



# **Access to free trade agreements by small and medium enterprises**

**Chamber of Commerce and Industry of WA**

May 2018

## Introduction

The Chamber of Commerce and Industry of Western Australia (CCI) welcomes the opportunity to provide a submission in response to the inquiry by the Joint Standing Committee on Foreign Affairs, Defence and Trade (the Committee) into access to Free Trade Agreements (FTAs) by small and medium sized enterprises (SMEs).

CCI is the peak body representing employers in Western Australia (WA). We represent small, medium and large businesses, not-for-profit organisations, and government enterprises across the spectrum of the State's economy and from all regions of WA. Our vision is for WA to be a world-leading place to live and do business. It is also the fundamental belief of CCI that free trade will be the cornerstone of WA's globally focused, export-driven economic future.

CCI provides certification services for 3,319 exporters, of which 612 are registered under Australian FTAs. Through our International Trade and Investment Centre, CCI also delivers FTA training workshops throughout the greater Perth area. This makes CCI well placed to understand the issues and concerns facing businesses, including SMEs, conducting international trade.

## Export market in Western Australia

WA remains the country's largest exporter, representing 35.1 per cent of Australia's total exports in 2016-17. WA is also the primary minerals and petroleum (\$113.3billion) exporting region of Australia, producing a significant share of minerals and petroleum commodities globally. Merchandise exports are a primary driver for economic growth in the State accounting for 50 per cent of gross state product<sup>1</sup>. In terms of trading partners, China was the State's largest merchandise trading partner in 2016-17, (\$64.0 billion), followed by Japan (\$19.9 billion), the Republic of Korea (\$11.2 billion), Hong Kong (SAR of China) (\$9.7 billion) and the United Kingdom (\$5.3 billion).

## CCI and Government's role in supporting SMEs to access FTAs

CCI has been contracted by Austrade to run two FTA training workshops over the past 12 months. CCI has delivered these workshops over 12 separate events, which have been attended by 185 people in total. As these workshops have not been confined to the Perth metro area, CCI has gained insights into a wide range of sectors across the regions. Feedback from these events has indicated that they have been very well received and have proven to be an invaluable opportunity to business. The key finding from these workshops has been that SMEs often lack the experience, knowledge and skills to fully understand and utilise complex FTAs to their advantage.

CCI's delivery of the workshops has gone a long way to improving business' understanding of FTAs and provided an important point-of-difference to other FTA events provided in an increasingly crowded market. Compared to other FTA workshops, CCI's events provide more detailed and tailored insights to address relevant sectors in attendance.

Some of the benefits businesses have reported from attending CCI's FTA events include:

- Building awareness of and clarifying FTAs for businesses.
- Clarifying roles of various parties so exporters have a better understanding of their responsibilities under FTAs (e.g. it is often incorrectly assumed that importers and freight forwarders will automatically inform the exporters of how best to take advantage of the FTA).
- Building awareness of the *DFAT FTA Portal*<sup>2</sup> as a tool for understanding FTAs for importing/exporting and for mapping tariffs. Many companies were unaware of this portal prior to attendance at CCI's FTA events.
- Understanding the benefits of FTAs in terms of tariff reductions, both current and anticipated.

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<sup>1</sup> Minerals and petroleum accounted for 92 per cent (\$113.3billion) of merchandise exports in 2017 and agriculture, food, fibre, fisheries and forestry exports accounted for 7 per cent (\$8.5billion) of merchandise exports in 2016-17.

<sup>2</sup> The DFAT FTA Portal can be accessed here: <https://ftaportal.dfat.gov.au/>

## Access to free trade agreements by small and medium enterprises

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- When FTAs drop/lower tariffs there is an immediate benefit. Businesses are not always made aware of these changes and the cost advantage they offer.
- For example: Under the China Free Trade Agreement (ChFTA), by 2029, 97.9% of Australia's goods exported to China will enter duty free. Tariffs on beef of 12 to 25 per cent will be eliminated by 2024 and wine tariffs of 14 to 20 per cent will be eliminated by 2019.
- Better understanding of the indirect benefits of FTAs to exporters.
  - Underutilisation of FTAs ultimately leads to a loss of market share as importers will seek to use exporters who are using FTAs (and therefore will benefit them). This situation of not utilising the FTAs also leads to difficulties in negotiating such contracts.

