Consultation Summary: Industry Perspectives on FTA Modernisation

This consultation summary validates and enriches the October 2025 Evidence Review through direct industry perspectives on Free Trade Agreement modernisation for critical minerals supply chains with Southeast Asia.

Living Document - First Version *Updated: December 2025* Disclaimer: This document is a draft, intended to support collaboration and preliminary feedback from the Department of Foreign Affairs and Trade. It is not intended for wide distribution and may contain errors.

Executive Summary

Industry stakeholders across Australia and Southeast Asia demonstrate strong appetite for deeper economic integration, identifying consistent priority themes that transcend individual sectors. This consultation summary synthesises perspectives gathered through individual consultations with industry representatives and experts, systematic desk research analysing published stakeholder positions, and emerging themes for validation at the December 19, 2025 virtual roundtable.

Key findings include:

Priority Barriers: Stakeholders consistently identify behind-the-border measures—regulatory fragmentation, standards divergence, and administrative complexity—as more significant impediments than tariffs, which are already relatively low under existing FTAs. Services sector restrictions, particularly for professional mobility and qualifications recognition, emerge as cross-cutting concerns affecting mining services (METS), financial services, and technical consulting.

Investment Certainty: Beyond market access, industry emphasises the importance of predictable regulatory environments, contract stability, and transparent decision-making processes. While formal investor-state dispute settlement mechanisms are not being pursued, stakeholders identify alternative approaches including enhanced transparency provisions and cooperative dispute resolution frameworks.

Standards Harmonisation: Strong convergence exists around the value of mutual recognition arrangements for sustainability standards, professional qualifications, and technical certifications. Industry views this as an area where Australia can provide leadership while facilitating market access.

Implementation Focus: Stakeholders emphasise that existing FTA provisions are often under-utilised due to complexity and awareness gaps. Improving implementation and utilisation of current agreements may deliver significant value alongside negotiation of new provisions.

Recommendations: Priority areas for FTA modernisation include services chapter enhancements, standards mutual recognition frameworks, improved trade facilitation mechanisms, and provisions addressing emerging issues in the green economy transition.

Methodology

Multi-Source Evidence Gathering

This consultation summary integrates evidence from three complementary approaches. Stakeholder engagement is progressing iteratively, with evidence gathered through a combination of desk-based research on published positions and targeted individual consultations. Findings are being progressively incorporated as consultations continue through December 2025 and into January 2026, with the December 19 virtual roundtable providing an opportunity for broader validation.

Individual Consultations: Targeted engagement with industry representatives, peak body officials, and subject matter experts provided direct insights into practical barriers and priority recommendations. These consultations inform the framing and validation of themes identified through documentary research.

Desk Research on Published Stakeholder Positions: Systematic analysis of industry publications, peak body submissions, annual reports, business council statements, and sector-specific advocacy documents. This approach captures formally articulated industry positions and provides documented evidence for stakeholder priorities. Sources include materials from:

- Mining sector: Minerals Council of Australia, individual company submissions
- METS sector: Austmine, METS Ignited
- Peak business bodies: Business Council of Australia, ACCI, bilateral business councils
- Financial sector: Export Finance Australia, major bank resources sector analyses
- Renewable energy: Clean Energy Council, Australian Hydrogen Council
- Southeast Asian perspectives: ASEAN business councils, regional industry associations

Virtual Roundtable Validation: The Track 2 Virtual Dialogue scheduled for December 19, 2025 will validate emerging findings and test cross-sectoral applicability of identified solutions under Chatham House Rule conditions.

Relationship to Evidence Review

This consultation summary complements the October 2025 Evidence Review, which established the analytical framework through examination of:

- Trade barriers and regulatory landscape
- Regional processing opportunities
- Sustainability dimensions
- Available policy instruments

The Evidence Review documented the structural context; this summary adds stakeholder voice to confirm whether identified barriers resonate with industry experience and to surface priority recommendations that may not be apparent from documentary analysis alone.

Scope and Limitations

The consultation process focused on stakeholders with direct experience in Australia-Southeast Asia trade and investment. While desk research provides broad coverage of published positions, direct consultations were necessarily targeted rather than comprehensive. The December 19 virtual roundtable will expand stakeholder input and validate findings prior to development of specific recommendations in the Technical Paper (January 2026).

Australian Industry Perspectives

Australian industry stakeholders across mining, services, financial, and renewable energy sectors demonstrate strong strategic interest in Southeast Asian markets while identifying significant regulatory and structural barriers to deeper integration.

Mining Sector

The Australian mining sector views Southeast Asia through the lens of both opportunity and competitive challenge. Indonesia's nickel sector, in particular, has fundamentally reshaped global markets. BHP suspended its entire Nickel West operations in October 2024, with BHP President Australia Geraldine Slattery directly attributing the decision to Indonesian oversupply: "We have not been able to overcome the substantial economic challenges driven by a global oversupply of nickel."[1] The company required US$20,000/tonne pricing to break even while Indonesian production created a price floor around US$16,000-18,000/tonne.

The Minerals Council of Australia characterises Indonesian resource nationalism as structural, driven by "a strong belief in the central role of the state in promoting industrialisation and the need to avoid foreign control of resources."[2] Export restrictions and mandatory downstream processing requirements represent the most consequential trade barriers, with Indonesia's January 2020 nickel ore export ban fundamentally transforming global supply chains. While the WTO ruled this ban inconsistent with WTO obligations in December 2022, enforcement remains stalled with the appellate body non-functional.

