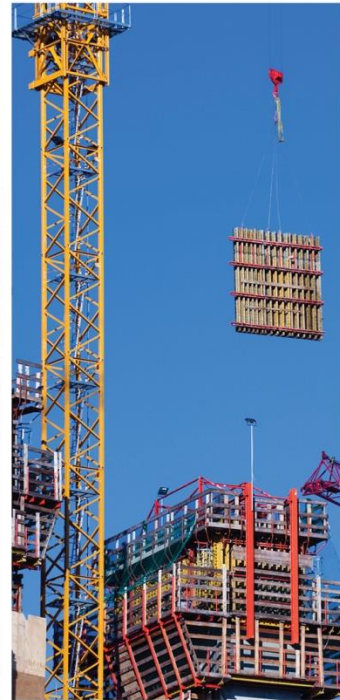


**The Voice for
Australia's exporters**



Response to Productivity Commission Draft Report

Barriers to growth in Australian services exports

September 2015

**Submission by the Export Council of Australia
(Australian Institute of Export)**

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1.0 Introduction

1. About the Export Council of Australia

A not-for-profit, membership based organisation, the ECA is the peak industry body representing Australia's exporters and importers, particularly SMEs. 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, including services exporters. The ECA's core activities include research, advocacy, skills development and events. Some details on the ECA's work are below.

- 1.1. The ECA works collaboratively with a number of Federal and State Government Departments to advance the interests of its members and the broader business community. These include Efic, the Department of Foreign Affairs and Trade (DFAT), Austrade, the Department of Immigration and Border Protection (DIBP), the Department of Industry and Science, and the Department of Agriculture.
- 1.2. The ECA regularly provides submissions to government and its agencies on various reviews, as well as to parliamentary inquiries. These have included submissions relating to the Korea-Australia Free Trade Agreement (KAFTA) and the KAFTA Customs Bills, the Japan-Australia Economic Partnership Agreement (JAPEA) and the JAPEA Customs Bills, the China-Australia Free Trade Agreement (ChAFTA), and more recently the EMDG Review, the Inquiry into Australia's Treaty Making Process and the Inquiry into the Business Experience in Utilising Australia's Free Trade Agreements.
- 1.3. The ECA also releases annual Trade Policy Recommendations (TPR), and the latest document, TPR 2014/15, includes commentary and recommendations regarding the Government's Free Trade Agreement (FTA) agenda and ways in which Government should work with industry to raise the level of understanding of FTAs.
- 1.4. In 2014 the ECA launched a longitudinal survey, Australia's International Business Survey (AIBS), with Austrade, Efic and the University of Sydney, designed to capture data on the international business activity of Australian companies. The first survey captured data from over 1,600 Australian exporters, making it the most comprehensive investigation into Australia's international business activity in more than 15 years.
- 1.5. AIBS 2015 (which was released on 30 July 2015) resulted from the collection of fully completed and validated responses from 1,237 companies involved in international business. The findings of this report are distinctive and significant because they provide key insights into the nature, needs, concerns and future plans of the overall Australian international business community from the company perspective.
- 1.6. The ECA recently also released its "Advancing Trade Development" report, which examines the trade promotion activities offered by 10 of Australia's key export competitors including the United States, United Kingdom, New Zealand, and Singapore in a bid to encourage government to take a long-term, strategic approach to developing Australia's international trade.

2. Overview

The ECA provided comments and recommendations in its original submission to the Productivity Commission (PC) review into barriers to services exports (Review) in March 2015. Following the release of the PC's Draft Report (Draft Report) on August 12, 2015, the ECA welcomes the opportunity to respond and would like to make the following opening remarks:

