

Ai GROUP SUBMISSION

Joint Standing Committee on Treaties

Certain Aspects of the Treaty-making Process in Australia.

AUGUST 2020



About Australian Industry Group

The Australian Industry Group (Ai Group) is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines; and other industries. The businesses which we represent employ more than one million people. Ai Group members operate small, medium and large businesses across a range of industries. Ai Group is closely affiliated with more than 50 other employer groups in Australia alone and directly manages a number of those organisations.

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Introduction

The Ai Group welcomes the opportunity to further contribute to the discussion on the utilisation of Free Trade Agreements (FTAs) by Australian companies, and the need for greater engagement by industry in the negotiation of these treaties. Given the substantial investment that the Government has committed to negotiating and implementation of FTAs the aim should always be to provide a net benefit to Australian companies, and while much attention is given to exporters, benefits of FTAs should be enjoyed by importers, exporters and investors.

Ai Group's members do use FTA's for import and export, however many businesses do not. The reasons for not engaging with FTAs are as varied and complex as the reasons for exporting in the first place, however they include; low levels of understanding how FTAs work; difficulty in accessing information; non-tariff barriers having a greater impact on manufactured exports, and FTA's not meeting exporters needs. We contend that with greater participation in the negotiation process FTA's will ensure that utilisation increases and the benefits extend to the wider economy.

We recommend the adoption of one of two existing models:

1. The 'Trusted Advisor' system that currently exists in the USA.
2. Bilateral business working groups with industry associations and council representation from both countries.