Indonesia's mandatory divestment requirements—51% local ownership by year ten of production—have driven exit of major Australian mining companies. Rio Tinto's departure from Grasberg copper-gold mine illustrates the impact, with former CEO Jean-Sébastien Jacques questioning the asset's place in the portfolio as "a world-class copper deposit, which might not be a world-class mining investment."[3]

Industry views on ESG standards are nuanced. Nickel Industries CEO Justin Werner noted in 2025 that battery and EV manufacturers "aren't interested in paying a premium" for ESG-compliant nickel "as long as you meet their ESG requirements."[4] However, ESG credentials remain significant for market access to Western supply chains, with Australian nickel producing approximately six times fewer emissions than Indonesian alternatives.

METS Sector

The Mining Equipment, Technology and Services (METS) sector—with A$17 billion in export value—identifies services trade restrictions as its primary barrier to Southeast Asian engagement. Austmine CEO Christine Gibbs Stewart notes that "62% of METS export to SE Asia and given our reputation and experience, miners there look to Australia for solutions."[5] Over 100 Australian METS companies are active in Indonesia, the sector's primary market of interest.

However, services incidental to mining remain completely uncommitted under AANZFTA—a striking gap for a sector of such strategic importance. Indonesia's services restrictions are particularly severe. OECD Services Trade Restrictiveness Index data indicates Indonesia is among the more restrictive jurisdictions globally for several professional services—notably construction, legal, and accounting—with restrictions well above OECD averages.[6]

Foreign equity restrictions compound these barriers. Engineering consulting and design services face requirements to operate through representative offices or joint ventures capped at 49% foreign ownership in Indonesia. Construction services face 67% foreign equity limits for large projects.

IP protection concerns centre on weak enforcement rather than formal legal frameworks. Indonesia's presence on the USTR Special 301 Priority Watch List reflects systemic deficiencies, with patent grants taking 4-5 years compared to 6-9 months in Singapore.[7] Technology transfer requirements under Government Regulation 34/2021 require companies to appoint local "companion" employees, creating additional IP exposure concerns for technology-intensive METS companies.

Cross-Sectoral Business Leadership

Senior Australian business leaders express urgent optimism about Southeast Asia's potential while warning that Australia is falling behind competitors. Nicholas Moore AO, Special Envoy for Southeast Asia and former Macquarie Group CEO, notes: "Considering Australia's substantial savings—with $3.5 trillion in superannuation—it's surprising and noteworthy that our actual investment level in the region is declining."[8]

The decline is measurable: Australia's FDI share in Southeast Asia halved from 6.3% to 2.9% since 2017, while China and the US have both doubled their investment. Former BCA CEO Jennifer Westacott warned: "If we cannot work out how to be competitive in those markets, then we run the risk of becoming a second-order economy."[9]

Business councils identify five sector-agnostic priorities for transformation. First, implementation of practical support mechanisms, with the Investment Deal Teams model receiving strong endorsement. Second, regulatory harmonisation and professional recognition—currently only 17% of Australian businesses make significant use of existing FTAs, while 28% remain unaware agreements exist. Third, workforce mobility and visa flexibility, supported through initiatives like the Placements and Internships Pilot Program. Fourth, capital mobilisation through risk mitigation, with the $2 billion Southeast Asia Investment Financing Facility directly responding to CEO requests. Fifth, relationship depth over transactional engagement—as King & Wood Mallesons' Nicola Yeomans emphasises: "You can't just turn up, do all your meetings at Changi Airport and not go deep into the country... This is not a transactional culture."[10]

Financial Sector

The financial sector frames investment decisions around bankability requirements that extend well beyond market access. Export Finance Australia articulates six explicit criteria for critical minerals financing: Australian benefit, critical mineral designation, completed feasibility studies, secured offtake agreements, proven technology, and demonstrated proponent capability.[11]

Country-by-country risk assessments shape capital allocation. Indonesia controls approximately 42% of global nickel reserves but resource nationalism policies create structural contradictions.[12] FDI in mineral processing increased 207.9% from $3.56 billion (2019) to $10.96 billion (2022), but 75%+ flowed from Chinese sources.[13] Regulatory instability persists—Indonesia has terminated 60+ bilateral investment treaties since 2015,[14] and Government Regulation No. 25 of 2024 mandates 51% Indonesian ownership in mining ventures.

ESG due diligence has moved to the forefront of mining finance. Indonesian nickel sector concerns create direct financing barriers under EU Battery Regulation: processing powered by captive coal plants produces 2-5x higher emissions than other nickel sources (45 tonnes CO_2/tonne nickel versus 8-15 for sulfide deposits).[15] Documented environmental and social concerns—deforestation exceeding 378,970 acres driven by nickel mining since 2000, labour incidents including 20 killed at Morowali Industrial Park furnace explosion in 2023[16]—compound financing challenges for Western institutions.

Most Indonesian nickel is ineligible for US IRA tax credits due to Foreign Entity of Concern provisions excluding minerals with 25%+ ownership by designated countries—a significant barrier given Chinese companies control approximately 75% of Indonesian nickel refining capacity.[17]

Renewable Energy and Hydrogen Sector

The renewable energy sector's Southeast Asian ambitions have contracted substantially since 2020-2022 enthusiasm. Origin Energy exited the hydrogen market entirely in October 2024, discontinuing partnerships with Kawasaki Heavy Industries despite receiving A$48 million in government funding. CEO Frank Calabria cited "the hydrogen market developing more slowly than anticipated" with production costs at A$5-6/kg versus the $2/kg target needed for commercial viability.[18]

Fortescue Future Industries has refocused from speculative hydrogen export toward green ammonia and hydrogen derivatives (green iron, green metals) for established markets, cancelling its Arizona hydrogen hub and Gladstone PEM50 project in 2025. Woodside Energy remains the most committed major developer, with its H2Perth project progressing.

The sector identifies certification and standards alignment as critical trade priorities. The Australian Hydrogen Council stresses that export partners "are already demanding proof of green credentials" and urges alignment with global frameworks (IPHE methodologies, ISO standards) so that "Australia's certification is accepted abroad."[19] The Smart Energy Council's Zero Carbon Certification Scheme represents the most concrete industry initiative, with partnership announced with Germany's dena on certification development.

