

---

The Parliament of the Commonwealth of Australia

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

Joint Select Committee on Trade and Investment Growth

September 2015  
Canberra

---

© Commonwealth of Australia 2015

ISBN 978-1-74366-376-9 (Printed version)

ISBN 978-1-74366-377-6 (HTML version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:  
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.



# Contents

Chair's Foreword .....	vii
Membership of the Committee .....	xi
Terms of reference .....	xiii
Abbreviations.....	xv
Recommendations .....	xix

## REPORT

<b>1 Introduction .....</b>	<b>1</b>
Background .....	1
About the Inquiry .....	4
Objectives and Scope .....	4
Inquiry Conduct.....	5
Report Structure.....	6
<b>2 Australia's Free Trade Agreements .....</b>	<b>7</b>
Background .....	7
Australia's Free Trade Agreements.....	8
Australia-New Zealand Closer Economic Relations Trade Agreement .....	9
Singapore-Australia Free Trade Agreement.....	10
Thailand-Australia Free Trade Agreement .....	11
Australia-United States Free Trade Agreement .....	12
Australia-Chile Free Trade Agreement.....	13
ASEAN-Australia-New Zealand Free Trade Agreement.....	14
Malaysia-Australia Free Trade Agreement.....	15
Negotiating Free Trade Agreements .....	15

---

Features of Free Trade Agreements .....	17
Investor-State Dispute Settlement.....	19
<b>Entry Barriers to Overseas Markets .....</b>	<b>20</b>
Non-Tariff Barriers.....	21
Economic Factors .....	32
Cultural Factors.....	35
<b>Concluding Comment.....</b>	<b>36</b>
<b>Recommendations .....</b>	<b>38</b>
<b>3 Business Experience of Free Trade Agreements.....</b>	<b>39</b>
<b>Business Opportunities Arising from Agreements.....</b>	<b>39</b>
Intangible Benefits.....	45
Using Free Trade Agreements .....	47
<b>Supporting Business and Promoting Free Trade Agreements .....</b>	<b>48</b>
Government Assistance Programs to Exporters .....	48
Concluding Comment.....	55
Recommendations .....	57
<b>4 Informing Future Free Trade Agreements .....</b>	<b>59</b>
<b>Identifying and Accessing Priority Markets.....</b>	<b>59</b>
Positioning Business to Benefit from Agreements.....	61
<b>Pre-Negotiation Modelling.....</b>	<b>64</b>
<b>Negotiating Free Trade Agreements .....</b>	<b>65</b>
Lead Agency .....	65
Involvement of Business .....	66
Investor State Dispute Settlement.....	66
Pre-signing Modelling.....	67
<b>Post Free Trade Agreement .....</b>	<b>68</b>
Market Access Negotiations.....	68
Post-Implementation Evaluation.....	72
<b>Concluding Comment.....</b>	<b>73</b>
<b>Recommendations .....</b>	<b>74</b>

**APPENDIXES**

Appendix A - Submissions .....77

Appendix B - Exhibits .....81

Appendix C – Hearings and Witnesses .....83





## Chair's Foreword

Globalisation has spurred the emerging international trend towards free trade agreements (FTAs). In an effort to secure unimpeded trade, the FTA trend has seen Australia enter into such agreements with New Zealand, Singapore, Thailand, the United States of America, Chile, the Association of Southeast Asian Nations (jointly with New Zealand), Malaysia, and more recently the Republic of Korea, Japan and China, which is likely to enter into force by the end of 2015.

This inquiry investigated the experience of Australian businesses using these FTAs. While the business community strongly supports the policy of pursuing FTAs, this inquiry has also identified potential reforms which could increase the ability of business to realise the benefits of FTAs.

Current Government processes have clearly been very successful in conducting and finalising FTA negotiations with partner countries. There is potential, however, to make these processes more transparent and open to involvement from business.

Transparency could be increased by prospective FTAs being evaluated by an independent and respected agency such as the Productivity Commission. This evaluation would assist government decision making during the negotiation process, increase public confidence, and facilitate business planning based on likely benefits and opportunities.

Australia could benefit from allowing greater involvement of peak industry groups in the negotiation process. This would assist negotiators target the most beneficial outcomes for Australian business as well as provide industry groups with the opportunity to prepare practical advice for their members on how to benefit from the FTA.

