

# Northern Territory Government submission to the Joint Standing Committee on Treaties Inquiry into the Free Trade Agreement between Australia and the United Kingdom of Great Britain and Northern Ireland

## Overview

The Northern Territory Government supports the modern and comprehensive Free Trade Agreement (FTA) between Australia and the United Kingdom (UK) that further strengthens the bilateral economic relationship and sets a gold standard for future FTAs in both countries.

The Northern Territory is proud of its strong trade relationships with the United Kingdom, with major trade in tourism, film and digital media, as well as Aboriginal visual arts and aircraft equipment. The Northern Territory is fortunate to have major investors from the UK doing business in the Territory.

The Northern Territory Government has identified the UK as a priority market in the Northern Territory International Engagement Strategy 2022-26.

The Northern Territory Government is seeking positive reciprocal outcomes for businesses operating in both markets, to aid competitiveness, encourage cross-border innovation, enable mobility of talent and increase two-way trade and investment.

The Northern Territory Government supports free and open rules-based trade in recognition that the intent of an A-UKFTA is not to flood either market with an overwhelming volume of Australian or British products or services, but rather to provide access to high-quality goods and services drawing on the unique strengths of each country.

The Northern Territory Government also supports this FTA as it is inclusive for all businesses, including Small Medium Enterprises. It is built to last, integrating data and the digital economy, sustainability and a mechanism for regular review and revision.

The A-UKFTA, would allow for the creation of new export opportunities and jobs for business by eliminating tariffs. The Northern Territory looks forward to seeing goods and services exported through a 'preferential path,' to the United Kingdom and vice versa.

Compared to other agreements, this FTA contains some advances in the areas of digital trade and animal welfare in particular, including some additional services which represent opportunities to simplify and speed up some processes.

The A-UKFTA also creates new opportunities for UK businesses, to utilise the trade agreements that Australia holds with a variety of Asian markets; in particular, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership Agreement (RCEP).

## Northern Territory Government's Key recommendations

1. Comprehensive independent economic, environmental, health and gender impact assessments should be completed and made public before the enabling legislation and ratification of the A-UKFTA.
2. Australia should ensure that any regional trade deals that may include the UK, e.g. the CPTPP, should maintain the A-UKFTA's exclusion of corporate rights to sue governments (ISDS).
3. The Northern Territory Government recommends that exemption from labour market testing requirements for temporary workers from the UK should be expanded to include professionals in critical sectors such as health and education.
4. Increased commitments made on trade in services and government procurement that could undermine government's ability to regulate in the public interest should be reviewed and removed.
5. That the Australian Government adopts and implements the five recommendations of the Joint Standing Committee on Treaties Report 193 on Strengthening the Trade Agreement and Treaty Making Process in Australia.
6. The Northern Territory Government recommends that a Comprehensive Health Impact Assessment, considering the potential impacts to public health such as the ability of government to regulate alcohol, tobacco, and food, be undertaken when considering ratification of any FTA.

## The Northern Territory advantage

Given the opportunity for increased trade with the Northern Territory-Asia capability, the Northern Territory encourages UK businesses to use the FTA to base their Asia Pacific operations within the Northern Territory.

Darwin is uniquely placed for UK companies seeking to provide services to the Asia Pacific. Sharing the same time zone as Asia, a curfew free airport, the busiest livestock port in the southern hemisphere and a rich multicultural, linguistically diverse population provides an advantage to fast track projects and operations to the Asia region.

The Northern Territory currently exports the majority of its goods to Asian markets, off the back of our geographic advantage. These advantages provide a significant point of difference for UK based investors, to capitalise on our trade partnerships.

Expanding foreign investment, including from the UK, also plays an important role in Australia's COVID-19 economic recovery. The proposed A-UKFTA contributes to Australia's international competitiveness as it will help encourage new businesses to enter Australia and create new connections into other markets. Increased UK investment into Australia will also encourage competition and increase innovation by bringing new technologies and services to the Australian market.

The Northern Territory is a significant contributor to Australia's international trade. This is demonstrated by our share of the country's natural gas, mining, and live cattle export markets, including 20 per cent of the national exports of zinc ores and concentrates, 6 per cent of live animal exports and 3 per cent of aluminium products, while only accounting for around 1 per cent of Australia's total population.

