



Australian Government

Australian Government response to the
Joint Select Committee on Trade and Investment Growth
report:

*Inquiry into Business Utilisation of Australia's Free
Trade Agreements*

MARCH 2016

Joint Select Committee on Trade and Investment Growth Report

Inquiry into Business Utilisation of Australia's Free Trade Agreements

Tabled 15 October 2015

Government's Response to Committee's Recommendations:

Recommendation 1:

The Committee recommends that the Department of Foreign Affairs and Trade should include financial services regulators in free trade negotiations to boost the opportunities for Australia's financial services sector.

Response:

The Government agrees with the recommendation. The Department of Foreign Affairs and Trade (DFAT) includes financial services regulators in free trade agreement negotiations. This includes through formal consultations on key negotiating positions, regular updates on negotiations and maintaining open communication channels for access to DFAT trade negotiators at all times. Financial services regulators have at times also participated in formal trade negotiating rounds – for example, the Reserve Bank of Australia, the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission were all involved in negotiating rounds for the recently concluded China-Australia Free Trade Agreement.

Recommendation 2:

The Committee recommends that the Department of Agriculture should continue negotiating with trading partners to gain acceptance of the fruit fly-free status of particular regions of mainland Australia in free trade agreements where this is an issue.

Response:

The Government does not support the recommendation. Australia does not negotiate sanitary and phytosanitary (SPS) outcomes in free trade agreements (FTAs). The Australian Government will continue to negotiate SPS market access outcomes, including pest free areas for fruit flies, with Australia's trading partners on a science and evidence-based approach.

Recommendation 3:

The Committee recommends that proposed changes to the Tasmanian Freight Equalisation Scheme include all exported goods whether destined for export via air or sea.

Response:

The Government notes the recommendation. The Government has agreed to the expansion of the Tasmanian Freight Equalisation Scheme (TFES) from 1 January 2016. This will enable Tasmanian businesses sending their goods to the mainland to be able to claim under the scheme regardless of the goods' final destination.

Shipments via the mainland for markets not currently covered by the Scheme will now be covered and will be able to claim assistance at the flat rate of \$700 per TEU (twenty foot equivalent unit). Shippers from King Island and the Furneaux Group of Islands will be eligible for a 15 per cent additional loading. The flat rate of assistance will be introduced for eligible non-bulk goods that are shipped to any mainland port regardless of the goods' final destination, and whether the goods are air freighted or shipped to a final destination.

The objective of the TFES, including in its expanded form, is to provide Tasmanian industries with equal opportunities to compete, recognising that unlike their mainland counterparts, Tasmanian shippers do not have the option of transporting goods interstate by road or rail.

Shipments of eligible non-bulk goods that bypass the Australian mainland are not eligible for assistance under the expanded TFES.

Recommendation 4:

The Committee recommends that the Department of Foreign Affairs and Trade:

- review the roll out schedule of the North Asia FTA Advocacy Program seminars with a view to providing quicker and more effective outreach to its target audience; and
- engage peak industry bodies to deliver seminars under the North Asia FTA Advocacy Program.

Response:

The Government notes the recommendation.

The Department of Foreign Affairs and Trade and Austrade have jointly delivered 38 North Asia Free Trade Agreement (FTA) Information Seminars around the country since April 2015. Seminars have taken place in all states and territories. More than 1500 small and medium enterprises and other interested parties had attended these events; feedback to date on the events continues to be very positive. The regularity of seminar delivery has increased over recent months and this is likely to continue as a result of efficiencies in the planning, logistics and program delivery aspects of the seminars. The seminars are well advertised by Austrade and DFAT to general and target audiences, and through outreach to member-based organisations. Presentations and other material used at the seminars are available to the public through the "Open for Business" website.

As regards peak body involvement, the Government strongly supports North Asia FTA outreach activities undertaken by the private sector across Australia. Austrade and DFAT are engaging closely with a wide variety of peak industry bodies, as well as state governments and other stakeholders, on the roll-out of the seminars, including through inviting their members, as well as providing speakers and panellists for separate corporate and industry-focused events. Austrade and DFAT will continue to support these events wherever possible.

Additionally, as part of the FTA advocacy package funded in the May 2015 Federal Budget, Austrade has also developed an online 'FTA Toolkit' with video case studies, talking points, presentations and fact sheets for industry, regional business development groups and bilateral business chambers to inform their members about the FTAs. Austrade also will shortly begin assessing applications for the FTA Training Provider Grant program, established to assist eligible organisations deliver tailored training projects aimed at helping Australian small and medium-sized enterprises and stakeholders understand how to use and access FTAs with China, Japan and Korea.

Recommendation 5:

The Committee recommends that the Department of Foreign Affairs and Trade ensure the FTA Dashboard is designed to enable easy access to country-based information and enable end-users to easily switch between the FTA Dashboard and the MICoR database.

