property system
  - promote harmonisation with international norms



# IP in FTAs

## Australia's FTA Experience

- **New Zealand**
  - No IP provisions (ANZASEAN under development)
- **Singapore:**
  - Protecting confidential information in govt procurement
  - Confidence in bilateral e-commerce
  - Co-operation on enforcement
  - (review)
- **US:**
  - A significant chapter with strong commitments
- **Thailand:**
  - Focus on international instruments and co-operation



## IP in FTAs

### Australia's FTA Experience

- **Malaysia:**
  - Draft text submitted
- **ANZ ASEAN:**
  - Illustrative text being considered
- **China:**
  - Draft text submitted



## IP in FTAs

### Australia's FTA Experience

- **Japan**
- **GCC**
- **Chile**
- **Others ?**



## IP in FTAs

# Australia's FTA Experience

- Address issues of bilateral concern
- Enhance bilateral co-operation
  - Capacity building
  - Co-ordination in international fora
  - Consideration of emerging issues
- Contribute to closer economic integration



## IP in FTAs

# Australia's FTA Experience

- The objective of IP in FTAs:
  - ‘The purpose of this chapter is to increase the benefits from trade and investment through the protection and enforcement of intellectual property rights.’

– Article 1, SAFTA & TAFTA



## IP in FTAs

### **Australia's FTA Experience**

- The question is, 'Have we achieved these objectives in our FTAs?'



## IP in FTAs

# Australia's FTA Experience

- Yes, because:
  - Stakeholders have increased confidence in trading in the FTA partner;
  - Enhanced bilateral co-operation in many areas;
  - Even small efforts at harmonisation have resulted in financial savings to industry, thereby promoting bilateral trade.



## IP in FTAs

# Australia's FTA Experience

- Conclusion
  - IP rarely makes or breaks FTA agreements
    - Second tier issue
  - But can make an important contribution to promoting bilateral trade and economic integration
  - Australia seeks a separate IP chapter in all our FTAs
    - Our experience shows there is much that can be done to mutual benefit
    - IP is important to bilateral trade now, and will only increase in importance in the future



# Thank you

## Australian Department of Foreign Affairs and Trade

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