The Northern Territory Government is committed to pursuing investment opportunities in key focus areas that will support our future growth. The Northern Territory is well positioned to attract investment into solar and hydrogen developments due to world-class solar and gas resources, and existing infrastructure and supply chains. Developing low emissions manufacturing capability in the Northern Territory is closely aligned to these energy opportunities and responds to the global trend, and the Northern Territory's own goals, of decarbonisation and net zero emissions.

The Northern Territory has a world-class mining export industry, including value-add processing and several major mines. There are key opportunities in attracting investment to spur development of local processing and manufacturing, as well as tapping into some of the most geologically promising greenfield or underexplored regions in Australia. Moving beyond raw resources will modernise Northern Territory industry, develop and attract a highly skilled workforce, and deliver greater value to the Northern Territory economy.

Other opportunities for investment attraction are in agribusiness through Sustainable Development Precincts. Investment attraction will also be pursued to support industry-enabling infrastructure development, including data centres, digital technology, maritime infrastructure, aerospace and tourism infrastructure.

Under the A-UKFTA, Northern Territory businesses will have the guaranteed right to bid for a greater variety of UK government contracts in a procurement market worth an estimated half-a-trillion dollars annually. Upon entry to force, there will be legally binding rules and access to the UK government procurement market for Australian goods, services and construction services – including SMEs and Aboriginal-owned businesses. Australian businesses will have the guaranteed right to bid for UK government procurement opportunities in a wide variety of areas, including education, legal and taxation services, as well as construction services and public works concession contracts, at the national and sub-national levels.

UK businesses will also be able to bid for government contracts in Australia, in line with our existing open government procurement framework. The Northern Territory has maintained reservations in priority public policy areas, such as SME and Aboriginal procurement which have been adopted into the A-UKFTA.

## A-UKFTA as a stepping stone to CPTPP

The A-UKFTA provides a major step towards UK accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), expected to generate additional economic benefits and more involvement in Indo-Pacific region. The UK is negotiating to join the CPTPP, a free trade area of 11 Indo-Pacific nations, including Australia. It would increase the UK's access to a growing market which includes some of the world's fast growing economies.

With the addition of the UK and other accessions, the CPTPP bloc could represent some 18% of global GDP by 2025. With the Australian agreement and the New Zealand agreement having now been concluded, the UK already has agreements with all current CPTPP members except Malaysia and Brunei. However, there are still advantages to be gained from having the UK membership in a multilateral free trade agreement that Australia is a part of, including via a more expansive rules of origin and promoting expansion of the CPTPP to like-minded trade nations. It would also represent a powerful signal for international economic integration in the face of the rise of protectionism. Furthermore, it would strengthen the global coalition of countries that support the rules-based system, including institutions such as the World Trade Organisation and regional cooperation forums in the Asia-Pacific.

Australia and the UK are close partners. Our relationship is underpinned by our shared heritage, common values, including democracy and the rule of law, closely aligned strategic outlook, and trade and investment links. Brexit, and the UK's resulting independent trade policy, has served to strengthen ties and revitalise bilateral relationships to focus on new opportunities.

The CPTPP and RCEP are a game changer for regional trade. While Australia has already negotiated a bilateral agreement with the UK, there are opportunities to enhance certain commitments and benefits when the UK negotiates under the CPTPP.

## Investment opportunities for the Northern Territory.

UK businesses will be encouraged to invest in the Northern Territory, thanks to Australian best practice investment rules, including to set up regional headquarters in Darwin to leverage Australia's network of bilateral and multilateral free trade agreements.

The UK is already a significant investor in Australia, with the third-highest stock of foreign direct investment, which was \$123.5 billion in 2020. The preferential Foreign Investment Review Board screening thresholds in the FTA, combined with added certainty through the commitments Australia has agreed, will promote even higher levels of UK investment across the Australian economy, and the Northern Territory is positioning itself as a preferred destination for UK businesses to base their Asia Pacific operations in the Northern Territory to take advantage of the Northern Territory's Asia capability and proximity to market. .

