



Submission to the inquiry about expanding membership of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

Executive Summary

The contributing organisations, part of Australian Business in Europe (ABIE), are delighted to contribute to the inquiry expanding membership of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and we should like to summarize our report as follows:

- We support the principle of free trade and in general consideration of initiatives such as an expansion of the membership of the CPTPP and / or the establishment of a Comprehensive Agreement for International Partnership with membership by the US, UK, European Union and other countries with similar economic and political outlooks as long-term goals to the extent that these advance the principle of free trade.
- We note that a number of issues, including data governance, distributed manufacture and resilient supply chain management, digitalized services, state-owned enterprises, ownership of enterprises and IP and innovation would need to be addressed in connection with any revision and/or extension of the above agreements
- In the meantime, we support the use of free trade agreements (FTAs) to advance the strategic interests of Australia, which are likely best met through deep, prioritized and targeted relationships around the global, as best meets the particular needs of Australia and the FTA partner. As a short-term object, we respectfully suggest that prioritization of the completion of FTA with the European Union, and advancement of the Australian-UK FTA.

Author

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About ABIE

Australian Business in Europe (ABIE) brings together multiple organisations representing Australian and Australian-interested organisations across Europe with the shared objective of growing and strengthening the trade, investment, business and diplomatic ties between the two regions.

This submission has been prepared and approved by the following ABIE organisations: Australia-United Kingdom Chamber of Commerce, Australia Spain Business Association, Australasian Business in the Czech Republic, Bulgarian Australian Business Council, European Australian Business Council, Australian Swiss Chamber of Commerce, Australian Business in Europe – Netherlands, Irish Australian Chamber of Commerce, German Australian Business Council, Australian Business Council of Sweden, Australia New Zealand Chamber of Commerce Luxembourg asbl (ANZCCL) and Australian Serbian Commerce Chamber, independently of their patrons and sponsors and reflects the view of the boards of the ABIE organisations only, not that of any individual (corporate) members.

Collectively, our remit is very much one of encouraging sustainable international trade and deeper relations between companies and citizens of Europe and Australia. Our submission is focused on the benefit of international trade for Australia and its international trading partners.

Historical Background

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is a trade agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. As is well-known, the Agreement evolved from the Trans-Pacific Partnership (TPP), which never entered into force due to the withdrawal of the United States. At the time of the signing of the CPTPP, the eleven countries' combined economies represented 13.4 percent of the global gross domestic product (approximately US\$13.5 trillion).

The original Trans-Pacific Partnership agreement was signed on 4 February 2016, but never entered into force, as the previous US administration withdrew the US from the agreement soon after being elected. All original TPP signatories except the US agreed in May 2017 to revive the negotiations and reached agreement in January 2018 to conclude the CPTPP.

The CPTPP incorporates most of the TPP provisions by reference, but suspended 22 provisions the US favoured that other countries opposed, and lowered the threshold for enactment so the participation of the US is not required. The agreement specifies that its provisions enter into effect 60 days after ratification by at least 50% of the signatories (six of the eleven participating countries). Australia was the sixth nation to ratify the deal on 31 October 2018, and the Agreement came into force for the initial six ratifying countries on 30 December 2018.

The Agreement includes a number of provisions to make business and trade more open and more transparent. For example, there is a chapter on state-owned enterprises (SOEs) requiring signatories to

share information about SOEs with each other, with the intent of engaging with the issue of state intervention in markets. The Agreement includes detailed standards for protection of intellectual property as well as protections against intellectual property theft against corporations operating abroad.

We note that membership of the CPTPP is in principle open to any country that accepts the current provisions and that the UK has recently submitted an application to join. ABIE welcomes the principle that there should be no permanent derogation of the current terms of the Agreement. ABIE further notes that any expansion of membership of the CPTPP is likely also to be accompanied by a desire to update the provisions of the Agreement to reflect current business needs and we make some suggestions below as to the areas in which an update may be needed.

A View from Europe

The member associations of ABIE are based in Europe and each have member companies and individuals who not only participate in trade between Europe and Australia, but also with other members of the CPTPP. We collectively support the principles of fair and free trade with other nations. As such, many of our members have an interest in expanding membership of the CPTPP as well as deepening collaboration between the countries.