Circular economy provisions emerge as an emerging priority. Australia could have over 1 million tons of solar panel waste by 2040, yet only 17% of solar panel components are currently recycled. Battery end-of-life presents both challenge and opportunity, with Southeast Asia projected to have 2,166 GWh of used EV batteries by 2040.[20]

Southeast Asian Industry Perspectives

Southeast Asian industry perspectives on Australian partnership are overwhelmingly positive but conditional on delivering tangible local benefits. The strongest articulated positions come from Indonesian industry associations, with varying levels of engagement across other ASEAN markets.

Indonesian Industry Perspectives

Indonesian industry associations, particularly KADIN (Indonesian Chamber of Commerce and Industry), have provided the most explicit endorsements of Australian critical minerals cooperation. KADIN Chairman Arsjad Rasjid stated in February 2023: "We should capitalise on this opportunity to jointly develop a world-class battery manufacturing factory in Indonesia utilizing Australian lithium and investments to realise the potential of Indonesia's nickel reserves and plentiful workforce. Together, we can supply the world with our jointly manufactured batteries."[21]

At the July 2023 Sydney signing of a Plan of Action, Rasjid elaborated: "We see a tremendous desire for greater cooperation between Indonesia, ASEAN and Australia" and emphasised that countries "must stop seeing each other as competitors and must be complementary."[22]

Indonesia Battery Corporation (IBC) Senior Vice President Chandra explicitly articulated Australian partnership value, telling S&P Global in March 2023 that Australia is "much safer and politically very stable" for metals investment in ESG areas, with MIND ID expressing "intention to put some equity investment into lithium mining in Australia."[23] This represents direct Indonesian industry interest in bilateral investment flows—Indonesian capital into Australian mining, not just Australian investment into Indonesian processing.

The complementarity argument resonates strongly: Indonesia has nickel but lacks lithium for complete battery value chains. Indonesian Minister Bahlil Lahadalia stated in August 2025 that importing lithium from Australia would be "way more economical" than African suppliers due to reduced transportation costs.[24]

Malaysian Industry Perspectives

Malaysian industry perspectives on Australian partnership are substantially shaped by the Lynas rare earth processing facility experience, which provides both a model for successful technology transfer and demonstrates community opposition challenges.

Dato' Sri Mashal Ahmad, Lynas Malaysia Vice President, articulated the industry case in 2019: "Rare earths are also essential to Malaysia's growing electronics industry in Penang and the Malaysian automotive industry. As the world's second largest producer of rare earths products, Lynas can help attract further investment in the downstream supply chain in Malaysia, which can position the country as the manufacturing hub of products made from rare earths."[25]

CEO Amanda Lacaze reinforced optimism in July 2024: "Under Prime Minister Anwar's leadership, there is a genuine understanding of the 21st-century importance of rare earths in electric vehicles, wind turbines, and new energy fuels. There are opportunities in Malaysia to develop upstream resources and also towards developing downstream capabilities."[26]

The Federation of Malaysian Manufacturers (FMM) praised the renewal of an FMM–Australian Industry Group MoU in 2025 as "a significant step forward" creating "new opportunities for our members through cross-border collaboration."[27] Malaysia's 2024 export moratorium on raw rare earths reflects industry-government alignment on value capture priorities—downstream processing before export.

Thai Industry Silence

Thai industry associations have not publicly articulated specific views on Australian critical minerals partnership despite Thailand's position as Southeast Asia's leading EV manufacturing hub. This represents a significant evidence gap.

Federation of Thai Industries (FTI) statements focus overwhelmingly on local content negotiations with Chinese EV manufacturers. Vice-Chairman Nawa Chantanasurakon noted in November 2025: "Although production costs in Thailand may be slightly higher, supporting local parts manufacturers strengthens confidence, employment and public perception."[28] Thai battery manufacturers have partnered exclusively with Chinese technology providers—Energy Absolute's joint venture partners are EVE and Sunwoda, both Chinese.

The absence of Thai industry engagement with Australian partnership contrasts sharply with Indonesian and Malaysian engagement, suggesting either lack of awareness of partnership opportunities or strategic focus on existing Chinese relationships.

Philippine Industry Alignment

Philippine mining industry demonstrates the closest alignment with Australian standards and practices of any Southeast Asian country. Chamber of Mines of the Philippines (COMP) Chairman Atty. Michael T. Toledo explicitly welcomed Australian investment in February 2022: "Australian investors welcomed the recent decisions of the Philippine government to ease mining policies, raising the possibility of a renewed influx of foreign capital in the sector."[29]

Australia Philippines Business Council President Rene Cabrera framed the opportunity in complementarity terms: "Mining is one industry that truly highlights the complementarity between Australia and the Philippines. The Philippines has vast untapped natural resources; Australia is a global expert in minerals development and production underpinned by responsible mining practices sought by the Philippine government and community."[30]

The Philippines is the only Asian country implementing Towards Sustainable Mining (TSM) framework alongside Australia. COMP's adoption demonstrates industry commitment to Australian-compatible practices, with all 19 COMP member-companies with operating mines now fully implementing TSM protocols. Toledo stated in February 2024: "After we adopted TSM in December 2017, we embarked on a 6-year preparation period that saw our members actively participate in the Filipinization of the TSM Protocols."[31]

However, Philippine Nickel Industry Association (PNIA) President Dante R. Bravo acknowledged pragmatic constraints: "It would be difficult to develop the Philippines' downstream industry without China."[32] The industry opposes export bans as "ill-timed" because they "will discourage further investments and the development of the value-added processing industry."

Vietnamese Industry Framework

Vietnam's elevation to Comprehensive Strategic Partnership with Australia in March 2024 created strong bilateral framework, but specific Vietnamese industry association statements on Australian critical minerals cooperation remain limited in English-language sources.

