Australia's GDP by up to US$32 billion (A$45.5 billion) and India's GDP by up to US$34 billion (A$48.3 billion) over a period of 20 years. India is Australia's fastest-growing major two-way trading partner, reflecting the largely complementary nature of the two economies. Two-way trade grew 55 per cent to nearly $22 billion in 2008-09.

DETECTOR DOGS HAVE ASSURED PLACE IN HIGH-TECH WORLD

The Minister for Home Affairs, Brendan O'Connor, has announced that detector dogs are continuing to perform a crucial role for Customs and Border Protection, despite the introduction of new technology and equipment. "The Australian Customs and Border Protection Service is a world leader in its use of new technology," he said. "Our Trace Particle Detection machines can detect one billionth of a gram, and our X-ray machines can scan anything from a whole cargo container to an individual airline passenger's luggage. But even the most high-tech equipment commonly used around the world cannot detect odours. "That's why our detector dogs, with their highly-trained sense of smell, play such an important role in preventing the illegal importation of drugs, precursors, firearms and explosives. "They are an invaluable tool because of their mobility and versatility. Detector dog teams across Australia search both sea and air cargo, aircraft baggage, international mail, ships, premises and international travellers. Detector dogs have provided 41 years of loyal service and I am pleased that, even with the introduction of new technology, their place is assured." Since 1 July 2009, the Detector Dog Program across Australia has been responsible for over 270 drug and firearm-related detections. The Australian Customs and Border Protection Service Detector Dog Program is a recognised world leader and has supplied dogs to New Zealand, the USA, Taiwan, China, Indonesia, Singapore, Thailand, Malaysia, Bosnia, Saipan, Papua New Guinea, Fiji, Tonga, and Guam.

SYDNEY PORTS TARGET TOWARDS MOVING 40% OF PORT BOTANY'S CONTAINER FREIGHT BY RAIL

The NSW Government and Sydney Ports have adopted a strategic target toward moving 40% of Port Botany's container freight by rail. In its response to the recommendations outlined within the 2007 Independent Regulatory and Pricing Tribunal (IPART) Report, 'Reforming Port Botany's Links with Inland Transport', the NSW Government, in 2008, directed Sydney Ports to lead the Port Botany Landside Improvement Strategy (PBLIS). Two modal-specific taskforces were subsequently formed in late 2008, one road and one rail. The Port Botany Rail Team (PBRT), based on the Hunter Valley Coal Chain model, assists Sydney Ports to drive the rail component of PBLIS and comprises representatives of the Australian Rail Track Corporation (ARTC), RailCorp, the stevedores, rail operators, NSW Transport & Infrastructure as well as Sydney Ports.

NEW WEBSITE TO HELP SMES UNDERSTAND EXPORT FINANCE OPTIONS

Trade Minister Simon Crean has announced the launch of a new website to help Australian small and medium-sized enterprises (SMEs) understand the export finance options available when exporting or investing offshore. The 'Export Finance Navigator' (wwww.exportfinance.gov.au) is an independent source of information on export finance. It aims to assist current and potential exporters by sourcing a wide range of information on the financing alternatives available as they seek to grow their businesses through export and offshore opportunities. Developed by Export Finance and Insurance Corporation ('EFIC'), the Australian Government's export credit agency, the online tool is a response to a recommendation of the 2008 'Review of Export Policies and Program' (the 'Mortimer Report'). The website divides the exporter's journey into six stages: preparing for export, finding markets, winning contracts, financing production, getting paid and expanding overseas. An exporter can easily identify which stage they're at, and then find the export finance solutions available to them at that stage. The website not only helps exporters to find out about the export finance tools provided in the commercial market, but also the grants and tax concessions available to exporters from federal, state and territory governments. The launch of the Export Finance Navigator website will be followed by a series of workshops for exporters to be run jointly by EFIC and Austrade. The workshops will focus on the export finance solutions available at particular stages of an exporter's journey.