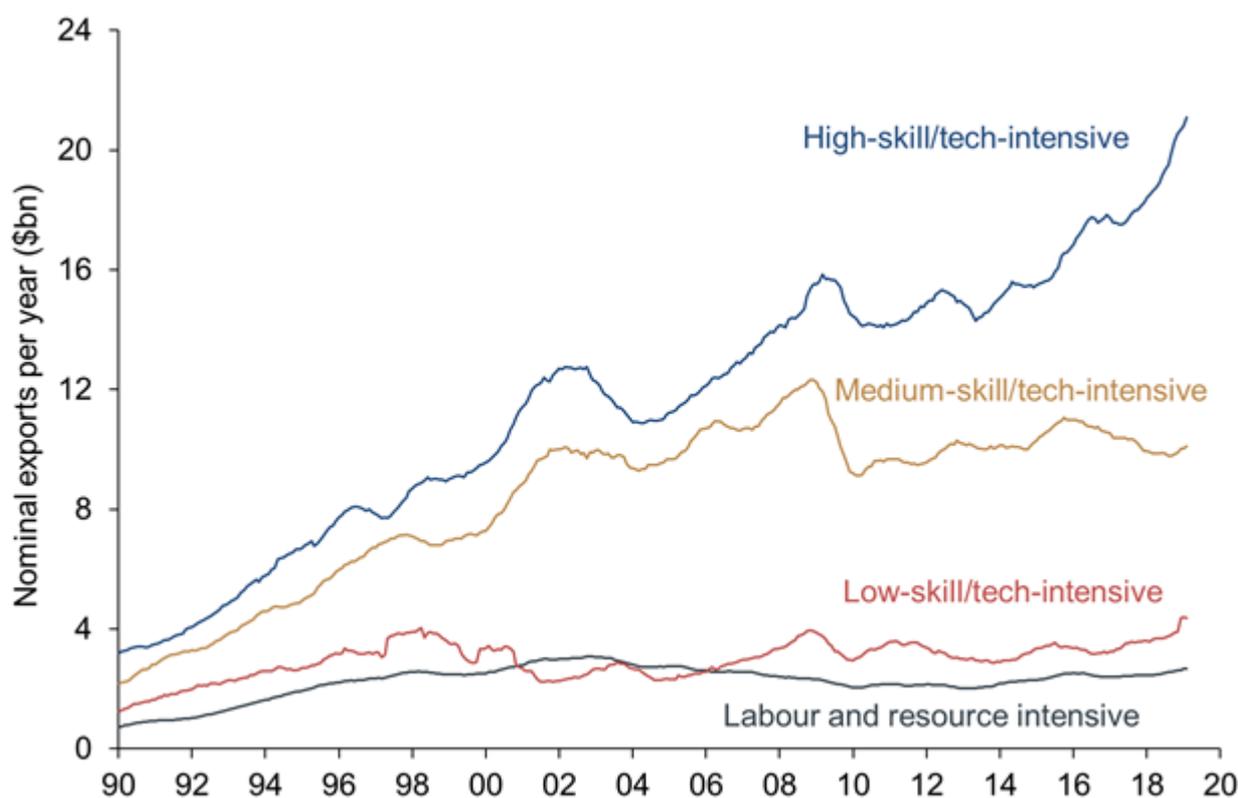
Australia's manufacturing exports

Over the past two decades, export earnings from labour intensive and low-skill exports have been relatively flat (see Chart 1). This likely reflects intense global competition for these types of products and the progressive relocation of production to emerging and developing economies with lower labour costs. High labour costs in Australia result in a comparative disadvantage in producing these types of homogenous, labour-intensive goods. Medium-skill and technology-intensive exports rose from 1998 to 2008 but have fallen since 2008. The sharp decline in early 2009 reflects declining exports of passenger cars, which are included by UNCTAD in this category.

In contrast, export earnings from high-skill and technology-intensive manufactured goods have more than doubled over the past two decades.

Between 2008 and 2015 high-skill and technology-intensive export earnings were relatively flat, probably reflecting the high Australian dollar during the mining investment boom. Since 2015 however, exports earnings from these goods have risen sharply, increasing by 7.3% in 2018 alone. Australia's high-skill and technology-intensive exports in 2018 included medicaments, medicinal & pharmaceutical products, aircraft parts and aircraft equipment.

CHART 1 MANUFACTURING EXPORTS BY SKILL LEVEL AND TECHNOLOGY INTENSITY



Source: ABS, *International Trade in Goods and Services*, Feb 2019; UNCTAD Product Classification, *Manufactured goods by degree of manufacturing groups (SITC Rev. 3)*.

FTAs aren't always delivering a competitive advantage to manufacturers or service providers.

In a poll of members, the second most cited reason for not using FTA's was that companies are not sure what the benefits are. However, many companies also offered that non-tariff barriers were a more significant barrier to export than tariffs. The other challenge for policy makers is that FTA's can't remove all the barriers to export, which include transport, exchange rates and customer demand.

In some cases, there is no tariff for manufacturers to overcome. Prior to the signing of the Japan Australia Economic Partnership Agreement (JAPEA), the tariff chapters that are relevant to Australia's Advanced Manufacturing sectors are largely already at zero, see Table 1.

Table 1 Japan's import tariff rates for advanced manufacturing from all countries

Chapter number	Product Descriptions	Number of products lines with a tariff rate of 1% or above.
Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	0
Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.	10
Chapter 86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds.	0
Chapter 87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof.	1
Chapter 88	Aircraft, spacecraft, and parts thereof.	0
Chapter 89	Ships, boats and floating structures.	0

An unintended consequence of both innovation and, in some cases, free trade, is that exporters face incredible non-tariff barriers, particularly in the areas of standards and product registration as well as nationalistic procurement policies. These barriers are particularly difficult to overcome as they are usually presented as safety or security measures, not barriers. However, this isn't limited to manufactured products, agricultural products can lose all tariff reduction benefits through changed regulations.

How to resolve the gap between needs and results.

While DFAT negotiators approach FTAs with the best intentions, what the COVID Pandemic has clearly demonstrated is that bureaucrats can't fully appreciate the interconnectedness of Australian supply chains and the wide impact decisions can have. Understandably, the public communication during the negotiation process focuses on macro issues such as tariffs and is not able to address the more nuanced topics such as Rules of Origin, standards recognition other behind the border issues.