Minister of Industry and Trade Nguyen Hong Dien established government position in August 2024: "Vietnam welcomes Australia's investment and cooperation in advanced and modern technology to optimise the exploitation and deep processing of key minerals and ensure environmental sustainability."[33]

VCCI engagement with Australia focuses on skills development. Australian companies Blackstone Minerals and Australian Strategic Materials have established partnerships with Vietnamese rare earth developers. Vietnam Trade Office head noted barriers from the Vietnamese perspective: "There are strict regulations and technical barriers in the Australian market, and some standards are even higher than those in the US and EU."[34]

Cross-Cutting Priorities

Technology transfer emerges as the universal priority across all Southeast Asian countries. Every country's industry explicitly seeks processing technology: Indonesia wants HPAL capabilities, Malaysia seeks "mine to magnet" capacity, Thailand needs battery cell manufacturing know-how, Philippines wants smelting technology, and Vietnam requires rare earth extraction expertise. Australian METS companies are positioned to address this demand.

Skills development partnerships are valued across the region. FMM-TAFE NSW collaboration in Malaysia, PAREEP scholarship programs in Philippines, VCCI-Australia logistics training in Vietnam, and Katalis IA-CEPA programs in Indonesia demonstrate functioning bilateral skills mechanisms that industry supports expanding.

Southeast Asian industries accept local content requirements as legitimate policy tools but seek implementation flexibility and reform toward incentive-based approaches. Nickel Asia Corporation CEO Martin Antonio G. Zamora advocated in September 2023 for incentives over bans: "Instead of a ban, just provide more incentives for companies to build those plants... Make it easier the process of acquiring permits, that is more the issue than tax itself."[35]

Across the region, Australia is valued specifically for ESG credibility, political stability, mining expertise, and standards quality. MIDA (Malaysian Investment Development Authority) framed Australian investment as a model for breaking Chinese monopoly: "Malaysia was able to break that [Chinese] monopoly with the presence of Lynas Malaysia Sdn. Bhd., whose operation locally since 2012 made it the first REEs refining plant outside the PRC."[36] However, limitations include Australia's smaller processing technology base compared to China and limited capital availability versus Chinese state-backed investment.

Battery and EV Value Chain Perspectives

Battery and EV manufacturers are reshaping Southeast Asian critical minerals markets through comprehensive vertical integration strategies, while regulatory frameworks in the EU and US create fundamental compliance pressures that shape sourcing decisions.

Supply Chain Integration Opportunities

The Australia-Indonesia nickel-lithium complementarity represents the most significant integration opportunity. Indonesian government and battery manufacturers explicitly recognize the strategic value of combining Australian lithium with Indonesian nickel for complete battery value chains. Former President Widodo expressed interest during the 2023 Australia-Indonesia Annual Leaders'

Meeting in importing Australian lithium to complement Indonesian nickel for a "fully integrated EV battery supply chain in Southeast Asia."[37]

The November 2024 agreement between Indonesia and Australia's Northern Territory for joint EV battery ecosystem development, alongside MIND ID's exploration of Australian lithium reserves, demonstrates active government-level pursuit of integration. Tesla sources over $1 billion annually in Australian minerals through agreements with Liontown Resources (5-year deal for 100,000-150,000 DMT lithium spodumene annually from Kathleen Valley) and BHP Nickel West.[38]

LG Energy Solution has established long-term offtake agreements with Australian miners: 25% of lithium spodumene concentrate from Green Technology Metals from 2026, 2,000 tons of natural graphite annually from Syrah Resources from 2025, and a 10-year contract with Queensland Pacific Metals for 7,000 tons of nickel and 700 tons of cobalt per year.[39]

Manufacturing Investment Perspectives

Major battery manufacturers are pursuing comprehensive vertical integration in Indonesia. CATL's $5.968 billion Indonesia Battery Integration Project covers nickel mining, processing, battery materials, cell production (15 GWh by 2030), and recycling across over 2,000 hectares. Hyundai-LG's $1.1 billion HLI Green Power battery cell plant (10 GWh, expandable to 30 GWh) is deliberately sited near nickel processing and Hyundai's auto plant to ensure efficient logistics.[40]

Thailand leverages its established automotive ecosystem differently—720 Tier 1 suppliers and 1,100+ Tier 2/3 suppliers developed over 60+ years of Japanese investment. Toyota's $1.6 billion commitment (December 2024) confirms continued strategic focus. Thailand's BOI EV 3.5 package offers up to 8 years corporate income tax exemption for investments over THB 5 billion.[41]

However, investment decisions remain highly sensitive to regulatory environment stability. In 2025, LG Energy Solution pulled out of a flagship $8.5 billion Indonesian supply chain project, citing "market conditions and investment environment" uncertainties—while simultaneously expanding a separate Indonesian joint venture with Hyundai.[42]

Standards and Certification Requirements

The EU Battery Regulation (2023/1542) creates the most comprehensive compliance framework globally. Battery passports become mandatory from February 2027 for EV batteries, LMT (light means of transport) batteries, and industrial batteries exceeding 2kWh capacity sold in the EU, requiring digital QR codes linking to comprehensive product data, carbon footprint declarations verified by third parties, full supply chain traceability from mine to battery, and recycled content targets from 2031 (16% cobalt, 6% lithium, 6% nickel, 85% lead). Maximum lifecycle carbon footprint thresholds will potentially exclude high-carbon Indonesian nickel from European markets entirely.[43]

US Inflation Reduction Act provisions create parallel pressure. The IRA imposes escalating sourcing thresholds: critical minerals must come from US or FTA partners at 60% in 2025, rising to 80% from 2027 onward; battery component requirements reach 100% from 2029. Indonesia lacks an FTA with the US, excluding Indonesian minerals from IRA eligibility regardless of ESG credentials. Foreign Entity of Concern restrictions from 2025 exclude critical minerals with 25%+ ownership by designated countries (China, Russia, North Korea, Iran)—a significant barrier given Chinese companies control approximately 75% of Indonesian nickel refining capacity.[44]

Leading manufacturers have implemented ESG frameworks exceeding regulatory minimums. CATL operates among the most comprehensive frameworks with over 300 in-depth supplier audits. Tesla states "The Initiative for Responsible Mining Assurance (IRMA) Standard is Tesla's preferred mining standard."[45] The Global Battery Alliance completed 2024 pilots with consortia representing over 80% of global EV battery market share, with CATL pilot batteries achieving 49 $kgCO_2eq/kWh$ average.