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NEWSLETTER 2010/3 **JUNE 2010**

2010 BUDGET

The following international trade related measures featured in the 2010 Federal Budget:

- The GST law will be amended to allow boats used for recreational purposes to be sold in Australia GST-free if the boat is exported by the purchaser within 12 months and only used for recreational purposes whilst in Australia. Currently the law requires that boats be exported within 60 days.
- The Government will help develop and expand trade and investment opportunities for Australian companies by investing $14.4 million over four years to continue the TradeStart program. This funding will support a rationalised TradeStart program that will focus on increasing effectiveness through closer collaboration with partners including State and Territory Governments and appropriate industry bodies.
- The Government has committed $ 346.8 million to maintain tough biosecurity measures which help to protect against exotic pests and diseases and to continue reforms to strengthen our biosecurity system. This includes $137.6 million through the Department of Agriculture, Fisheries and Forestry and $127.9 million through the Australian Customs and Border Protection Service to maintain core biosecurity work over two years.
- All the recommendations of the Board of Taxation's Review of the application of GST to cross-border transactions will be implemented, with effect from 1 July 2012.
- The Government will provide an additional $8.3 million to progress sweeping reforms to the way governments regulate our – *(Continued on Page 2)*

TRIBUNAL FINDING UNDERMINES CONTAINER DETENTION FEES

A decision by a New South Wales tribunal threatens to undermine the system of container detention fees in Australia, according to a transport law expert. In robust language, the Consumer, Trader and Tenancy Tribunal has found that fees charged by China Shipping (Australia) Agency on an importer were penalties rather than genuine pre-estimates of damages – and were "therefore void at common law". The tribunal ordered in March that fees of $8514 be refunded. "In my opinion, there is simply no doubt that the amount claimed by the respondent in the contract as a container detention fee is extravagant and unconscionable in amount and comparison with the greatest loss that could conceivably be proved to have flowed from the breach" tribunal member, Geoffrey Meadows, said. "The evidence provided by the applicant in support of this claim really leaves no room for argument. As the applicant points out, the respondent's own submissions suggest a possible genuine estimate of damages is no more than $720, meaning that container detention fee exceeds the amount of damages by almost $1200." Agency claims manager, Alfred Zhang, had argued that Australian detention fees were in the "medium" range – some other companies having in place much higher fees – and that all shipping lines had detention fee clauses. According to law firm Hunt & Hunt partner, Andrew Hudson, the decision is likely to be appealed but may also interest regulators. "The reference in the decision of the tribunal to the quantum of the container detention fees being considered as 'unconscionable' may well raise the attention of the Australian Competition and Consumer Commission (ACCC), especially given that the relevant

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provisions of the Trade Practices Act 1974 which prohibit "unconscionable" conduct define "unconscionability" as being those acts which the common law considered as unconscionable," Mr Hudson said. "The ACCC may also take interest in the argument by the agent of the shipping company that the container detention fees were enforceable as they are "general in the industry" and "all companies do the same thing". "The ACCC may find cause to question shipping companies and their Australian agents as to the basis on which they are all charging the same fees in the same general manner. "It appears that the quantum of detention fees charged in Australia far exceed the quantum claimed elsewhere in the world (which seems odd given the huge number of empty containers stored and exported at any one time)."

(Continued from Page 1) – $49 billion transport sector.

From 2013, maritime safety, rail safety and heavy vehicles will for the first time be regulated nationally. This is a historic reform that will improve safety, simplify the compliance task for transport operators and boost national income by up to $2.4 billion a year.

SHIPPERS WARNED ON EX-ASIA RATES

Shippers have been warned air freight rates out of Asia may not drop in the short term. Robert van de Weg, senior vice president sales and marketing at Cargolux, said: "Demand was already strong before the European airspace (ash) closures, so it is hard to know whether the high demand now is still related to those closures. "My opinion is that the backlog caused by the closures is basically gone, and what remains is just very strong demand." He said if shippers were delaying shipments hoping that demand would be slower: "It could be, but it may not be."