The USA offers a model of engagement that can address these gaps, through its 'Cleared Advisor' program in the Industry Trade Advisory Centre (ITAC), under which over 600 American industry representatives had access to Transpacific Partnership text prior to signing, at which point Australia business were finally given access.

Members are appointed jointly by the Secretary of Commerce and the United States Trade Representative (USTR). Appointments are made at the re-chartering of each ITAC and periodically throughout the four-year charter period. Members serve at the discretion of the Secretary and the USTR. Appointments to the ITACs expire at the end of the ITACs' charter term (duration is four years); however, members may be re-appointed should the charters of the ITACs be renewed, if the member proves to work effectively with the ITAC, and his/her participation is still needed. Members are not compensated for their services or reimbursed travel expenses.

All ITAC members must have a Department of Commerce Security Clearance up to the SECRET level because they will have access to classified trade-related information.

Eligibility

Eligibility to serve on an ITAC is limited to U.S. citizens who are not full-time employees of a governmental entity, who represent a U.S. entity, and who are not registered with the Department of Justice under the Foreign Agents Registration Act.

Represent a U.S. entity: While Committee members are expected to provide advice to the U.S. Government as representatives of their industry sector, each member must also serve, directly or indirectly, as the representative of a U.S. entity that trades internationally and is engaged in the manufacture of a product or the provision of a service (including retailing and other distribution services), or an association of such entities. This entity will generally be the member's employer or company, but may also be his or her client.

U.S. entity: For purposes of the preceding paragraph, a U.S. entity is a firm incorporated in the United States (or an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by another U.S. entity. An entity is not a U.S. entity if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is controlled, directly or indirectly, by non-U.S. citizens or non-U.S. entities. If the member is to represent an entity or corporation with 10 percent or greater non-U.S. ownership, the nominee must demonstrate at the time of nomination that this ownership interest does not constitute control and will not adversely affect his or her ability to serve as a trade advisory to the United States (see Nominations below).

Trades Internationally: An entity that trades internationally is an entity directly engaged in the import or export of goods or that sells its services abroad, or represents an entity that provides services in direct support of the international trading activities of other entities.

Selection Criteria

The Secretary of Commerce and the USTR will select eligible individuals for appointment to Committee membership based upon the following criteria:

1. Industry Representation and Individual Knowledge:

Members are selected to represent their sponsoring U.S. entity's interests on trade matters. A secondary consideration is members' knowledge and expertise of their industry and of trade matters relevant to the work of the Committee.

More information can be found on the ITAC site (<https://legacy.trade.gov/itac/become-an-advisor.asp>)

The second model is one that already exists in Australia in some FTA negotiations, which is a bilateral industry working group as occurred during the negotiations of the Indonesian Australian Comprehensive Economic Partnership Agreement (IA- CEPA); the Indonesia-Australia Business Partnership Group (IABPG). The IABPG membership consisted of representatives of the National Chambers of Commerce and National Industry Associations of the respective countries, as well as both bilateral business groups and produced a report titled “Two Neighbours, Partners in Prosperity” which provided recommendations to the Australian and Indonesian Governments about businesses interests in IA-CEPA. IA-BPG members called on Governments in Australia and Indonesia to ensure that IA-CEPA provided for the progressive removal of all trade barriers and facilitation of two-way trade in goods and services, plus investment. Business

communities in both countries called for greater integration of the Australian and Indonesian markets to create greater opportunities for businesses, and greater prosperity in both Australia and Indonesia.

A series of mutually beneficial economic cooperation programs were developed alongside IA-CEPA to support momentum in the negotiations and demonstrate the benefits of a closer economic relationship between Australia and Indonesia. One involved a skills exchange, a direct recommendation of the IABPG and the other was a Standards mapping exercise, a need that was identified by the industry outreach conducted by industry groups in both countries.

Whichever model is chosen, industry needs greater involvement in the negotiation process to provide a sense of ownership, raise niche issues that are important to them and to ensure high levels of FTA utilization.



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