- 2.1. The ECA strongly agrees with the Draft Report's statement that rising income growth in Asia is an important driver of services exports from Australia and that sound domestic policy arrangements are vital to our ability to take full advantage of export opportunities. Indeed, the ECA's TPR 2013/14 document is entitled, 'International Competitiveness Begins at Home', and stresses that domestic policy and regulatory reforms that promote innovation and productivity are key to increasing exports, including services exports.
- 2.2. The ECA supports the Draft Report's statement that further reducing barriers at and behind the border is crucial to realising the benefits from trade. While it is acknowledged that there is no simple solution, effectively utilising trade agreements, and other arrangements, as a means to provide frameworks to establish supplementary measures is one avenue through which to reduce the barriers to services exports at and behind the border.
- 2.3. The Draft Report acknowledges that the contribution of services to Australian exports is generally undervalued as standard trade statistics are poorly suited to capturing the contribution of services to goods exports, and stresses that assessment of Australia's services exports would be enhanced if more comprehensive data was available. However, the ECA notes that there are no recommendations included in the Draft Report that support the need to address this issue and thinks this should be reconsidered in the drafting of the final report, as per recommendation one of the ECA's submission (see below).

Explore ways to more accurately capture services exports data so as to better inform policy making. The ABS doesn't currently capture the full extent of services exports because it excludes sales made through a foreign sales branch, subsidiary or other overseas presence of an Australian services company, and it is difficult to measure services embodied in goods exported.

- 2.4. While acknowledging the draft recommendations somewhat focus on the need to address non-tariff barriers, by stressing the importance of mutual recognition agreements for example, the ECA is of the view there should be a recommendation aimed at addressing non-tariff barriers more broadly. The ECA suggests adopting a similar recommendation to that put forward in its recent submission to the Joint Select Committee on Trade and Investment Growth Inquiry into the Business Experience in Utilising Australia's FTAs where we called for:

Prioritise the reduction of non-tariff barriers through FTA negotiations as these barriers can be a significant deterrent to doing business in a country. Government can also play a role in-market by helping companies deal with these non-tariff barriers... Further funding to better resource Australian government agencies overseas, such as Austrade, DFAT and Department of Agriculture, could play a critical role in addressing non-tariff barriers in market.

While not taking away from the generality of its support, in the following section of this submission, the ECA will provide comments on a number of the draft recommendations outlined in the Draft Report.

2.0 Response to Draft Recommendations

The ECA's comments on the draft recommendations will refer only to recommendations 4.2, 4.3, 4.6, 4.8, 4.9, 6.1, 8.4, 9.1, 9.2, and 9.3.

The following section outlines the ECA support for recommendations **4.2, 4.3, 6.1, 8.4, 9.2 and 9.3**. It believes that the adoption of these recommendations will help reduce barriers, and facilitate services exports.

Draft Recommendation 4.2

The Australian, state and territory governments should facilitate service exports by pursuing sound policy settings that promote competition and a flexible and productive economy. Policy settings should be guided by net benefits to the Australian community overall rather than effects on service exports alone.

This includes government actions to address concerns about infrastructure acting as a constraint to service exports. Consistent with the Commission's conclusions in its Public Infrastructure inquiry report, the Australian, state and territory governments should:

- implement best practice project selection processes for public infrastructure projects*
- regularly review and reform development approval processes for public and private infrastructure projects to ensure they are risk-based (where feasible) and only as thorough as is necessary to ensure that regulatory objectives are met*
- ensure that planning and zoning systems applying to public and private infrastructure are not overly prescriptive and do not unnecessarily impede service providers from innovating and adapting to changes in demand.*

1. The ECA strongly agrees that domestic policies that promote competition and a flexible and productive economy help facilitate trade and should be a focus for government. Indeed, one of the key objectives of the ECA's 2014/15 TPR is to emphasise the need for a stronger, more competitive economy that enables growth, for which trade and investment are crucial.
2. The ECA also acknowledges what an important role infrastructure plays in facilitating trade. In both its 2013/14 and 2014/15 TPR, the ECA outlines specific recommendations regarding infrastructure planning and implementation (see attachment 1 and 2).

Draft Recommendation 4.3

The Industry Skills Fund seeks to address workforce capability issues by providing training assistance that prioritises five industries, chosen on the basis of their export growth potential. To improve the efficiency with which workforce capability improvements are achieved, the Australian Government should remove the priority afforded to specific industries under the Fund.