Response:

The Government agrees with the recommendation. The FTA Portal (formerly referred to as the FTA Dashboard) is designed to provide access to FTA information on a country basis. In particular, searches are conducted by country, rather than by Agreement.

In the most recent release version (December 2015), the Department of Foreign Affairs and Trade (DFAT) and the Department of Agriculture and Water Resources ensured the FTA Portal directs users easily to the Department of Agriculture and Water Resources Manual of Importing Country Requirements (MICoR). Both agencies will further explore the possibilities for improving the ease with which information can be accessed.

Recommendation 6:

The Committee recommends that the Department of Agriculture:

- . review the demand for 24 hour/7 day access to the export document hub; and
- . assess the feasibility of developing technology to meet the demand for 24 hour/7 day access to the export document hub.

Response:

The Government notes the recommendation. The Government notes that demand for 24 hour/7 day access to the export document hub is currently very low. The development and implementation of technology to provide such access would require significant human and financial resources, and would increase costs for exporters through cost recovery mechanisms. The Department of Agriculture and Water Resources will continue to monitor demand for this service, but does not believe a feasibility study is warranted at this time.

Recommendation 7:

The Committee recommends that the Export Market Development Grant scheme be broadened to recognise anti-counterfeiting measures as an expense.

Response:

The Government notes the recommendation. The Export Market Development Grants (EMDG) scheme is a key Australian Government financial assistance programme for small to medium aspiring and growing export-ready businesses. It encourages businesses to increase international marketing and promotion expenditure to achieve more sustainable international sales. Eligible businesses can claim expenses under nine categories: overseas representation; marketing consultants; marketing visits; communications; free samples; trade fairs, seminars, and in-store promotions; promotional literature and advertising; overseas buyers; and the registration and/or insurance of eligible intellectual property.

For the purposes of the EMDG scheme, intellectual property covers, but is not limited to:

- patents,
- designs,
- trademarks,
- plant breeders' rights,
- circuit layout rights,
- confidentiality/trade secrets or
- copyright.

The grant, registration or extension of the term or period of the registration of the intellectual property must have been made for an approved promotional purpose.

More information on this category of EMDG expenditure can be found at:

<http://www.austrade.gov.au/ArticleDocuments/1433/EMDG-IP-registration-insurance-2014-15.pdf.aspx>

While packaging and labelling may provide Australian exporters with other anti-counterfeiting protection, the EMDG scheme cannot cover expenditure relating to the cost of production, and this type of expenditure would not be eligible expenditure for the purposes of the EMDG scheme.

Recommendation 8:

The Committee recommends that the Department of Foreign Affairs and Trade provide assistance to free trade agreement partner countries, where appropriate, to build their capacity to assess sanitary and phytosanitary risks.

Response:

The Government notes the recommendation.

Australia's development assistance programs in the agriculture and fisheries sectors, valued at approximately \$225 million in 2014-15, included technical assistance for managing sanitary and phytosanitary (SPS) risks and improving food safety. These programs provide assistance to current and future free trade agreement partner countries in the Indo-Pacific region.

For example:

- The Pacific Horticultural and Agricultural Market Access Program (PHAMA) aims to increase Pacific horticultural and agricultural exports to international markets;
- The Australia-Indonesia Partnership for Emerging Infectious Diseases Animal Health Program supports the Indonesian Agriculture Ministry's capacity to plan and implement disease prevention and control activities;
- Agricultural Productivity in Solomon Islands supports the Solomon Islands Agriculture and Livestock Ministry's cocoa extension systems and includes SPS-related technical assistance in the Ministry; and
- Australia also supports the World Organisation for Animal Health's Stop Transboundary Animal Disease and Zoonoses initiative, including a program to build veterinary capacity in Asia.

Australia also provides assistance to developing countries for negotiating and implementing free trade agreements, which include SPS chapters.

For example:

- The ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) Economic Support Program assists developing country members of the Association of South East Asian Nations (ASEAN) to implement their AANZFTA commitments so they can benefit from trade liberalisation and economic integration.

The PACER Plus Support program assists Pacific Island countries negotiating the Pacific Agreement on Closer Economic Relations (PACER) Plus.

Recommendation 9:

The Committee recommends that when the Government signals an intention to begin free trade agreement negotiations with a trading partner, industry assistance should be targeted towards exporters who may wish to achieve a presence in the intended trading partner's market before completion of the free trade agreement negotiations.

Response:

The Government notes the recommendation. The outcomes of a Free Trade Agreement (FTA), including market access commitments and other potential benefits, are not finalised or made public until around the time of the conclusion of negotiations. As such, it would not be possible to target industry assistance before the completion of the free trade agreement negotiations, as the benefits for a particular good or service provider would not be certain.

Businesses seeking to expand into the market of a new or existing FTA partner are eligible to apply for assistance through a range of government programmes. Businesses could cite any known or expected benefits from an FTA in such applications.

