



Export Council of Australia

The Voice for Australia's Exporters

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Goods and Investment Branch
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Sent by Email to: tpp@dfat.gov.au

Export Council of Australia Submission on negotiations for the proposed Trans-Pacific Partnership ("TPP") Agreement

The Export Council of Australia (ECA) welcomes the opportunity to make this submission and provide comment on Australia's negotiations on the TPP Agreement.

The ECA makes this submission directly on behalf of its members, and indirectly on behalf of the international trade community, in support of the TPP negotiations. The ECA is a not-for-profit, membership based organisation and the peak industry body representing Australia's exporters and importers. With a membership base of 1,000 and a reach of 15,000, the ECA represents companies of all sizes and across a wide range of industries.

The ECA's core activities include research, advocacy, skills development and events. Recently the ECA collaborated with Austrade, Efic and the University of Sydney to undertake a longitudinal survey, Australia's International Business Survey (AIBS) 2014, designed to capture data on the export behaviour of Australian companies. The first survey captured data from over 1600 Australian exporters, making it the most comprehensive investigation into Australia's international business activity in more than 15 years. The ECA was also recently involved in facilitating the B20's first trade task force meeting in Canberra.

As a strong advocate for free trade, the ECA supports the TPP negotiations, with the hope that they produce a high quality, comprehensive agreement. There are currently 12 parties negotiating the Agreement, including Japan, the United States, Singapore, New Zealand and Malaysia, which are five of Australia's top ten trading partners according to ABS statistics. AIBS 2014 results reinforce the importance of these markets to Australian companies with respondents nominating the United States as the top current export market, while New Zealand came in third, Japan fifth, Singapore sixth and Malaysia eighth.

The ECA appreciates from the research done by DFAT that potential gains to Australian exporters and importers, (including SMEs) from a comprehensive TPP Agreement are significant. The current parties to the TPP negotiations cover 11.2 per cent of the world's population and approximately 70 per cent of Australia's trade flows through the Asia-Pacific region. This, coupled with the fact that Australia does not have existing trade



agreements with a number of the current TPP negotiating parties, highlights the opportunity for market access gains to be made.

The ECA believes that a comprehensive TPP Agreement could deliver a number of benefits including the following:

1. Affording Australian importers and exporters trading advantages in countries who are parties to the TPP Agreement with whom Australia does not currently have an FTA.
2. Improving current levels of benefits occasioned under our current FTAs with parties who will also be parties to the TPP Agreement. There has been some criticism that our current FTAs have not "gone far enough" and the TPP Agreement provides a welcome opportunity for Australia to negotiate improved outcomes for some of those parties who believe that better outcomes can be achieved.
3. Advantages to Australian consumers with reduction in levels of customs duties hopefully being passed on to those consumers and, presumably, more ready access to a wider variety of goods in a more efficient manner.
4. It could assist in improving trade facilitation and reducing red tape and undue regulation in parties to the TPP Agreement without needing to wait for the completion of the WTO Trade Facilitation Agreement.
5. It could set the agenda and the framework for further FTAs such as the RCEP and an Asia–Pacific Agreement.
6. Improving the confidence of traders and consumers in Australia and in other TPP negotiating parties.

However, the ECA also believes that the following conditions should apply to the Agreement to assist the aims and benefits of a TPP:

1. While the ECA would prefer international liberalisation of trade to advance on a multilateral basis, in the absence of any foreseeable completion of the WTO's Doha Round of negotiations, advances in liberalisation of international trade must occur, by default, pursuant to regional, bilateral and other FTAs or similar agreements. On that basis, the ECA is of the view that agreements such as TPP represent a reasonable and desirable outcome to advance Australian trade. However, it should not detract from the primary aim of completing a multilateral agreement through the WTO Doha Round or the completion of other WTO Agreements also being negotiated at this time.
2. It must deliver real and demonstrable benefits over and above the current trading environment for Australian traders and consumers, while not adversely affecting Australia's key national interests.
3. In conferring benefits to other parties to the TPP, Australia should still be mindful of excluding areas of real national interest and preserving provisions for review of proposed foreign trade and investment. There should not be restraints on inbound

trade and investment, which reflect political concerns only as these could compromise the ability to secure comprehensive benefits from other parties to the TPP Agreement.

4. It should adopt an architecture and content which is consistent with best practice in other Australian and international FTAs. This should include Chapters on environmental, labour, trade facilitation and customs procedures.
5. It must cover trade in both services and goods. In relation to the nature of provisions for services, the ECA would refer DFAT to the ECA submission on the proposed WTO Trade in Services Agreement. Hopefully the TPP Agreement will provide some immediate benefits rather than merely setting a framework for discussions and committees, which may lead to benefits.
6. It should include Rules of Origin which are not unreasonably complicated and which reflect best practices from current FTAs.
7. The provisions regarding Certificates of Origin (or Declarations) should make it optional (not mandatory) for traders to secure such Certificates from independent certifying parties.
8. Greater transparency around the texts being negotiated and DFAT's opening position and desired outcomes would be appreciated but in failing to be able to offer this, the ECA would appreciate continued and more detailed DFAT updates on negotiations. There should also be consultations to address specific interest areas relevant to the various stakeholders.
9. There should be extreme care taken in adoption of an Investor State Dispute Resolution provision (ISDS). While not wanting to adopt a provision which compromises Australia's legitimate national interest, Australia should still be mindful that other negotiating parties will want protection for their trading entities. Australia may actually desire ISDS provisions to assist Australian traders in other parties to the TPP where there are not mature or accessible provisions for dispute resolution. Some form of limited ISDS in areas where problems can be anticipated may need to be negotiated, which exclude Australia's legitimate national interests.

Australia's ongoing pursuit of trade liberalisation is to be commended as it helps facilitate greater trade flows. This is vital to the Australian economy as trade is a key driver of jobs, innovation and long term prosperity. By creating commonly agreed rules to trade in goods and services and promoting transparency, the TPP opens up new trade and investment opportunities for Australian businesses in the region, therefore its successful conclusion should be priority for the Government.

Sincerely



Chris Uuan

Ian Murray AM
Executive Chairman
Export Council of Australia