Support for EU-Australia FTA and UK-Australia FTA

The priority for Australian businesses in Europe is the successful conclusion of free trade agreements between Australia and countries in Europe. It is our understanding that the existing provisions of the CPTPP are not in conflict with the aims of the Australian government and European governments in concluding these discussions. ABIE emphasizes that it is important that any expansion of membership of the CPTPP which might involving re-negotiating some of the provisions of the Agreement should not be detrimental to the conclusion of an agreement with the European Union or the United Kingdom.

Expansion to United States and Europe

The new Biden administration in the United States is already on record as supporting multilateral trade agreements and it is understood that there will be a renewed push to promote trans-pacific trade. ABIE would welcome the encouragement of Australia in promoting a truly international Comprehensive Agreement for International Partnership in which not only the United States, but also the European Union, the United Kingdom and members of the European Economic Area would participate. This is admittedly a long-term goal and current projects, such as the afore-mentioned EU-Australia FTA and UK-Australia FTA, should not be put on hold in the hope of implementing a full “Comprehensive Agreement”.

Data Governance

The negotiations over the transpacific partnership were carried out almost ten years ago and since then the most significant change in the economic models has been the rise of eCommerce, digitalised services and the digital transformation of industry. These subjects were addressed in the Agreement but will need

updating soon. Expansion of the membership may provide the opportunity to address issues such as enhancing the norms on the free flow of data to remove the tendency of some countries to attempt to silo data on servers within their jurisdiction. This should build on the proposals made by Japan during their leadership of the G20 group in 2019.

State Owned Enterprises

ABIE does not take a position on the merits of state-owned businesses. It is important, however, that in any trade agreement, business activities undertaken by state-owned enterprises be carried out in an open, non-discriminatory and transparent manner. Any expansion of the CPTPP to countries in which the economic and political system differs substantially from that in Australia and Europe should ensure that there are provisions to ensure that international trade is carried out freely and fairly.

Ownership of Enterprises

Australia and European countries have traditionally welcomed investment in their industries from foreign partners. We note that Australia has recently tightened its rules on foreign ownership of businesses in the country and that a number of member states of the European Union as well as the UK are also considering whether their current laws are sufficient. Some restrictions are clearly in the interest of the country concerned and ABIE understands the increased review powers given to the Australian Foreign Investment and Review Board. It is important that the activities of the Board remain as transparent as possible, given the conflicting demands of commercial confidence. Any expansion of membership of the CPTPP should ensure also that other countries provide similar opportunities for investment by Australian businesses and that onerous conditions on investment, including the requirement for joint ventures or compulsory transfer of intellectual property should be avoided.

Resilience of Business and Supply Chains

The Covid19 pandemic has shown that supply chains for vital equipment, such as personal protective equipment for medical personnel, can be easily disrupted by events outside of the control of governments. The increase in trade in the past twenty years and the concentration of manufacturing in a reduced number of countries is generally to be welcomed. We have seen, however, that disruption of supply chains and the imminent needs of national and regional governments to protect their own communities can have an adverse effect on other countries. It is likely that, in the future, governments will want to ensure that they have strategic storage and/or manufacturing reserves to ensure continuity of supply to deal with future emergencies and governments may wish to support activities through direct subsidies to ensure access to essential equipment. There is a risk, however, that such activities go beyond the need to ensure an adequate reserve and distort international trade by, for example, subsidizing the export of goods. This risk needs to be addressed in any expansion of the Agreement.

Innovation and Intellectual Property

The ABIE member organisations support a strong innovation ecosystem and note that some of the original TPP provisions on IP protection which were not incorporated into the CPTPP after the United

States withdrew from the Agreement. We understand that Australia's IP provisions as well as those of the EU and UK would not be in conflict with these "suspended" IP provisions and we would support their inclusion in any expansion of the CPTPP.

Outreach

We have heard anecdotally that small and medium-sized businesses have difficulty in accessing the opportunities offered by free trade agreements. We acknowledge that DFAT have attempted to make the benefits as transparent as possible through a website portal. We believe that there may be a need for more help and support for Australian businesses looking for export opportunities and note that the role that the European "chambers" play in encouraging trade and opportunities between SMBs from European countries and Australia. We suggest that DFAT may wish to consider initiatives aimed at strengthening its links with the Australian expatriate business community, and accessible through the ABIE network for example, to complement the available DFAT and Austrade resources and provide mutual benefit and support.

Conclusion

ABIE has been delighted to contribute its thoughts concerning the expansion of membership of the CPTPP and will be happy to contribute further to ongoing discussions.