The A-UKFTA also provides high levels of guaranteed access for Australian investors in the UK investment market, high-standard investment protections and significant transparency regarding treatment of Australian investors in the UK. This will further boost the considerable existing Australian foreign direct investment in the UK which was \$134.1 billion in 2020.

For UK investors and industry councils, many of which already significantly invest and/or undertake trade in Australia, with some in the Northern Territory, there is now great potential to take advantage of the bankable investment environment the Northern Territory is creating. It would be great to see the UK feature more prominently as trading partners with the Northern Territory.

Commercial opportunities, underpinned by the recent signing of the A-UKFTA, epitomises the shared principled support of Australia and the UK of global open trade and investment. Similarly, Australia has a broad range of multilateral regional FTAs, including the RCEP) and the CPTPP.

UK businesses can access the \$25 trillion USD RCEP Free Trade Market and the \$13.5 trillion USD CPTPP via the A-UKFTA. The UK is not a signatory to the RCEP agreement and is yet to become a member of the CPTPP, but there are indirect ways in which UK businesses can access these markets via establishing a presence in the Northern Territory.

For UK businesses and investors, the RCEP's sheer size makes it significant. Participating economies account for 29 per cent of global GDP and around 30 per cent of the world's population. This equates to a market value of close to \$25 trillion USD and a total consumer base of around 2.2 billion, of whom an estimated 1 billion are to middle class consumer standards.

## Two way business migration opportunities

Reflecting our deep people-to-people links, Australia and the UK are committed to offering enhanced opportunities for our people to live and work in each country. The UK has guaranteed access for managers and specialists across all sectors to undertake three-year intra-corporate transfers to the UK, and for graduate trainees to have one-year transfers.

Australian professionals will have the same access to the UK's lucrative jobs market as their European competitors, with the exception of citizens of the Republic of Ireland. This means Australian job seekers can compete on an equal footing with EU nationals in the UK for the first time in more than 40 years.

To help encourage innovation flows into Australia, a new visa pathway for innovators and early career development will be piloted for UK citizens to come to Australia. This program will be streamlined and capped at 1,000 in the first year, rising to 2,000 the second year, after which it will be reviewed to assess future implementation.

The A-UKFTA also provides some new immigration measures, in particular, flexible visa pathways for certain service supply professionals and exemption from the labour market testing requirements for employers sponsoring workers in some limited sectors.

The Northern Territory Government is supportive of most of these arrangements as they provide the necessary flexibility to encourage foreign investment and provide increased access to overseas workers to alleviate skill shortages. However, it would be more beneficial for regional areas such as the Northern Territory if the exemption from labour market testing was expanded to include critical sectors such as health and education which suffer from pronounced skill shortages.

**The Northern Territory Government recommends that the removal of labour market testing requirement be expanded to include critical sectors such as health and education.**

## Investor State Dispute Settlement concerns

The UK is also seeking to join the CPTPP which is being used as a model by both governments, and includes Investor rights to sue governments (ISDS). While the A-UKFTA does not have ISDS, the issue is still live in the CPTPP.

ISDS are known to restrict regulation of essential services, The A-UKFTA trade in services chapter is modelled on the high level services chapters in the CPTPP agreement which opens most services to foreign investment and restricts new government regulation of services. For example, it could prevent regulation of energy services in response to climate change or prevent improvements in staffing levels in aged care or childcare. It could also stop governments from regulating to fix privatisation failures, as has occurred in vocational education services and privatised hospitals. It could limit state and territory governments with preventative health measures such as regulating that warning labels/images are placed on alcohol products.

While there is no provision for investor-state dispute settlement, the agreement does provide for State-State Dispute Settlement to be settled by binding arbitration.

The Northern Territory Government recommends that Australia should ensure that any regional trade deals that may include the UK (e.g. the CPTPP) should maintain the A-UKFTA's exclusion of corporate rights to sue governments (ISDS).

Additionally, the Northern Territory Government recommends that a Comprehensive Health Impact Assessment, considering the potential impacts to public health such as the ability of government to regulate alcohol, tobacco, and food, be undertaken when considering ratification of any FTA.