3. The ECA believes that there should not be priority afforded to specific industries under the Industry Skills Fund as this has can have a distorting effect. Companies should be judged on the merit criteria only and no greater weighting should be given to any particular sector.

Draft Recommendation 6.1

The Australian Government should continue to progress the Asia Region Funds Passport and, through work in international forums, encourage other jurisdictions to participate in the Passport.

4. The Asian Region Funds Passport will reduce regulatory restrictions on marketing managed investment schemes and increase competition, which in turn will ultimately benefit Australian investors. The ECA supports the PC's call to progress this initiative and thinks expanding the number of countries that join over time will add additional benefits. The ECA also see merit in the adoption of similar programs for other professions as well.

Draft Recommendation 8.4

The Department of Immigration and Border Protection should establish a framework to charge users of differentiated border processing services, in line with the Australian Government's guidelines for cost recovery.

5. The ECA agrees that the DIBP should continue to develop frameworks to charge differentiated border processing services in line with the Australian Government's guidelines for cost recovery. However, in doing so the ECA believes that the DIBP should be mindful of any potentially adverse impact on SMEs who may be affected by those charges and that the charges should only be implemented in a manner consistent to our FTA commitments on the movement of persons.

Draft Recommendation 9.2

The Australian Government should put in place a framework for developing and implementing mutual recognition arrangements as part of, or following, the inclusion of mutual recognition provisions in trade (or other) agreements. The framework should include clear actions and timeframes, involve relevant regulators and government bodies, and include a process for consulting with industry stakeholders.

6. The ECA is generally supportive of initiatives that aim to harmonise standards across countries. The ECA agrees that the government should focus on building stronger frameworks for developing mutual recognition agreements and that there should be clarity regarding who is responsible for the implementation of such agreements. Prioritising this will help ensure the desired benefits are delivered.
7. In the ECA's 2014/15 TPR we recommend that DFAT and ASIC should develop an implementation policy for the financial services chapters of FTAs and mutual recognition agreements.

Draft Recommendation 9.3

The Australian Government should work through trade negotiations and international forums to ensure that:

- *standards and regulations for the movement of data across borders are consistent*
- *measures restricting cross-border data flows are the least restrictive necessary to address privacy or security objectives, and are only applied where other remedies (such as contracts or laws to ensure data stored offshore meets data protection standards) could not achieve the same objective at a lower net cost.*

8. The ECA supports Australia's initiative to lead an Asia-Pacific Economic Cooperation project to harmonise standards for the movement of data across APEC economies. Ensuring that new regulations governing the movement of data are developed

consistently and in a least restrictive way is important. Comprehensive consultation is also essential to capture and address security and privacy concerns.

9. The ECA supports the call for the Australian Government to continue working through trade negotiations (including the Trade in Services Agreement) and international forums to encourage the removal of measures that restrict cross border data flows.

The ECA maintains reservations and/or does not support draft recommendations **4.6, 4.8, 4.9, 9.1**, and comments made in section 4.2 of the Draft Report for the following reasons:

Draft Recommendation 4.6

The Australian, state and territory governments should only provide grants to businesses seeking to export where they address a market failure or meet an equity objective, and the communitywide benefits of providing the grants would be expected to outweigh the costs.

10. The Draft Report suggests that the Export Market Development Grant (EMDG) scheme Review could have been improved by conducting an assessment of the rationale for the provision of government grants to businesses seeking to export, and that grants programs aimed at increasing the overall level of exports, including service exports will not necessarily result in a net benefit to the community. Draft recommendation 4.6 then goes on to suggest that Governments should only provide grants to businesses where they address a market failure, or where they meet an equity objective, and the communitywide benefits of providing the grants outweigh the costs.
11. The ECA agrees that government grants should address market failures and that the 'communitywide' benefits of the grants should outweigh the costs. The ECA believes that the EMDG scheme achieves both of these objectives, which is clearly articulated and rationalised in our submission to the EMDG Review (see attachment 3). Indeed, for the Review of the EMDG scheme published on 30 June 2015, KPMG undertook an economic impact study from which it found:

*"...the EMDG scheme effectively redistributes productive resources from Australian taxpayers (including firms) to new and emerging exporters. To the extent that this transfer of resources results in a net increase in community welfare, KPMG judged the scheme to be efficient."*¹

KPMG's analysis also confirmed that:

- The benefits of the scheme outweighed the costs.
 - The welfare of Australians is improved by up to \$644 million.
 - The above benefits are not at the expense of tax payers.
12. For these reasons the ECA believes the EMDG scheme remains a vital grant that is a prudent use of government funding.

