



# Export Council of Australia

The Voice for Australia's Exporters

Foreign Affairs, Defence and Trade Committee  
Department of the Senate  
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Parliament House  
Canberra ACT 2600

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The Export Council of Australia (ECA) is pleased to make this submission to the Senate Inquiry into the Commonwealth's Treaty – Making process ("*Treaty Process*")

## Background on the ECA

The ECA is a not-for-profit, membership based organisation and the peak export body in Australia with a particular focus on SME 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 industry sectors. The ECA's core activities include, skills development, events, research and trade policy advocacy. In doing so, the ECA has worked extensively with Federal and State Government and its agencies. This includes membership of a number of advisory and consultative groups established by Government.

## Trade Policy advocacy

In terms of trade policy advocacy, the ECA has researched and released Trade Policy Recommendations for 2013/14 and 2014/15 as well as Australia's International Business Survey 2015 (AIBS 2015), a study into export behaviour undertaken by the ECA in conjunction with Efic, Austrade and the University of Sydney. In this trade policy capacity, the ECA is a regular contributor to the Treaty Process. This has also included the following work

- submissions to parliamentary inquiries and to other Federal Government agencies including, DFAT, and the Australian Customs and Border Protection Service (Customs) in relation to trade policy initiatives on proposed Treaties
- responses to request for submissions into proposed legislation being considered by Government and its agencies
- responses to requests for submissions into proposed Free Trade Agreements and other International Treaties such as the proposed WTO Trade in Services Agreement, the WTO Government Procurement Agreement and the WTO Trade Facilitation Agreement
- appearances before Parliamentary Inquiries into proposed legislation implementing Treaties, Free Trade Agreements and other Treaties
- advice to members, partners and others into the implementation of Free Trade Agreements and other Treaties, which currently includes the development of an "FTA Tool" by the ECA in conjunction with the ANZ Bank



- commentary in the media on Treaties, FTA and other international trade issues.

As a result of the work described above the ECA has had extensive exposure to and involvement in the Treaty Process. The ECA is aware that one of the issues associated with our FTA agenda has been the relatively low adoption of the benefits of FTAs by the trading community, especially in the SME sector and is working with Government and its agencies to improve that level of use of FTAs.

### **Comments and recommendations by the ECA**

1. The ECA has a clear understanding of, and actively engages with, the Treaty Process. It believes that it is vital that the trading community and the wider public have a good understanding of the Treaty Process. Not only does that assist the Treaty Process and the implementation of the Treaties but it may also serve to dispell some common misconceptions regarding the Treaty Process, which adversely affect views on the Treaty Process. By way of example, the recent high level of speculation regarding alleged provisions of the Trans Pacific Partnership Agreement (TPPA) and the adverse effect on biosecurity due to various FTA has been both inaccurate and unhelpful
2. The ECA is of the view that the Treaty Process could benefit from additional transparency and engagement, which should include enhanced promotion of the Treaty Process, the Treaty agenda, the terms of proposed Treaties, the benefits of Treaties (from the National Interest Analysis and otherwise), the dates of adoption of the Treaties, as well as implementation of Treaties and success stories. While the ECA appreciates the current level of engagement and promotion of Treaties, it does tend to be limited to "official" channels through notices in newspapers, DFAT briefings, DFAT updates and the websites of DFAT and other agencies. The ECA has the concern that the "reach" of this engagement may be limited and that further and ongoing direct communication both to the general public and those who may benefit from Treaties may be warranted.
3. For example, this engagement could include updating those parts of the websites of DFAT and Customs relating to FTA and other Treaties post – implementation as well as providing for a more interactive resource to respond to queries which could arise. By way of another example, it could include advice on the ability of parties affected by FTA or Treaties to attend negotiating rounds and view what transpires and interact with negotiators Further, the role of JSCOT could be better communicated as well as the terms of NIA on FTA – and examples of the type of review that takes place there as well as examples of issues raised by JSCOT as well as the ability to make submissions. The engagement could also include examples of the work of Parliamentary Committees in the review of FTA and other Treaties and how those affected and interested can comment. Ultimately the ECA believes it is vital that those potentially affected by an FTA or other Treaty is made aware that such Agreements are subject to rigorous review and commentary before coming into effect and are not solely the result of closed or limited review and engagement.
4. The ECA believes that such direct communication should be the subject of a revised communication strategy aimed at broader engagement through other means and should include direct engagement in the wider public media (which seems to afford objectors to Treaties significant coverage). It should also include more extensive

engagement with others who deal with the public and the trading community such as industry associations, financiers and service providers in the supply chain such as licensed customs brokers, freight forwarders and transport companies and include more collaborative form of communication. The level of engagement at the moment tends to be focussed on the initial stages of the Treaties being entered into but then seems to cease as other issues in other areas come to the fore. A more consistent engagement, updated as time passes, would be useful. There is no doubt that such additional engagement will require more expenditure, however, the ECA believes that such expenditure is warranted.

5. The additional engagement could also include the appointment of "ambassadors" for various FTA and Treaties tasked to assist with the engagement in conjunction with those referred to in the preceding paragraph and who would be responsible for the engagement as DFAT representatives move onto the negotiation of the next FTA or other Treaty.
6. The ECA is aware that some exporters and importers have concerns that use of FTAs may attract penalties from Customs and other border agencies– especially where those penalties can be imposed on a strict liability basis or be done by Infringement Notice. The ECA believes that there should be a moratorium against such penalties and liabilities for a period of 6 to 12 months if errors are inadvertent and innocent.

The ECA looks forward to further engagement on this important topic.

Kind Regards



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Chair- Trade Policy Committee  
Export Council of Australia