A Health impact assessment (HIA) is a systematic process that considers the potential health effects of a proposed FTA and offers recommendations to mitigate health harms and improve benefits. HIAs have previously been used widely in countries such as the UK and the US to inform decisions in a wide range of sectors to inform, change, or influence decisions to better integrate public health outcomes.

## Resources including critical minerals

While the UK is not a major export destination for most Australian minerals and resources commodities, it is nonetheless highly important to Australia's mineral and resources exporters because of its role as a global trading hub for gold and metals. The London bullion market facilitates wholesale over-the-counter trading of gold and silver while the London Metal Exchange is one of the world's major centres for trading in industrial metals. Beyond these minerals commodity trading hubs, the City of London is one of the world's most significant financial centres, providing capital market activities and other services which are important for globally-focussed businesses such as Australian mining companies.

## Market access for minerals and energy

The Northern Territory's resources sector makes a major contribution to Australia's economic growth and prosperity. The A-UKFTA services commitments will provide market access for Australian mining services, an area where Northern Territory and Australian firms have world-leading skills and expertise. Expansion of the A-UKFTA will contribute more broadly to future opportunities for Australian resources by stimulating trade and investment flows.

The A-UKFTA will enhance two-way investment opportunities in the mining and mining services sectors. Two-way investment flows are particularly important for the Northern Territory's mining sector. This industry has benefitted from foreign capital in developing the Northern Territory's natural resources and building the mining sector into the largest contributor to the Northern Territory Gross State Product, with production value of \$6.4 billion in the 2020-21 financial year.

To date, the Northern Territory has 15 mining projects proceeding through approvals processes or seeking project finance. Expanding the investment provisions to the UK will help the Northern Territory to realise both inward and outward investment opportunities in the mining sector.

Furthermore, the A-UKFTA's expansion of services commitments will provide market access for Australian mining services, an area where the Northern Territory has significant skills and expertise and one of our future sources of comparative advantage in trade, to complement our extractive resources exports.



## Independent Review by the Productivity Commission

Stakeholder briefings during negotiations were limited because there was no public access to draft texts or to the final agreed text. There has been no independent assessment of the economic and environmental health impacts before the agreement was signed.

**The Northern Territory Government recommends that the Australian Government adopts all five recommendations of the Joint Standing Committee on Treaties Report 193- titled “Strengthening the Trade Agreement and Treaty-Making Process in Australia”.**

The Northern Territory Government recommends that after any future expansion text is completed, but before it is signed, comprehensive, independent assessments of the likely economic, social and environmental impacts of the agreement should be undertaken and made public for debate and consultation and review by parliamentary committees.

Many businesses report difficulties understanding regulatory divergence among Australian trade agreements. This can create administrative barriers for traders that could have been avoided if they were identified during negotiations. Such stumbling blocks add to red tape and prompt businesses to use time consuming workarounds which makes the affected trade treaties less desirable. For Australian businesses to gain the most benefits of any future expansion of the A-UKFTA, a strong foundation of understanding and support is needed. This could be better achieved through assessment by an independent Government body that is arms-length from negotiations, such as the Productivity Commission.

**The Northern Territory Government recommends that the Productivity Commission prepares the trade treaty National Interest Analysis and Regulatory Impact Statement provided to the Joint Standing Committee on Treaties and tabled in Parliament.**

The Productivity Commission could be tasked with objectively preparing both documents on the basis of optimal, likely and minimum outcomes of concluding and implementing a given trade treaty. A body so tasked would be well placed to provide frank and fearless advice to both the Joint Standing Committee on Treaties and the Parliament with regard to the real economic benefits and costs of concluding and expanding future trade treaties.

**Similarly, the Northern Territory Government recommends that the Productivity Commission be tasked with undertaking an examination of the merits of retaining current bilateral agreements where they have been superseded by larger and more modern agreements covering the same Parties.**

## Collaborative approach to trade negotiations

The Northern Territory Government would like to reiterate our appreciation for the Australian Government’s collaborative approach to trade negotiations, and our hopes for continued federal, state and territory discussions on future bilateral and multilateral free trade negotiations before they commence.