¹ "Certainty and Confidence: Export and Jobs for a Changing Global Economy", Review of the Export Market Development Grants scheme, June 30, 2015, page 25.

Draft Recommendation 4.8

The Minister should amend the Statement of Expectations to confine the commercial role of the Export Finance and Insurance Corporation solely to providing export finance to newly exporting small and medium-sized enterprises. Small and medium-sized enterprises should be defined as entities, including any related entities, with fewer than 100 full-time equivalent employees or annual turnover of less than \$50 million.

The Australian Government should make amendments to the Export Finance and Insurance Corporation Act 1991 (Cwlth) to this effect.

13. The ECA disagrees with draft recommendation 4.8, which proposes to limit the scope of Efic's role.
14. The ECA is a strong supporter of Efic and the important role it plays in helping to facilitate Australian exports. The ECA has expressed this support on multiple occasions including in its response to the Productivity Commission Review of Australia's Export Credit Arrangements in 2012 (PC Review), its 2013/14 and 2014/15 Trade Policy Recommendations, and in its submission to the Foreign Affairs, Defence and Trade (FADT) Legislation Committee Inquiry into Export Finance and Insurance Corporation Amendment (direct lending and other measures) Bill 2014.
15. In the 2013/14 Trade Policy Recommendations the ECA stressed that Efic's capital resources should accurately reflect the demand for export finance and the agency's level of risk exposure, and that their mandate should be expanded, not restricted, to ensure the needs to the export community are adequately met.
16. The changes to the *Export Finance and Insurance Corporation (Efic) Act 1991* (Efic Act)² and the Statement of Expectations were introduced following the PC Review and extensive industry consultation. The ECA was pleased with the resulting decision made by Government to revise Efic's Statement of Expectations requiring a specific focus on SMEs.
17. It is worth noting that Efic's focus on SMEs is already narrow in the sense that it only services a sub-set of SMEs overall financing needs. Efic predominantly works with banks to ensure they have sufficient working capital to fulfil a contract and does not provide transactional banking. Indeed, SMEs only approach Efic after they have won a contract and have been unable to secure private sector funding.
18. AIBS 2014 and 2015, as well as other surveys conducted over recent years, have all highlighted difficulties that SME businesses, new to export or otherwise, can experience in accessing finance to take advantage of export opportunities. The ease of access to finance does not necessarily increase the longer a company has been exporting. Companies expanding internationally, regardless of their export experience, can struggle to access finance due to a lack of tangible security (particularly if a large contract has been won) and/or because of perceptions regarding country risk or operational risk when entering a new market. Indeed, the recommendation from the PC Review that Efic only focus on newly exporting company was rejected by Government, re-affirming that financing gaps are not limited to companies new to export.
19. In summary, the ECA disagrees with the recommendation that the Statement of Expectations should confine the commercial role of the Efic solely to providing export finance to newly exporting SMEs for the reasons stated above, and disagrees with the proposed change in definition of an SME.

² *Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Act 2015.*

Draft Recommendation 4.9

The Minister should amend the Statement of Expectations to require the Export Finance and Insurance Corporation (EFIC) Board to establish a performance management framework, based on a clearly defined and rigorous objective under the Export Finance and Insurance Corporation Act 1991 (Cwlth), directed at market failures affecting newly exporting small and medium-sized enterprises. The framework should be developed in consultation with other Australian Government agencies, and use relevant performance benchmarks and indicators for EFIC's business units, including treasury operations.