Australia's ESG Differentiation

Australian minerals offer significant ESG advantages: approximately six times fewer emissions than Indonesian nickel according to London Politica analysis. BHP's Nickel West sources power from "one of world's largest off-grid mining solar and battery storage systems."[46] The Minerals Council of Australia positions Australia as having "rich geology, strong mining and processing capabilities, and reputation for reliability and transparency" making it a "trusted partner in global supply chains."

However, the market premium for ESG-compliant supply remains uncertain. Analysis indicates "the majority of the market is currently unwilling to pay a premium for ESG or geopolitically friendly supply."[47] Australian processing costs remain approximately 10 times China's capital intensity with operating costs double Chinese equivalents for lithium processing.

Key FTA provisions battery manufacturers would value include critical minerals tariff elimination and trade facilitation, investment protection for processing facilities, technical standards mutual recognition, ESG/sustainability requirements integration, supply chain mapping and traceability cooperation, and flexible rules of origin allowing regional cumulation.[48] The US-Australia Critical Minerals Framework (October 2025) with its $8.5 billion project pipeline demonstrates this approach with establishment of a Critical Minerals Supply Security Rapid Response Group.

Cross-Sectoral Consensus

Australian business councils and peak industry bodies have evolved to a highly sophisticated, implementation-focused approach to FTA modernisation. The evidence reveals remarkable consensus across diverse sectors on priority barriers and modernisation asks.

Peak Body Positions

The AustCham ASEAN Survey 2023-24 provides the most comprehensive cross-sectoral evidence, finding fair law enforcement (50%), labour mobility (45%), and investment/services restrictions as top priorities across all Australian businesses in ASEAN. Notably, only 17% of firms make significant use of FTAs despite tariff benefits—implementation gaps and documentation burden, not market access, now constitute the primary barriers.[49]

The Indonesia-Australia Business Partnership Group's 2016 report "Two Neighbours, Partners in Prosperity"—coordinated by ACCI with AIBC, IABC, KADIN, Ai Group, and APINDO—established foundational consensus positions that remain relevant: progressive removal of all trade barriers, full liberalisation of services and investment, greater market integration, opening infrastructure to foreign investment, and establishment of joint PPP centres.[50] These cross-sectoral recommendations represent rare formal consensus across Australian and Indonesian peak bodies.

Business Council of Australia CEO Bran Black emphasises that ASEAN is "the fastest growing region in the world" and already Australia's largest regional trading partner, with "truly quite immense" opportunities emerging from its youthful, dynamic 680 million population and surging middle-class consumer base.[51]

Collective Industry Priorities

Cross-sectoral priorities identified through business council advocacy centre on five themes:

Governance Quality Over Tariff Reduction: Business councils have fundamentally shifted from traditional tariff-focused advocacy to behind-the-border regulatory governance, transparency, and predictability. The AustCham ASEAN Survey identified top non-tariff barriers affecting Australian business: government procurement restrictions (25%), finance measures (24%), measures affecting competition (21%), and intellectual property issues (17%).[52]

Professional Mobility and Qualifications Recognition: The AustCham ASEAN Survey found 45% of respondents identify labour mobility as a top priority for accelerating economic integration—second only to governance concerns. The ASEAN-wide Mutual Recognition Arrangements cover only eight professions and affect approximately 1.5% of ASEAN's labour force. Ten years after the engineering MRA was signed, only seven countries had functioning implementation mechanisms.[53]

Investment Certainty Through Transparency: With ISDS effectively off the table for new Australian FTAs, business councils have refocused investment priorities on transparency, regulatory stability, and non-discrimination provisions. IA-CEPA's Non-Tariff Measures chapter—the first for any Australian FTA—provides a model for bilateral cooperative mechanisms addressing investment concerns without traditional ISDS. Contract stability and transparency emerge as priority mechanisms.[54]

Implementation Over Negotiation: Business councils consistently identify implementation gaps as higher priorities than new negotiating asks. Improving utilisation of existing provisions offers higher returns than negotiating marginal new market access.

Critical Minerals Cooperation: Despite strategic importance, critical minerals cooperation "hasn't featured in recent initiatives between Australia and ASEAN" according to ASPI analysis. It was not included in the ASEAN-Australia comprehensive strategic partnership or the AANZFTA upgrade—a significant gap given ASEAN accounts for 46% of global nickel production and 34% of tin production.[55]

Areas of Strong Consensus

The strongest consensus exists around implementation-focused reforms that deliver commercial outcomes:

Quick Wins: Harmonise Rules of Origin between overlapping agreements; expand self-certification/Declaration of Origin procedures; streamline Certificate of Origin documentation for SMEs; improve business awareness campaigns; activate digital trade provisions already agreed; establish 24/7 electronic payment systems for duties.

