

The Australian Government's approach to negotiating trade and investment agreements

Austrade Submission

The following is a brief overview of the Australian Trade and Investment Commission's (Austrade) role in, and experiences with, trade and investment agreements. Austrade would welcome further conversations with the committee to provide additional detail.

Austrade Overview

Austrade is an Australian Government agency within the Foreign Affairs and Trade portfolio (the portfolio). We accelerate the growth of exports, attract productive foreign direct investment, and play a lead role in the Commonwealth's tourism policy, its programs, and the national strategy for the visitor economy's long-term sustainable growth. Austrade also promotes Australia's education to the world and produces Australia's official tourism statistics.

Austrade assists Australian businesses grow internationally, connecting exporters to commercial opportunities overseas and sharing knowledge and trusted advice. We are responsible for marketing Australia's education services offshore and influence foreign investment decisions by promoting Australia as a top destination for foreign investment and facilitating market entry. In tourism, we lead Australian Government policy, programs and the official statistics for tourism and the visitor economy. Austrade also provides consular and passport services in some designated overseas locations to Australian citizens on behalf of the Department of Foreign Affairs and Trade (the department). We also connect business to government so that policy is shaped by commercial insights.

Austrade's Responsibilities

PROMOTING, FACILITATING AND ACCELERATING TRADE AND PRODUCTIVE FOREIGN INVESTMENT

Austrade is established through the *Australian Trade and Investment Commission Act 1985* (the Act). Under the Act, Austrade is responsible for facilitating and encouraging trade and investment between Australia and foreign countries (see s8(1) of the Act). The Act describes these responsibilities broadly and they include "assisting, directly or indirectly, Australian organisations in trade negotiations". Australian organisations can include Australian businesses, industry representative bodies, as well as state and territory governments, and Australian Government agencies.

Trade and investment are key drivers of economic growth in Australia; one in four jobs are related to trade, and one in ten are supported by foreign investment.

Austrade focusses its trade facilitation efforts on: marketing and promotion activities that highlight Australia's expertise and credentials; assisting Australian businesses reach markets through trade information services; connecting individual businesses to potential buyers; and undertaking economic and data analysis to support trade and investment market insights. Our frequent interactions with the Australian Government, as well as state and territory governments, direct our activities as well as the policy work undertaken by these agencies. These interactions also inform trade negotiations.

Our foreign investment efforts focus on promoting Australia as a top destination for foreign investment and attracting productive foreign direct investment that introduces new technologies or skills, creates jobs, and generates additional economic activities. We proactively target productive foreign investment where there is a commercial gap or opportunity, and where the investment will accelerate delivery of outcomes on government priorities. Australia's position as an open and adaptable trading nation in conjunction with a broad network of trade and economic agreements are key to Australia's value as a destination for foreign investment.

TOURISM POLICY RESPONSIBILITY

Austrade is also responsible for "developing and administering policies relating to tourism (including domestic tourism)" (s8(2)), as well as the delivery of programs and development of official statistics for tourism and the visitor economy. The Department of Foreign Affairs and Trade (DFAT) works in the international domain to strengthen bilateral tourism relationships and leverage key multilateral tourism bodies with Austrade supporting this work to assist DFAT to meet its international tourism policy responsibilities. Tourism Australia is responsible for international tourism marketing and for driving international demand.

The visitor economy comprises a wide range of businesses that provide goods and services to visitors who travel to Australia for a variety of purposes including education, business, employment, holiday, and visiting friends and relatives. The concept of the visitor economy spans a broad range of sectors including accommodation, transport, culture, arts and recreation, business events, education and training, food services and retail. It also includes those businesses that facilitate or promote tourism services, including inbound and outbound travel to Australia.

Austrade engages across government to provide policy insights on the visitor economy, including to inform trade negotiations. These insights are informed by the implementation of THRIVE 2030, the national strategy for the long-term sustainable growth of the visitor economy. Austrade has responsibility for delivering this strategy; an industry-led, government-enabled strategy, which is being delivered in partnership with Australian Government agencies, state and territory governments, and industry.

Austrade Contributions to International Negotiations

MARKET INTELLIGENCE AND ANALYSIS

➤ Through Austrade's extensive onshore and offshore network

As an Australian Government agency, Austrade participates in, and contributes to, a broad range of formal and informal Australian Government discussions prior to, and during negotiations of trade and investment agreements. Austrade is part of the department's portfolio, with an extensive network of domestic and overseas representatives with a presence in 107 locations (current at 30 September 2023), including 65 overseas posts. As such, information, insights and analysis are shared between both agencies on a daily basis, with officers working closely together both onshore and offshore. These insights and analysis are also shared in broader Australian Government discussions, such as the Interdepartmental Committee process.

➤ Through Austrade's engagement with business and jurisdictions

Austrade receives business intelligence from individual businesses, peak bodies and other business organisations across almost the entire range of sectors and markets where Australian exporters are involved. Austrade also receives intelligence through its interactions with potential investors and

communities engaging with those potential investors. Austrade's Chief Economist combines this intelligence with detailed data on businesses across trade and investment to produce valuable analytical insights and keystone publications like the Benchmark Report 2023. Together these provide a knowledge base to support whole-of-government positions.