***Recommendation 1:** The Federal Government continues to run workshops and Austrade continues to contract organisations to conduct FTA events, including in relation to new agreements.*

***Recommendation 2:** CCI recommends that the Federal Government considers making provision for sessions/workshops to understand the role of Certificates of Origin and what is needed to complete them.*

## Barriers to accessing free trade agreements

Through CCI's extensive member-base and engagement with business involved in trade through the FTA workshops, CCI has identified several barriers to trade that SMEs face:

### Rules of Origin

As part of Australian FTAs, preferential treatment such as the reduction and elimination of tariffs on goods, is available for businesses that satisfy the Rules of Origin (ROO) required under each FTA. ROOs are very complex and difficult to understand and businesses need help to understand how to implement them, especially at SME level as they often do not have the resources or time to investigate these options. ROOs also differ between some FTAs, therefore requiring business to investigate all options to determine which FTA is best suited to them.

### Certificates of Origin

Certificates of Origin are issued by an authorised third-party and are important for demonstrating compliance with ROO requirements. The burden of proof for demonstrating the origin of goods lies with the importer as it is their responsibility to identify the origin of the supply chain to be able to access preferential treatment.

Inquiries have been made into the use of self-certification within free trade agreements<sup>3</sup>, with some arguing that a self-certification approach will streamline the trade process. However, self-certification would likely put exporters at risk as they are generally not aware, or do not consider, that the burden of proof for rules of origin is usually placed on the importer. This is particularly the case under agreements (including the Australia-United States FTA, Malaysia-Australia FTA and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership) where the Australian Government has agreed that the authorities of the importing country can undertake direct investigation of the supply chain in Australia.

Such arrangements expose exporters to scrutiny from foreign governments and can prove to be costly and time consuming. In addition to costs associated with hiring customs consultants and legal representation to defend their claims, such cases can also negatively affect a company's share price and reputation if the investigation becomes public knowledge.

CCI is aware of such instances where foreign governments have requested confirmation of details surrounding the provided Certificate of Origin. In such instances, it has been CCI's experience, that as an authorised third-party, confirmation of the details supplied in the Certificate of Origin has sufficed. CCI therefore considers Certificates of Origin to be a crucial tool for mitigating risk and facilitating trade for Australian exporters using FTAs.

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## Access to free trade agreements by small and medium enterprises

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**Recommendation 3:** *Certificates of Origin continue to be utilised in existing and new FTAs. The use of self-certification should be avoided.*

**Recommendation 4:** *CCI recommends that future development of FTAs considers facilitating consistency to existing FTAs where possible, to reduce the complexity in understanding differing regulations in each instance.*

### Market access

It can take several years for a food species to be approved and added to a market access protocol. Such long approval times for a species to be added to a FTA creates a substantial barrier to SMEs wanting to gain access to markets, such as those for meat, fresh food and dairy.

The importance of having a food species added to a FTA is highlighted by successful negotiations that resulted in Australia's ability to export avocados (hard, mature Hass avocados from areas not affected by Queensland fruit fly) to Japan from 26 January 2018. This is viewed as a significant opportunity for WA avocado farmers.

However, a product appearing on the import list of a FTA does not necessarily benefit all states. For example, due to quarantine laws the Korean-Australia Free Trade Agreement (KAFTA) does not allow the following products to be imported from certain states in Australia:

- Potatoes (except from WA and VIC)
- Carrot (only from Tasmania)
- Cherries (only from Tasmania)

**Recommendation 5:** *CCI recommends that continuous review and negotiation occurs in conjunction with existing FTA updates to ensure that products key to the State's capability are added to the market access list.*

### Final comments

Due to our wide member reach and direct contact with exporters, particularly SMEs, CCI is well-placed to understand the issues surrounding access to free trade agreements. Through the delivery of our FTA workshops with Austrade, CCI has had the opportunity to assist business to overcome some of the difficulties in accessing these agreements. However, there are still barriers preventing SMEs from fully understanding and utilising the benefits of FTAs. These barriers should be considered when formulating future FTAs, with a focus on simplifying processes for ROOs, continuing to accommodate independently verified Certificates of Origin and working make business aware of the direct and indirect benefits of using FTAs.