AANZFTA Upgrade Model: The April 2025 AANZFTA upgrade delivers significant improvements praised by business: full cumulation among participating parties (first ASEAN FTA to operationalise this), simplified Rules of Origin, supply chain resilience commitments, new chapters on MSMEs and Government Procurement, and the first sustainable development chapter for any ASEAN FTA. Future priorities include transitioning services schedules to negative list format.[56]

Indonesia-Specific Barriers: AIBC and MCA have documented specific Indonesia barriers including the Negative Investment List (DNI) restrictions limiting foreign equity, complex KITAS work permit schemes, import licensing regimes described as "a major irritant," and uncertain investment approval processes. IA-CEPA addressed some of these, but the Third Joint Committee Meeting (June 2025) noted tariff rate quotas for Australian feed grains remain "not fully implemented."[57]

Malaysia Legal Services: The Law Council of Australia's 2021 MAFTA submission reveals severe restrictions: only one Malaysian law firm has employed a foreign lawyer since 2018, and only two foreign law firms have been granted Qualified Foreign Law Firm licenses since 2014.[58]

Agriculture Sector Lessons

The agriculture sector's extensive Southeast Asian FTA experience provides transferable lessons for critical minerals. The Australian Dairy Industry Council's September 2025 DFAT submission documents that "the certificate of origin requirements under many existing FTAs with Southeast Asia place an administrative burden on exporters. These agreements typically require COOs to be issued by a third party... adding cost and complexity to the export process."[59] This contrasts with CPTPP's self-certification model.

NFF has set an explicit target of 50% reduction in non-tariff barriers by 2030, acknowledging these "technical or so-called 'behind the border' restrictions" as major impediments beyond tariffs.[60] The Australian Agricultural Sustainability Framework ($9 million government funding, NFF custodianship) offers a template for industry-led standards development with government support—a model applicable to critical minerals ESG certification.

Government-to-government organic equivalence arrangements (Australia-Taiwan 2020, Australia-India 2025) demonstrate viable pathways for mutual recognition without requiring complete standards alignment—directly applicable to sustainability credential recognition in critical minerals trade.

Divergent Views

Divergent views are notably limited—the primary tensions are differences of emphasis rather than fundamental disagreement:

Urgency Versus Ambition: Some stakeholders prioritise immediate implementation improvements to existing agreements, while others advocate for comprehensive new provisions addressing emerging issues.

Bilateral Versus Regional: Business councils differ on whether to prioritise bilateral deepening (particularly with Indonesia and Malaysia) or regional framework enhancement (AANZFTA, RCEP).

Risk Tolerance: Conservative institutional investors differ from entrepreneurial first-movers like Fortescue in their appetite for Southeast Asian processing investment.

These represent strategic choices within a shared framework rather than conflicting priorities.

Priority Themes for FTA Modernisation

Industry perspectives converge around seven priority themes for FTA modernisation, each with specific implications for negotiation strategy and instrument selection.

1. Behind-the-Border Barriers

Non-tariff measures consistently emerge as more significant impediments than tariffs across all sectors. The AustCham ASEAN Survey documents that regulatory complexity, administrative procedures, and standards fragmentation impose higher effective barriers than remaining tariff lines.

Specific barriers include Indonesia's import licensing regime (described as "a major irritant"), complex work permit schemes (KITAS), and documentation requirements. Each Southeast Asian market maintains distinct mandatory labeling and certification requirements—what the ASEAN Food and Beverage Alliance describes as making it "difficult to design a product label that will accommodate all the mandatory requirements in multiple ASEAN countries."[61]

Certificate of Origin requirements under older FTAs create significant administrative burden. The dairy industry notes these agreements "typically require COOs to be issued by a third party, such as the Australian Chamber of Commerce and Industry or Australian Industry Group, adding cost and complexity to the export process"—contrasting with CPTPP's self-certification model.

2. Services Sector Restrictions

Professional services restrictions affect multiple sectors simultaneously. Indonesia's OECD Services Trade Restrictiveness Index data shows restrictions well above OECD averages across construction, legal, and accounting services, illustrating systemic barriers to professional services trade.

The METS sector faces particularly acute challenges with services incidental to mining remaining completely uncommitted under AANZFTA despite A$17 billion export value. Malaysia's legal services restrictions exemplify the problem: only one Malaysian law firm has employed a foreign lawyer since 2018.

ASEAN-wide Mutual Recognition Arrangements covering eight professions affect only approximately 1.5% of ASEAN's labour force, with significant implementation gaps remaining a decade after agreements were signed.

3. Investment Certainty Mechanisms

With ISDS off the table for new Australian FTAs, industry seeks alternative mechanisms for investment protection. Contract stability, regulatory transparency, and predictable administrative processes emerge as priority concerns.

Indonesia's mandatory 51% local ownership by year ten of production, combined with termination of 60+ bilateral investment treaties since 2015, illustrates the investment certainty challenge. IA-CEPA's Non-Tariff Measures chapter—the first for any Australian FTA—provides a model for bilateral cooperative mechanisms without traditional ISDS.

Financial sector perspectives emphasise bankability requirements: completed feasibility studies, secured offtake agreements, proven technology, and demonstrated proponent capability as prerequisites for project financing.

4. Technology Transfer and IP Protection

Technology transfer emerges as the universal priority across Southeast Asian countries while creating IP exposure concerns for Australian providers. Indonesia's Government Regulation 34/2021 requiring appointment of local "companion" employees for technology transfer illustrates the tension.

Indonesia's presence on the USTR Special 301 Priority Watch List reflects "lack of adequate and effective IP protection and enforcement" with "fragile" enforcement. Patent grants taking 4-5 years in Indonesia (versus 6-9 months in Singapore) creates practical barriers for technology-intensive exports.

METS companies identify IP protection as essential for regional expansion, while Southeast Asian industries explicitly seek processing technology capabilities (HPAL, rare earth extraction, battery manufacturing) from Australian partners.

5. Resource Nationalism Responses

Indonesian export restrictions and mandatory downstream processing requirements represent the most consequential structural barriers. The January 2020 nickel ore export ban, ruled inconsistent with WTO obligations in December 2022, remains unaddressed with WTO appellate body non-functional.