EFIC should publicly report its performance against this framework in its annual report and corporate plan.

20. The ECA disagrees with draft recommendation 4.9 because, as a statutory agency, Efic already has a performance management framework that is set by its Board. This framework complies with the requirements of the enhanced Commonwealth Performance Framework under the *Public Governance, Performance and Accountability Act 2013*.

Draft Recommendation 9.1

The Australian Government should focus on plurilateral or multilateral negotiations when seeking to encourage enforcement of intellectual property rights in export markets. The Australian Government should not include intellectual property provisions in future trade agreements unless a published economic assessment shows that the effects of any provisions, including on Australian consumers, generate overall net benefits to the Australian community.

21. The ECA is mindful that other than in exceptional bilateral trading relationships (such as between Australia and China), the most substantive outcomes in negotiations for IP rights in export markets would be found in plurilateral or multilateral negotiations.
22. However the ECA also recognises that those negotiations may not be easy to arrange and may only achieve lower levels of results because of the need to find common agreements among many parties. Further, while the ECA recognises the value in economic assessments of the outcome of future trade agreements, the ECA is also of the view that a “net benefit to consumers” test should be the sole test.
23. There are other outcomes which have value which may not be supported by such a pure economic assessment such as the aspirational effect of negotiations to encourage other nations to improve their regime. In addition an outcome on IP protection is only one aspect of a trade agreement and even a neutral or small benefit could be outweighed by other benefits in the trade agreement which may only be able to be achieved through a compromise on IP enforcement which delivers a less advantageous outcome.
24. The ECA does not believe that an assessment of specific sectoral interests on their own necessarily delivers a proper review of all of the benefits of the trade agreement

Section 4.2 of the Draft Report: Education and Training

25. In section 4.2 of its Draft Report, the PC states that it sees a role for Government in the delivery of education and training but the rationale for additional funding to support training specifically tailored to the needs of service providers looking to expand into global markets is weak. It goes on to suggest that care should be taken by governments

to ensure that their provision of information to businesses does not crowd out private provision.

26. In response the ECA would like to emphasise that information asymmetry is a form of market failure and is a barrier encountered by SMEs in particular, attempting to export to international markets. Education and training tailored to the specific needs of various services sectors would provide significant benefit by assisting to break down some of these information failures.
27. AIBS 2014 and 2015 both reinforce that a lack of information about local language culture, and/or business practices is still the most significant barrier faced by Australian companies doing business internationally. In Japan, a country with which Australia recently signed an FTA, respondents to AIBS 2015 identified local language, culture and/or business practices as the dominant barrier to doing business in Japan (cited by 50 per cent of respondents). Other barriers that were identified were license or product standard requirements (cited by 17 per cent), regulations that only favour local firms (also cited by 17 per cent of respondents), and understanding local regulations (cited by 8 per cent).
28. Education and training can play an important role in helping services companies overcome some of the above listed barriers. Indeed, in the ECA's original submission to the PC Review we recommended:

Increase the support for training and skills development specifically tailored to meet the needs of services companies looking to expand into global markets. This training could cover common barriers services companies identify, such as a lack of information about local culture and business practices, payment issues, understanding local regulations, IP protection and more. Export related training and skill development should be an eligible expense under the EMDG scheme.