While FTAs create a framework for bilateral or multilateral trade, they do not necessarily guarantee immediate market access. Standards that countries use to ensure the safety of products and the qualifications of service providers can, unintentionally, become impediments to trade. Perhaps the most pressing of the market access barriers highlighted by this inquiry is the impediments that sanitary and phytosanitary (SPS) regulations place on horticultural exporters.

Countries, including Australia, are obliged to protect their population, agricultural industries, and natural environments from introduced pests and diseases and so there is a recognised need to impose SPS requirements on imported produce. Assessing the SPS risks of importing new products is a necessarily time and resource intensive task and the Committee welcomes the provision of additional funding to the Department of Agriculture to address market access issues. The Committee has also identified a number of other measures that could expedite progress on these issues.

Achieving recognition in partner markets that Australia's mainland Pest-Free Zones are free from fruit fly should be a high priority for negotiators. Providing capacity building assistance, where appropriate, to FTA partner countries will promote the creation of science-based SPS protocols and accelerate the process of Australian producers gaining access to these markets.

Some SPS protocols, however, are not scientifically arrived at and these cases highlight the importance of having the best possible team engaged in market access negotiations. The Department of Foreign Affairs and Trade (DFAT) has Australia's most experienced trade negotiators who have established relationships with negotiators in FTA partner countries. The Committee believes Australia's position would be strengthened by the formal involvement of DFAT negotiators in market access negotiations.

While Australian negotiators aim for consistency in the rules and conditions used in FTAs, the reality is that FTAs are negotiated agreements and this is not always possible. Therefore an unintended consequence of Australia's recent success in signing FTAs is the increased regulatory complexity encountered by Australian exporters. Given this, it is imperative the Government provides clear, accessible information that explains how business can benefit from the opportunities provided by FTAs.

A high priority is to provide exporters with a means of easily accessing the rules and conditions that Australia's FTA partners use to regulate imports. The online FTA Dashboard being developed by DFAT is an important step in this direction. Ultimately the aim should be to develop a tool which provides information on all FTA partner countries that is detailed and up-to-date yet also intuitive and easy to use.

The Government's North Asia FTA Advocacy Program, and in particular the seminar series, has been well received by business. There is, however, some concern about the time it is taking to deliver the series across the country. Greater involvement of peak industry groups could speed up the roll-out of the seminars and also enable the information to be tailored for particular industries.

The creation of a recognisable 'Brand Australia' logo and marketing campaign would assist business capture the premium generated by Australia's reputation

for producing high-quality, clean, green products. The Government should also support businesses develop anti-counterfeit technologies that protect them from the damage that counterfeit goods can cause to their brand, and Australia's reputation.

I would like to thank those businesses, organisations and government agencies who provided submissions and appeared at public hearings during this inquiry. I would also like to thank my fellow Committee members for their participation and contribution during this inquiry.

Mr Ken O'Dowd MP  
Chair





## Membership of the Committee

**Chair** Mr Kenneth (Ken) O'Dowd MP

**Deputy Chair** Dr James (Jim) Chalmers MP (Until 14.10.15)

**Members**

Senator Joseph (Joe) Bullock	Mr Antony (Tony) Pasin MP
Mr Patrick (Pat) Conroy MP	Senator Dean Smith
Senator Glenn Lazarus (Until 27.11.14)	Mr Angus Taylor MP
Senator the Hon Ian Macdonald	Senator Zhenya Wang (From 27.11.14)
Mr Clive Palmer MP	

### Participating Members

Senator Christopher (Chris) Back	Senator Jenny McAllister (From 14.05.15)
Senator Cory Bernadi	Senator Anne McEwen (From 14.05.15)
Senator Catryna Bilyk (From 14.05.15)	Senator James McGrath
Senator Carol Brown (From 14.05.15)	Senator Bridget McKenzie
Senator David Bushby	Senator Claire Moore (From 14.05.15)
Senator the Hon Doug Cameron (From 14.05.15)	Senator Ricky Muir
Senator Matthew Canavan	Senator Barry O'Sullivan
Senator the Hon Kim Carr (From 14.05.15)	Senator Nova Peris (From 14.05.15)
Senator the Hon Jacinta Collins (From 14.05.15)	Senator Helen Polley (From 14.05.15)
Senator the Hon Stephen Conroy	Senator Linda Reynolds
	Senator Anne Ruston
	Senator Zed Seselja