'CRISIS OVER' AS MAERSK STEAMS BACK INTO THE BLACK

AP Moller-Maersk roared back to profit in the first quarter following its worst year ever, posting a US$639m gain for the period compared to a US$373m loss in the first four months of 2009. The performance surprised analysts and was partly driven by a rise in freight rates in the conglomerate's container division, particularly in the Asia–Europe trades, reflecting restocking and higher demand in the US and Europe, the company said. Average container rates jumped 18%, more than twice that reported by peers in recent earnings statements. "The crisis is over, the world is back on a positive trajectory, driven by Asia," chief executive, Nils Andersen, said. However, Mr Andersen added: "Europe and the US are going to be volatile, so we have to be prepared for setbacks now and then." He cited the dwindling effect of government subsidies worldwide that are expected to come into play in the second half. He also said that European governments had "reacted well" by handing down a bailout package of almost US$1trn, but that long term problems still remained that could affect the economy and European trade. Maersk group chief financial officer, Trond Westlie, upgraded the company's expected return for this year from "modest profit to profit" during the company's conference call. Maersk Line lost US$2bn in 2009, US$581m of that in the first quarter. Profit stood at US$168m in this year's first quarter, with both rates and volumes up 18%. The rates increase in the container line provided for the biggest turnaround and comes after substantial renegotiation on a large number of contracts, particularly on the Asia-Europe route, that had come up for renewal at year-end. Maersk had been lagging its peers in terms of rate hikes.

AUSTRALIA UNLIMITED: THE NATION'S NEW BRAND

Trade Minister Simon Crean has announced Australia's new national brand is Australia Unlimited. This distinctive concept will be the public face of Australia on the international stage in the 21st century. "Brand Australia is about selling Australia to the world and demonstrating the full versatility and diversity this nation has to offer," Mr Crean said. "Being the 'quiet achiever' is not going to cut it in an increasingly competitive global market. We need to market ourselves better. Australia is known as a great place to have a holiday but it is also a great place to do business. We should be better regarded as a dynamic and creative nation, a good global citizen and a strong business partner. We want greater international recognition of our many achievements. These achievements include 11 Nobel prize winners, WiFi technology, the bionic ear and a vaccine for cervical cancer." The Brand Australia program has a budget of $20 million over four years and was announced in August, 2009. "Australia Unlimited has the breadth to market all of Australia's strengths - grounded in our commitment to innovation and quality," Mr Crean said. "Australia Unlimited is aimed at taking us beyond tourism messages. It will deliver a national brand for Australia through a consistent image and a consistent message." "The next step will be to begin work on brand architecture and to encourage cobranding by Australian government organisations and businesses. This could include Australia Unlimited branding of overseas scholarships and selected exports," Mr Crean said. Creative agency M&C Saatchi developed the Australia Unlimited concept. During the tender process, 60 submissions were received and four agencies were shortlisted. Eight concepts were tested in 14 countries, including Australia, with about 1000 consumer interviews in each country.

A FUTURE PORTS STRATEGY FOR AUSTRALIA

The draft National Ports Strategy, released by Infrastructure Australia and the National Transport Commission for public consultation, calls for long-term coordinated planning of Australia's major ports and their related transport corridors and shipping channels. Australia's bulk commodity exports and metropolitan container imports are both expected to double in size every ten years. Long-term planning will provide greater clarity of how future port capacity will match those trade forecasts. Four priorities were identified in the strategy through analysis and stakeholder consultation:

1. Coordinated long-term planning for relevant ports
2. Less red tape to smooth the execution of port plans
3. Lower landside transport costs through improved efficiency
4. Greater clarity and transparency

Release of the draft National Ports Strategy for stakeholder, industry and community comment is an important part of the policy development. More information, including the consultation documents and strategy can be found on the NTC website at: National Ports Strategy11.