Progressive divestment requirements (20% Indonesian ownership by year six rising to 51% by year ten) have driven exit of major Australian mining companies. The Minerals Council of Australia characterises this as "economic nationalism… characterised by a strong belief in the central role of the state in promoting industrialisation."

However, Philippine industry offers a contrasting approach—PNIA opposes export bans as "ill-timed" and advocates for incentives over mandates. Nickel Asia Corporation CEO advocates: "Instead of a ban, just provide more incentives for companies to build those plants."

6. Sustainability Standards Harmonisation

Strong industry convergence exists around mutual recognition arrangements for sustainability standards. The Australian Hydrogen Council emphasises export partners "are already demanding proof of green credentials" and urges alignment with global frameworks (IPHE methodologies, ISO standards).

Government-to-government organic equivalence arrangements (Australia-Taiwan 2020, Australia-India 2025 under ECTA) demonstrate viable pathways for sustainability credential recognition without requiring complete standards alignment.

The Australian Agricultural Sustainability Framework model—$9 million government funding with NFF custodianship—offers a template for industry-led standards development applicable to critical minerals ESG certification. This partnership model balances industry credibility with government diplomatic weight.

EU Battery Regulation and US IRA provisions create external pressure for standards convergence, with companies serving these markets implementing comprehensive traceability regardless of home market requirements.

7. FTA Implementation and Utilisation Gaps

Only 17% of Australian businesses make significant use of existing FTAs, while 28% remain unaware agreements exist. AIBC warns of potential "market failure" in uptake without active promotion and facilitation mechanisms.

Thailand's documented non-compliance with TAFTA dairy commitments—"Thailand has not been adhering to its commitments under the agreement" despite 20 years since entry into force—demonstrates that FTA text alone does not guarantee implementation. Indonesia's IA-CEPA feed grain TRQ remains "not fully implemented" according to the Third Joint Committee Meeting (June 2025).[62]

The AANZFTA upgrade (April 2025) addresses some implementation challenges through full cumulation among participating parties, simplified Rules of Origin, and new chapters on MSMEs. However, transitioning services schedules to negative list format remains a future priority.

Recommendations

Based on the consultation findings, the following recommendations emerge as priorities for FTA modernisation strategy. These recommendations reflect cross-sectoral consensus and are grounded in documented stakeholder perspectives.

Priority Areas for FTA Negotiation

Services Chapter Enhancement: Services incidental to mining should be prioritised for new commitments under AANZFTA or bilateral agreements given the METS sector's strategic importance (A$17 billion export value, 62% of METS companies exporting to Southeast Asia). Professional qualifications mutual recognition should be expanded beyond the eight professions currently covered, with accelerated implementation mechanisms.

Certificate of Origin Modernisation: Transition all Southeast Asian FTAs to CPTPP-style self-certification for rules of origin. The administrative burden of third-party certification creates effective barriers that undermine tariff elimination benefits. This represents a "quick win" requiring relatively straightforward agreement text amendments.

Standards Mutual Recognition Framework: Establish government-to-government equivalence arrangements for sustainability standards following the organic certification model (Australia-

Taiwan 2020, Australia-India 2025). This approach enables mutual recognition without requiring complete standards harmonisation.

Investment Transparency Provisions: Building on IA-CEPA's Non-Tariff Measures chapter model, enhance transparency and regulatory predictability provisions in bilateral agreements. While ISDS is off the table, contract stability, non-discrimination, and procedural transparency mechanisms address core investor concerns.

Critical Minerals Cooperation: Address the documented gap in Australia-ASEAN critical minerals cooperation through dedicated provisions or cooperation mechanisms. The US-Australia Critical Minerals Framework provides a model for mineral-specific agreements outside comprehensive FTA renegotiation.

Sector-Specific Recommendations

Mining and METS: Prioritise services trade liberalisation with commitments on mining services, engineering consulting, and technical services. Address IP protection through enhanced enforcement cooperation provisions.

Financial Sector: Support development of blended finance mechanisms for critical minerals projects, building on the $2 billion Southeast Asia Investment Financing Facility. Coordinate with development finance institutions on ESG due diligence frameworks.

Renewable Energy and Hydrogen: Accelerate certification mutual recognition for green hydrogen and renewable energy credentials. The Smart Energy Council's Zero Carbon Certification Scheme and German dena partnership provide models for international certification alignment.

Battery and EV Value Chain: Facilitate flexible rules of origin allowing regional cumulation so that Australian minerals processed in ASEAN countries can qualify for FTA benefits when exported to third countries. Address the "FEOC" challenge through supply chain transparency mechanisms.

Implementation Mechanisms

Investment Deal Teams: Industry strongly endorses the Investment Deal Teams model for practical on-ground support. Nicholas Moore's call for "single-door concierge services" reflects CEO-level priorities for implementation support.

Electronic Certification Rollout: Expand digital certification infrastructure demonstrated through ATMAC-funded agriculture projects. Electronic documentation reduces shelf-life losses and administrative burden—benefits directly applicable to critical minerals trade.

TBT Committee Mechanisms: Establish standing Technical Barriers to Trade committees in bilateral FTAs following IA-CEPA and Australia-UK FTA models. These provide structured forums for addressing emerging standards-related barriers without requiring treaty renegotiation.

Business Awareness Campaigns: Address the documented awareness gap (28% of businesses unaware of existing FTAs) through targeted outreach, sector-specific guidance, and improved utilisation tracking.

Stakeholder Engagement Recommendations

Industry-First Consultations: Continue the industry-first consultation approach identified by DFAT, ensuring private sector perspectives inform negotiating priorities before formal government-to-government processes.

Bilateral Business Council Engagement: Leverage existing bilateral business council structures (AIBC, AMBC, ATBC, AVBC) for ongoing stakeholder input. The Indonesia-Australia Business Partnership Group model demonstrates effective cross-border business coordination.