(From 14.05.15)	Senator the Hon Lisa Singh (From 14.05.15)
Senator Sam Dastyari (From 14.05.15)	Senator Glenn Sterle (From 14.05.15)
Senator Sean Edwards	Senator Anne Urquhart (From 14.05.15)
Senator David Fawcett	Senator John Williams
Senator Katy Gallagher (From 14.05.15)	Senator the Hon Penny Wong (From 14.05.15)
Senator the Hon Bill Heffernan	
Senator Sue Lines (From 14.05.15)	
Senator the Hon Joseph Ludwig (From 14.05.15)	
Senator Gavin Marshall (From 14.05.15)	

## Committee Secretariat

Secretary	Ms Stephanie Mikac
Inquiry Secretary	Dr John Carter
A/g Inquiry Secretary	Mr Shane Armstrong
Senior Research Officer	Mr Tim Brennan
Administrative Officers	Mrs Alex Fabbo Ms Carissa Skinner



## Terms of reference

The Joint Select Committee on Trade and Investment Growth was established to inquire into and report on any measures to further boost Australia's trade and investment performance, including, but not limited to, barriers to trade; reduction of red tape and structural challenges and opportunities for the Australian community.

As part of its remit, and taking into consideration efforts to promote utilisation of Australia's North Asia Free Trade Agreements (FTAs), as well as future FTAs, the Committee will focus its inquiry on the experience of business in utilising Australia's existing FTAs including: New Zealand, Singapore, Thailand, the United States, Chile, the Association of South East Asian Nations (along with New Zealand) and Malaysia.





## Abbreviations

AANZFTA	ASEAN-Australia-New Zealand Free Trade Agreement
ACCI	Australian Chamber of Commerce and Industry
ACIFTA	Australia-Chile Free Trade Agreement
AFGC	Australian Food and Grocery Council
AHEA	Australian Horticultural Exporters Association
Ai Group	Australian Industry Group
AMIC	Australian Meat Industry Council
ANZ	ANZ Banking Group
ANZCERTA	Australia-New Zealand Closer Economic Relations Trade Agreement
APAL	Apple and Pear Australia Ltd
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATEC	Australian Tourism Export Council
AUSFTA	Australia-United States Free Trade Agreement
BCA	Business Council of Australia
CGA	Cherry Growers Australia
ChAFTA	China-Australia Free Trade Agreement
CTC	Change of Tariff Classification

DFAT	Department of Foreign Affairs and Trade
DIS	Department of Industry and Science
DoA	Department of Agriculture
ECA	Export Council of Australia
EMDG	Export Market Development Grants
EU	European Union
FDI	Foreign Direct Investment
FSANZ	Food Standards Australia New Zealand
FSC	Financial Services Council
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
HS	Harmonised Commodity Description and Coding System
ISDS	Investor-State Dispute Settlement
IPA	Institute of Public Accountants
JSCOT	Joint Standing Committee on Treaties
KAFTA	Korea-Australia Free Trade Agreement
MAFTA	Malaysia-Australia Free Trade Agreement
MCA	Minerals Council of Australia
MICoR	Manual of Importing Country Requirements
MoU	Memorandum of Understanding
NAFTA	North American Free Trade Agreement
RVC	Regional Value Content
SAFTA	Singapore-Australia Free Trade Agreement

SME	Small and Medium Enterprise
SPS	Sanitary and Phytosanitary
TAFTA	Thailand-Australia Free Trade Agreement
TPPA	Trans-Pacific Partnership Agreement
US	United States of America
WFA	Winemakers' Federation of Australia
WTO	World Trade Organisation





# Recommendations

## 2 Australia's Free Trade Agreements

### 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.

### 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.

### 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.

## 3 Business Experience of Free Trade Agreements

### 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.

#### 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 MICO database.

#### 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.

#### Recommendation 7

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

#### 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.

## 4 Informing Future Free Trade Agreements

#### 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.

#### 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.

**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.

**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.

**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.

**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.