NEW REGULATIONS TO IMPROVE PORT EFFICIENCY

The NSW Government is taking bold steps to reduce port congestion, improve efficiency and ease freight delays at Sydney's Port Botany stevedoring terminals. Ports and Waterways Minister, Paul McLeay recently announced the historic regulations as part of an overall Port Botany Landside Improvement Strategy (PBLIS) – which will promote better landside efficiency, consistency, transparency and most importantly productivity. Mr McLeay said the measures will also help meet the challenges of increased activity at the port. Container trade throughput continues to reach record highs, with TEUs for the first three quarters in 2009-10, up 4.8 per cent on the same period last year. "This is all about introducing fairness and equity into landside arrangements at Port Botany," Mr McLeay said. "These new regulations will be the first step in introducing greater transparency and accountability between stevedores and transport carriers, with the overall objective of making the entire land supply chain more efficient." Mr McLeay said there has been improved cooperation in the performance of rail operations at Port Botany over the past 12 months. "While there has been some improvement with truck carrier movements and development of the reform plan, we can no longer wait for stevedores to fully embrace landslide reform. We need to drive efficiency in a supply chain that is facing growing demand," Mr McLeay said. The first phase of the reforms will involve a new Operational Performance Management (OPM) framework between stevedores and transport carriers at Port Botany. This will see the introduction of performance benchmarks. "For the first time truck carriers will be able to receive a penalty payment if stevedores fail to meet standards set by the OPM framework," he said. The OPM framework establishes a clear commercial relationship between transport carriers and stevedores. Mr McLeay said that the OPM will also be supported by new technology at the port which will accurately and transparently monitor landside operations. He said that as part of managing PBLIS, Sydney Ports will increase existing wharfage per container.

PORT BOTANY PREPARES FOR PENALTIES BY OCTOBER

Port Botany's container terminal operators will be forced to pay road carriers $25 for every 15 minute delay in servicing trucks accessing their facilities under a regulated approach launched by the New South Wales Government. The new regulations, expected to be in place by October, dictate that the stevedores will also pay $100 every time a slot is cancelled within two hours of its scheduled occurrence. A $50 penalty is to be charged for any other cancellation outside this period. Road carriers face a $50 late arrival fee and $100 for no-shows. Wharfage fees are to increase by $10 per teu for all import and export containers in an effort to cover the cost of the scheme. Stevedores will have a 50 minute limit on truck turnarounds, substantially higher than the 28 minutes Patrick claims it has recently averaged but less than the 70 minutes the terminal operators had previously sought. It is the latest development in protracted negotiations between Sydney Ports Corporation and the terminal operators, Patrick and DP World. However, Sydney Ports has indicated it remains open to the stevedores introducing the penalty scheme voluntarily. The port corporation has also confirmed that the controversial peak pricing scheme is now on the backburner until the first stage is implemented, though it insists the plan has not been scrapped. Mr McLeay said the government's focus in implementing the changes was on creating fairness in the port's landside arrangements. The government has promised new technology to measure landside performance and give all parties transparency.

MAJOR STEP TOWARDS A FREE TRADE AGREEMENT BETWEEN AUSTRALIA AND INDIA

The Minister for Trade, Simon Crean, with his Indian counterpart Minister of Commerce and Industry Anand Sharma, have welcomed the conclusion of the Australia-India Free Trade Agreement (FTA) Joint Feasibility Study. The study recommends negotiation of a comprehensive bilateral FTA that includes trade in goods, trade in services, investment and other trade and investment facilitation and cooperation measures, as a single undertaking. Ministers Crean and Sharma endorsed the feasibility study recommendation noting that both sides would need to undertake further internal processes before negotiations could be launched. "The joint study finds that an Australia- India FTA is feasible. It makes a strong economic case that both Australia and India would gain significant economic benefits from a comprehensive FTA. An FTA would open up trade, investment and job opportunities in both countries," Mr Crean said. "An FTA with India will continue the momentum of Australia's economic integration with Asia – the fastest growing region in the world." Independent modelling conducted for the study by the Centre for International Economics indicates that an Australia-India FTA could result in a net increase in