Peak Body Coordination: Coordinate across Australian peak bodies (BCA, ACCI, Ai Group, MCA, Austmine, NFF) to develop consensus positions that can inform integrated negotiating strategies.

Southeast Asian Industry Dialogue: Expand engagement with Southeast Asian industry counterparts—KADIN (Indonesia), FMM (Malaysia), COMP (Philippines)—to identify mutual interests and build partnership approaches rather than adversarial negotiating dynamics.

Track 2 Validation: Use the December 19 Track 2 Virtual Dialogue and subsequent February 2026 session to validate recommendations and test cross-sectoral applicability under Chatham House Rule conditions.

Next Steps

Virtual Roundtable: December 19, 2025

The Track 2 Virtual Dialogue will convene 10-15 multi-stakeholder participants under Chatham House Rule to:

- Validate priority themes and barrier identification
- Test cross-sectoral applicability of proposed solutions
- Refine recommendation priorities ahead of Technical Paper development
- Gather additional perspectives from participants not reached through earlier consultations

Technical Paper Development: January 2026

Building on validated consultation findings, the Technical Paper will develop:

- Model provisions and flexible options for critical mineral supply chains
- Specific drafting approaches for priority FTA chapters
- Assessment of alternative instruments (bilateral agreements, cooperation mechanisms)

Final Recommendations: February 2026

The Final Report will consolidate all project materials with comprehensive FTA modernisation recommendations and implementation roadmap to 2040, informed by Track 2 Virtual Dialogue II validation in February 2026.

Acronyms

- **AANZFTA**: ASEAN-Australia-New Zealand Free Trade Agreement
- **ACCI**: Australian Chamber of Commerce and Industry
- **AIBC**: Australia-Indonesia Business Council
- **BCA**: Business Council of Australia
- **CPTPP**: Comprehensive and Progressive Trans-Pacific Partnership
- **ESG**: Environmental, Social, and Governance
- **FTA**: Free Trade Agreement
- **IA-CEPA**: Indonesia-Australia Comprehensive Economic Partnership Agreement
- **MAFTA**: Malaysia-Australia Free Trade Agreement
- **METS**: Mining Equipment, Technology and Services
- **MRA**: Mutual Recognition Agreement
- **RCEP**: Regional Comprehensive Economic Partnership

- **TAFTA**: Thailand-Australia Free Trade Agreement
- **TKDN**: Tingkat Komponen Dalam Negeri (Indonesian local content requirement)
- **TSM**: Towards Sustainable Mining

References

Appendix A: Stakeholder Consultation Scope

This appendix documents the indicative scope of stakeholder consultation for the project, as presented to DFAT at the 28 November 2025 mid-term update meeting. The categories below represent target consultees and are neither definitive nor prescriptive—actual engagement is shaped by stakeholder availability and responsiveness, with consultation activities continuing iteratively through February 2026.

Industry Stakeholders

Industry consultation focuses on organisations with direct experience in Australia-Southeast Asia trade and investment in critical minerals and related sectors.

Australian Industry Bodies:

- Minerals Council of Australia (MCA)
- Association of Mining and Exploration Companies (AMEC)
- Critical Minerals Association Australia (CMAA)
- Clean Energy Council (CEC)
- Australian Industry Group (Ai Group)

Southeast Asian Industry Bodies:

- KADIN Indonesia (Indonesian Chamber of Commerce and Industry)
- Vietnam Chamber of Commerce and Industry (VCCI)

Companies with Regional Operations:

- Lynas Rare Earths
- IGO Limited
- Envirostream Australia

Guiding Question: What are the practical pain points and barriers to deeper ties with Southeast Asian markets?

Government Stakeholders

Government consultation, to be undertaken following crystallisation of industry perspectives consistent with DFAT guidance, will engage:

- Relevant Commonwealth Departments (DFAT, DISR, DCCEEW, DAFF, Treasury)
- Relevant Australian posts in Southeast Asia
- Trade promotion offices for Southeast Asian markets

Guiding Question: What policy priorities are enabled or constrained by relevant trade architectures?

Research and Specialist Organisations

Specialist consultation draws on organisations with relevant research expertise and regional networks:

- Future Battery Industries CRC (FBI CRC)
- Australian Centre for International Trade and Investment (ACITI)
- FrontierSI
- Powering Australia
- ASEAN Centre for Energy
- Economic Research Institute for ASEAN and East Asia (ERIA)
- ISEREC Indonesia
- ISEAS-Yusof Ishak Institute Singapore
- National Research and Innovation Agency Indonesia (BRIN)
- World Resources Institute (WRI) Indonesia
- Solar Energy Research Institute of Singapore (SERIS)
- Supply Nation

Guiding Question: What relevant evidence and insights have implications for project recommendations?

Additional Stakeholders Identified

Through project discussions, the following additional stakeholders have been identified for potential engagement:

- National Farmers' Federation (NFF) — identified as the national lead on sustainability standards in agriculture, with cross-sectoral implications
- Australia-Indonesia Business Council (AIBC)
- Bilateral business councils (AMBC, ATBC, AVBC)
- DFAT Green Economy Policy Team
- Department of Climate Change, Energy, the Environment and Water (DCCEEW)

Consultation Approach

Consistent with DFAT guidance from 28 November 2025, the project is pursuing an industry-first consultation sequence, gathering private sector perspectives before formal government agency engagement. This approach ensures recommendations are grounded in practical implementation considerations and commercial experience.

Consultations combine:

- **Desk-based research**: Systematic analysis of published industry positions, peak body submissions, annual reports, and advocacy documents
- **Individual consultations**: Targeted engagement with industry representatives and subject matter experts
- **Virtual roundtables**: Multi-stakeholder validation sessions under Chatham House Rule (Track 2 Virtual Dialogues in December 2025 and February 2026)

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