With intimate knowledge of individual business experiences, and detailed data about exporter behaviour through its administration of the Export Market Development Grant program that has supported more than 51,000 exporters over 50 years, Austrade integrates market intelligence, economic, and data analysis with whole-of-government priorities and analysis. States and territories share views and insights with Austrade through the National Investment Forum and National Trade Forum – these groups bring together Austrade and our state and territory government counterparts at the working level to discuss practical issues and collaboration opportunities across whole of government trade and investment activities.

➤ Through Austrade's engagement with First Nations business

Austrade engages First Nations businesses and organisations such as Supply Nation on an ongoing basis, and in 2022-23 conducted nation-wide consultations with First Nations communities and businesses to inform priority trade and investment support for these businesses. This work will be increasingly important as First Nations provisions are included in Free Trade Agreements.

➤ Complementing DFAT's mission by bringing to life a unique business perspective

During discussions with the department and other Australian Government agencies, Austrade provides a government perspective on the market intelligence it has gathered, providing case studies and tangible insights through individual, sector-wide and economy-wide examples. Austrade is able to signal where negotiators may need to focus their attention, what the hidden barriers to trade may be and potential ways to overcome them, and where real opportunities for Australian businesses exist. Austrade can also provide insights into Australia's reputation in various markets and where potential issues may arise for negotiators.

Industry peak bodies and individual businesses also provide their perspective through the consultative mechanisms managed by the department. The insights provided by these organisations are valuable and contribute to the overall success of each negotiation. Austrade's contribution is different. The sum of all the information available to Austrade, through both the private sector and the public sector, provides a varying, value-added perspective on the issues facing Australian businesses in the markets in which we operate.

IMPLEMENTATION POST SIGNATURE

➤ Providing DFAT with feedback from business

Austrade supports the implementation of international agreements on trade and investment through targeted business outreach activities at signature. Austrade's close dealings with businesses during these periods provide us with insights around how individuals and sectors are responding to the opportunities presented by free trade agreements. Austrade uses the information and provides some of that information back to the department to inform the development of materials about such agreements, including fact sheets and business guides.

➤ Educating and assisting businesses in fully leveraging free trade agreements

Austrade continues to support implementation following entry into force by leveraging free trade agreements as a selling point for trade and doing business with Australia. Austrade regularly engages with businesses to educate them on how to reap the benefits of an agreement, and routinely supports business delegations including to maximise the uptake and benefit from agreements.

Sharing information about the agreements with businesses allows them to leverage the benefits of an agreement and gain a competitive advantage. For example, Austrade undertook extensive efforts to educate businesses and stakeholders (including tourism stakeholders) after the recent Australia-United Kingdom Free Trade Agreement (A-UKFTA) was signed, including conducting social media campaigns and hosting targeted stakeholder briefing sessions. These activities were scaled up at entry into force. There is always room for Austrade to do more, depending on resources available, particularly in terms of targeting specific industries that will immediately benefit from an agreement. In Austrade's experience, frequent and consistent communications about an agreement assist Australian businesses to realise the benefits of an agreement through quicker utilisation.

While businesses are the primary target of Austrade's advocacy efforts, the general public is also a critical audience. It is important for Australian citizens and businesses to understand how these agreements are negotiated and how they deliver benefits to Australian companies and the economy.

Legislation Considerations

SECURITY PROVISIONS

Section 94 of the Act prohibits the disclosure of commercial in confidence information received by Austrade staff and contractors. The Chief Executive Officer, Austrade staff and consultants engaged by Austrade are subject to a penalty of up to 12 months imprisonment should they directly or indirectly make a record of, or divulge or communicate to any person information they acquire through the course of employment.

This provision allows Austrade's operations to be effective by ensuring businesses can feel comfortable providing commercial-in-confidence information. Without these assurances in place, existing and prospective clients of Austrade would be notably less inclined to provide sensitive or high-level commercial information to Austrade, significantly impeding Austrade's ability to effectively deliver its statutory functions.

Where Austrade has access to commercial-in-confidence information that may assist the department with any negotiation, Austrade may seek permission from the business to share that information with the department, sometimes negotiating a sanitised document or version of events or concerns. On occasion, businesses are reluctant to share information more broadly. Businesses know the protection available to them under our Act does not apply to Australian Government officers not employed or contracted to Austrade, nor are there further protections available that would apply sufficient protection to encourage businesses to disclose commercial-in-confidence information. Business concerns regularly extend to considerations around the number of people with access to their information, as the more people who have access to such information, the increased likelihood the information will reach competitors or those with whom businesses have been negotiating.

If legislation supporting the processes for conducting international trade and investment negotiations is created, consideration around the value of such information to negotiations and how to protect commercial-in-confidence information would be valuable to explore.