Government websites carry a substantial amount of materials to assist exporters (by country and sector), if they wish to target a given market. The Government typically increases assistance through the provision of broad information and advice on how to expand to an FTA partner's market near the conclusion of an agreement. For example, the North-Asia FTA information seminar series began well before the entry into force of the China-Australia FTA in December 2015.

Recommendation 10:

The Committee recommends that at the commencement of free trade negotiations, the Department of Employment should undertake modelling of the human capital and workforce needs arising from the agreement, particularly for the services sector. Based on the modelling outcomes, the department should develop a workforce strategy to take advantage of the agreement.

Response:

The Government does not support the recommendation. The Government notes that economic modelling on free trade agreements does not usually include estimates on employment growth or sectoral labour market impacts and, where such modelling occurs, it is more appropriately undertaken at the conclusion of negotiations. The limitations of economic modelling (see response to recommendation 12) would prevent its use for workforce strategy development purposes.

Recommendation 11:

The Committee recommends that Austrade, in consultation with Australian business, facilitate:

- the development of a recognisable Australia brand logo and signage for exported Australian goods and services; and
- the development of anti-counterfeiting measures for exported Australian goods.

Response:

The Government notes the recommendation, and supports the creation of a recognisable logo and related brand assets for exported goods and services. Austrade has previously responded to a government request to develop a brand identity (logo) to identify Australian goods. The 'Australia Unlimited' logo was created as part of the *Building Brand Australia* program to represent the capability internationally, including to identify goods and services as Australian. The use of the 'Australia Unlimited' logo was encouraged across government, with varying success. More recently, the Government has used the *Open For Business* logo to position all of the free trade agreement advocacy and business utilisation activities under a single brand. Elsewhere, work is being carried out by the private sector in relation to food branding, and in particular red meat, and this work is being monitored.

The Government establishes the policy and legal frameworks for intellectual property protection in Australia, and FTAs and other international agreements help underpin intellectual property standards which assist Australian companies to do business internationally. The Australian Government also participates in international fora dedicated to better detection and mitigation of intellectual property infringements in global markets. However, taking the commercial measures and legal steps to protect and enforce their brand rights, including in foreign markets, is a matter predominantly for Australian companies to consider and undertake. Nevertheless, Australian government agencies do provide information to assist Australian businesses on these important issues, including in international markets. There is a range of publicly-available information on protection of IP rights, including trademarks, overseas, on the Austrade and IP Australia websites.

Recommendation 12:

The Committee recommends that the Department of Foreign Affairs and Trade commission independent modelling of the potential benefits of free trade agreements. Modelling should be undertaken before negotiations begin and be compared to the outcomes of a second modelling exercise undertaken after negotiations have been completed, but before signing. The modelling results together with an explanation of variances should be made publicly available.

Response:

The Government does not support the recommendation. While economic modelling simulations can provide helpful indications of the possible quantitative impacts of an FTA, such models have limitations and their results should be regarded as only one input into the process for assessing the merits of trade agreements.

DFAT does not consider that it would be practical or feasible to delay signature of FTA negotiations in order to conduct quantitative modelling of final outcomes. Critical market access outcomes are often the final elements agreed by the negotiating parties; undertaking modelling at that stage, or making signature contingent on the results of economic modelling, could prejudice Australia's negotiating position and impact on the Government's capacity to negotiate outcomes in the national interest.

The Department of Foreign Affairs and Trade has, from time to time, commissioned independent modelling on the possible impacts of free trade agreements in consultation with government, and, where this occurs, will continue to ensure the publication of modelling results is accompanied by the assumptions upon which the modelling is based.

Recommendation 13:

The Committee recommends that the Department of Foreign Affairs and Trade formally involve representatives from Australia's peak industry bodies, both employer and employee, in free trade agreement negotiations, reflecting the US model.

Response:

The Government does not support the recommendation. The Government currently consults extensively with the public before a decision is made whether or not to enter into FTA negotiations, including through a wide call for submissions. This consultation process continues throughout the course of any FTA negotiations. Stakeholders or other interested parties are welcome to make a submission, meet with relevant negotiators or join DFAT's regular (typically bi-annual) peak body trade consultations at any time. This Government-instituted model works well in both identifying commercially-significant impediments to increasing Australian trade and ensuring the Government is well informed when developing negotiating positions.

Recommendation 14:

The Committee recommends that the Government should be taking all possible means to ensure that market access is enabled and that negotiators from the Department of Foreign Affairs and Trade remain involved in market access negotiations after a free trade agreement enters into force.

Response:

The Government notes the recommendation. The Departments of Foreign Affairs and Trade (DFAT) and Agriculture and Water Resources have different areas of responsibility in negotiating market access for Australian exporters. DFAT and the Department of Agriculture and Water Resources work together in negotiations, with DFAT having the lead on tariffs and tariff quotas. The Department of Agriculture and Water Resources is the lead agency on technical market access negotiations (Sanitary and Phytosanitary negotiations) with DFAT playing a supporting role, including attendance at negotiations.