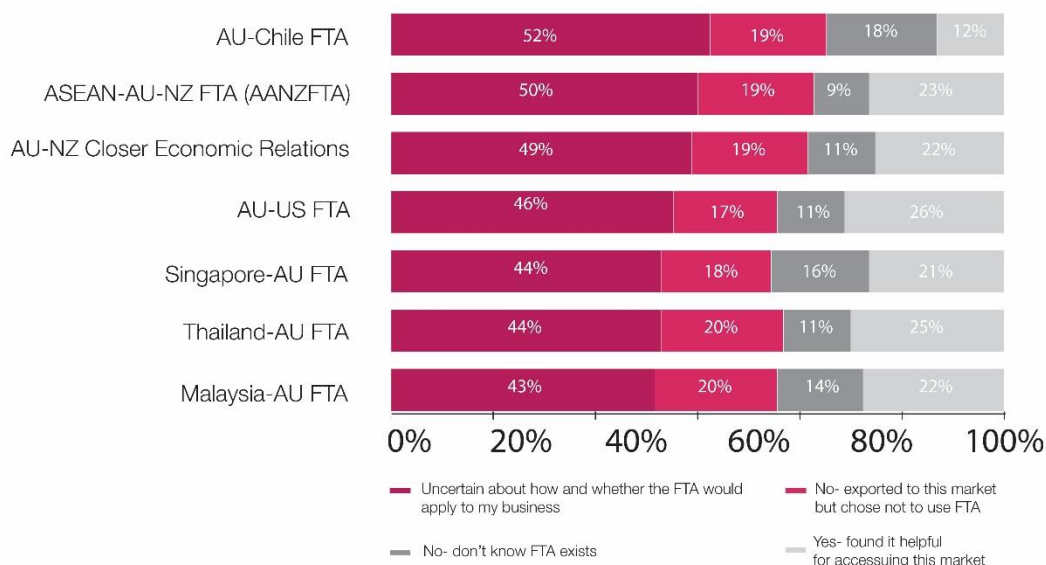
29. The ECA believes delivering these education programs is even more important given the opportunities opening up for services companies as a result of Australia's recently signed FTAs. There is a need to better raise awareness about the opportunities resulting from the FTAs and help educate companies on how to then take full advantage of the opportunities.
30. Indeed, AIBS 2015 reveals that many respondents are unsure about how and whether an FTA would apply to their business (see Figure 1 below).

Figure 1 Use of FTA by individual FTA

© AIBS 2015

Use of FTA - by individual FTAs

Survey question: Please specify your use of FTAs in the markets exported to?



No. of respondents: ASEAN-AU-NZ FTA = 555, AU-Chile FTA = 172, AU-US FTA = 465, AU-NZ Economic Relations = 468, Thailand-AU FTA = 352, Malaysia-AU FTA = 389, Singapore-AU FTA = 439

31. Consequently, the ECA's original submission to the PC Review recommended:

Ensure Australia leverages the benefits from FTAs with its trading partners by placing greater emphasis and investment in raising the overall awareness of their tangible and intangible benefits. This includes providing practical, user-friendly information to assist individual businesses, especially services companies, utilise these agreements...

While the ECA has already developed the FTA Tool to help address this issue, and DFAT continues to develop its FTA portal, more targeted support and information is required.

32. While the ECA's agrees with the PC's statement that government should not crowd out investment by the private sector, the ECA believes that there is a justified need for government and the private sector to work collaboratively to deliver a suite of research, and education and training tools to help build the capability and capacity of Australian services businesses.
33. Strategic investment by the government could be used to create a knowledge hub. Not-for-profits, such as the ECA, do not have the funds to develop the type of research and educational tools that would be required to holistically address the existing information gaps.
34. Investment in a knowledge hub has to be designed to meet the needs of specific services sectors—a one size fits all approach to research, education and training would not be effective. The knowledge hub could be a platform for government, industry bodies, academia and the private sector to collaborate and develop innovative solutions that will help break down barriers to growth in services exports.
35. In the ECA's original submission to the PC Review we called for the adoption of a more strategic approach to advancing trade, the need to better leverage FTAs and the need for more targeted government support to help grow services exports. In particular we called for the creation of a national strategy that sets Australia's medium to long-term

framework for advancing trade development, including strategies for key growth sectors such as services. The ECA's Advancing Trade Development report supports this recommendation. It highlights the strategic approach taken by the United Kingdom in setting a strategy for trade, as well as for service exports in its paper, *Growth is Our Business: A Strategy for Professional and Business Services*. The ECA believes that the final report and recommendations should call for a strategic, whole of government approach to addressing barriers to services exports and suggests that the development of the knowledge hub would be a positive first step.

The ECA is happy to discuss these comments further with the Productivity Commission if so desired.

Sincerely

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