

8 April 2010

Trade Agreements Study
Productivity Commission
GPO Box 1428
CANBERRA ACT 2601



By email: tradeagreements@pc.gov.au

Dear Sir/Madam

SUBMISSION TO THE PRODUCTIVITY COMMISSION STUDY OF BILATERAL AND REGIONAL TRADE AGREEMENTS

The Business Council of Australia (BCA) welcomes the Productivity Commission's study of bilateral and regional trade agreements (FTAs) and, in particular, the examination of the contribution of FTAs to Australia's economic growth.

The BCA is an association of the CEOs of 100 of Australia's leading corporations with a combined workforce of around one million people. Trade and investment liberalisation directly benefits Australian business by increasing access to new markets for their products and services, a wider range of business inputs and to global supply chains. This in turn provides wider economic benefits to Australia through greater growth opportunities, access to new technologies and increased living standards for Australians.

As a mid-sized, open economy, Australia has a vital national interest in a healthy, rules-based world trading system. The opening up of markets through multilateral trade agreements has made a substantial contribution to development, growth and better living standards for the nations involved. Efforts must continue to be directed at achieving meaningful trade liberalisation through the World Trade Organization's (WTO) Doha round and subsequent multilateral initiatives.

The negotiation of FTAs has also been an important means of reducing barriers to trade and investment, resulting in tangible economic benefits for both Australia and the other nations that have been a party to concluded agreements. The BCA has advocated the negotiation of FTAs as a way to build on and complement the WTO framework on a bilateral or regional basis.

However, the spectre of stalled or slow multilateral negotiations and the rise of 'new' regionalism in the form of a proliferation of FTAs have raised questions over whether FTAs are achieving the desired outcomes for the future of trade liberalisation. With

this in mind, the BCA commissioned ITS Global to review the contribution that FTAs are making to the growth of Australia's economy. The ITS Global report is attached.

The report identifies the importance of FTAs as a means to improve the business environment, drive competitiveness and increase levels of global engagement. The report points out that Australian businesses have seen practical and deliverable benefits from FTAs, for example through increased labour mobility as a result of visa initiatives under the Australia-United States FTA. In addition, the report highlights that FTAs are also *“effective in securing commitments which are desirable but not delivered through the multilateral system, for example to reduce barriers to investment and to introduce competition policy.”*

In pursuing multiple FTAs however, it is important to ensure that where possible, harmonisation of trade rules, such as rules of origin, can be achieved. The Productivity Commission in its *Trade and Assistance Review 2007-08*, considered the increase in the rules of origin across FTAs to which Australia is a party and the resulting complexity and compliance costs for business. They found that the complexity, overlap and differences in trade rules across FTAs could result in restricted trade and inhibited innovation. The Productivity Commission found that:

“As the diversity and complexity of trade agreements which require rules of origin increases, the transaction costs of trading under these varying sets of rules is also likely to increase. Furthermore, the nature of the rules may serve to limit innovation in production processes and restrict competition as firms seek to adjust production processes to gain tariff preferences under particular agreements.”

Accordingly, whilst the BCA supports continued efforts directed towards pursuing meaningful commitments to open up economies through FTAs, the BCA considers that there are important guiding principles that should underpin their formation and on-going implementation. The BCA has established a set of trade principles to guide FTA development to ensure that desirable commitments can be secured. The principles address both the content of FTAs and also the nations or regions that represent a high priority for Australian business. These principles provide that free trade agreements should:

- support the broader goal of global free trade;
- be targeted where they are of most importance for Australia's trading interests, including agreements with China, ASEAN, Japan, Korea, the European Union, India as well as importantly the new trans-Pacific Partnership negotiations. This should involve the careful prioritisation of resources to these negotiations;
- be WTO consistent and in line with the 'Best Practice for RTAs/FTAs in APEC' guidelines. In particular agreements should be:
 - comprehensive, especially in relation to service related liberalisation and reducing barriers to investment;
 - explicitly leave open the possibility of accession of third parties; and
 - create appropriate precedents beyond WTO provisions;

- include provisions for regular review:
 - reviews should be used in all agreements to ensure they are kept up to date with changing global trading conditions;
 - reviews should wherever possible lead to a harmonisation of trade rules, such as rules of origin, across FTAs;
 - reviews are particularly important where the agreement is not initially WTO consistent in order to move agreements towards WTO consistency and provide scope for further liberalisation in line with Australia's expectations; and
- be directed towards measures that are WTO consistent, and that can be implemented effectively.

In order for FTA commitments to deliver meaningful outcomes for business, it is important that the Department of Foreign Affairs and Trade (DFAT) have regular access to business expertise during the negotiation process.

The BCA appreciates the longstanding commitment of DFAT to consulting widely with business and other stakeholders. The department's approach has resulted in high quality and beneficial outcomes for Australia. At the same time, the BCA considers that an improved mechanism for collaboration between business and negotiators could be developed.

One method of increasing the transparency and the effectiveness of the consultation process may be the development of a public database listing the status of each set of FTA negotiations and the stakeholders who have or will be consulted by Australia's negotiators. This could be supported by a process where interested stakeholders register with DFAT so that they are formally identified as a stakeholder who will be consulted throughout the negotiations. Such an arrangement would be expected to increase the involvement of interested business organisations. It addition, it would allow those that are not directly involved in negotiations to more effectively collaborate with other parties who are identified as being part of the consultations process.

The achievement of 'best practice' FTAs that are consistent with the principles outlined above, will be supported by further extending the opportunity for open and effective communication between business, other stakeholders and negotiators.

Although the BCA has identified formal trade negotiations as an important mechanism for pursuing new economic opportunities, we do not take the view that relevant reforms to government policy should only be pursued through negotiations. It will be important that governments, whenever it is more effective to do so, unilaterally pursue reforms that raise productivity in the Australian economy and improve the capability of Australian firms to compete in global markets. Australia's international trade and investment negotiations should support and serve our economic policy priorities and our wider interests.

If you would like further information about this submission or related issues, please contact Leanne Edwards, Assistant Director – Regulatory Affairs

Yours sincerely

John W.H. Denton
Chair – Global Engagement Task Force