Australian Information Industry Association

Submission to

the Inquiry into the understanding and utilisation of benefits under Free Trade Agreements

12 July 2024

Introduction

The Australian Information Industry Association (AIIA) thanks the Joint Standing Committee on Trade and Investment Growth for the opportunity to respond to its consultation on the understanding and utilisation of benefits available to Australian industry and communities under Free Trade Agreements (FTAs). To support Australian businesses, FTAs should support the free flow of information across country borders. This can be achieved by not mandating data localisation and the disclosure of source code, in addition to ensuring there are no customs duties on digital products. FTAs can support the sharing of knowledge and support innovation across the tech sector. The AIIA notes that the technology sector's priorities include ensuring there is harmonisation of digital standards to enable external trade and access for Australian companies. The Australian technology industry looks to Government to take a proactive approach to ensure that the standards set are advantageous for the technology sector.

The Australian economy grew 3% from 2022-23.[1] The Australian technology industry has grown on average by 16% per annum in recent years and identified exports of Telecommunications, Computer and Information services have grown by 15% from 2022-23.[2,3] Our largest export markets for these products in the year 2023 include (in order) the UK ($770 m), USA ($606 m) and NZ (grew from $350 m in 2022 to $605 m in 2023) followed by Singapore ($198 m), Ireland ($174 m) and Hong Kong ($136 m). Accurate figures across the range of exported technological and digital goods and services is difficult to estimate and does not reflect those goods and services that are captured or embodied in the production and delivery of other goods and services (for example the use of AI aided design in an end product).

It is unclear which elements of economic or export growth can be attributed to specific FTAs. AIIA is unaware of any data that links identified FTAs and corresponding exports or inflows of capital investment into Australian technology industries. It may be necessary for Government to track the benefits seen by Australian businesses in relations to FTAs to determine their effectiveness. Greater awareness and education about the benefits of FTAs, particularly focussed on the SME portion of the market, may be needed to maximise benefits to Australian industries.

FTAs for supporting the ICT industry
FTAs can assist Australian businesses by helping to increase exports, but also by reducing the cost of inputs, allowing technology transfer and encouraging international investment. The majority of Australian FTAs have a type of E-commerce chapter designed to support digital trade.[4] It is essential that older FTAs are updated to reflect the importance and growth in tech industries, E-commerce and digital trade. Recent examples of FTAs addressing digital trade include the Singapore-Australia FTA (SAFTA) and the Australia - UK FTA (AUKFTA). In addition, Australia has entered into the Australia-Singapore Digital Economy Agreement (ASDEA) which establishes digital trade rules and aims to provide digital economy collaborations.

---

[1] https://www.abs.gov.au/statistics/economy/national-accounts/australian-system-national-accounts/latest-release#articles
[2] Austrade, Digital Technology Report, 2023
[3] Australian Bureau of Statistics, International Trade: Supplementary Information, Calendar Year 2023
[4] DFAT, Digital trade and the digital economy

To be of value and adequately address the needs of Australian technology and digital industries FTAs should, at a minimum, address the key elements of:

- E-commerce and digital trade facilitation
- Preferential market access
- Protections for intellectual property rights
- Allow cross border data flows
- Cooperation on cybersecurity, data protection and privacy
- Regulatory coherence and harmonisation of standards.

In addition, in recognition of the role of small and medium-sized enterprises (SMEs) as drivers of innovation and the difficulties they face in competing for global supply lines, FTAs should include an undertaking to increase cooperation and support SME trade efforts (see AUKFTA).

Issue 1: FTAs with different procedures and preferential access, leading to market confusion and difficulties in leveraging them

Paperless/Digital trade facilitation
Paperless trade can reduce cost, streamline customs procedures and reduce barriers to the trade of digital goods and services. These costs and barriers can disproportionately affect SMEs, and online tools and digital platforms can help overcome these challenges.[5] Paperless trade includes the acceptance of secure cross-border electronic signatures, e-certificates, e-payments and e-invoicing. For cross border e-trade supporting regulations and technical standards must be agreed between trading partners.

PEPPOL, an EU standard for exchanging electronic documents including invoices in a standardised, structured form is a tool to facilitate paperless trade. PEPPOL has been adopted by Australia and New Zealand in the Trans-Tasman Electronic Invoicing Arrangement and by Singapore in its internal B2B InvoiceNow network. It is recommended that recognised and agreed standards such as PEPPOL are adopted in all new FTAs and incorporated into FTA amendments and updates.

Domestic tech producers such as those working in AgTech would benefit by being more strongly aligned to export controls and biosecurity controls for Australian agricultural and food commodities. Using the government lever of standards and controls, Australia has the opportunity to become a world leader in the adoption of AgTech and related innovations. For example, promoting greater adoption and recognition of e-certificates for exports and biosecurity would improve the use of AgTech technologies that could streamline processing of trade credentials, plant, animal and food certificates and attestations for organic and ESG status. Additionally, any future domestic production

---

[5] Dept. of Industry, Innovation & Science and Dept. of Jobs & Small Business, Submission 31, to the Joint Standing Committee on Foreign Affairs, Defence and Trade: Trade Sub-Committee Inquiry into access to free trade agreements by small and medium sized enterprises, 2018 p. 6.

reporting requirements (such as those for pest and disease-free status) should be captured and exchanged electronically. Government could be a catalyst for driving domestic demand (via legislation and standard setting) and supply (through investment in gov department IT and grants) to help industry uplift AgTech adoption while also making Australian products more attractive to overseas markets.

It may be possible for Government to update existing FTAs that do not adequately address the need of the technology/digital industry with similar addenda. For example, the new ASDEA upgraded the digital trade arrangements between Australia and Singapore under the [Comprehensive and Progressive Agreement on the Trans-Pacific Partnership](#) and SAFTA. The ASDEA aims to support cooperation on matters relating to the digital economy. It is recommended that other FTAs be similarly updated for consistency.

Market Access
Free trade requires that tariffs on digital products and services are minimised or eliminated altogether to enhance market access and equalise the playing field. It also requires the elimination of non-tariff barriers such as quotas, licensing requirements, and technical standards that may hinder market entry for exporters. The harmonisation of standards may assist in reducing nontrade barriers.

Chapter 14 of the AUKFTA, for example, states that there should be no customs duties on electronic transmissions and that the UK and Australia will avoid any unnecessary regulatory burden on electronic transactions. Additionally, the AUKFTA prohibits a range of limitations to market access for Australian and UK financial services businesses creating opportunities for FinTech businesses.

Intellectual property (IP) protections and support for innovation
FTAs should incorporate strong IP protections that protect against piracy and counterfeiting to safeguard innovation and technology and identify effective enforcement mechanisms to address IP infringements and ensure compliance with IP laws. Both SAFTA and AUKFTA includes provisions on IP protection, including patents, copyrights, and trademarks, to facilitate technology trade between the two countries. Linked with IP protections, to support software trade, FTAs should include an agreement that access or disclosure of source code will not be enforced as a condition of trade. Chapter 7 of AUKUS addresses the need to ensure that technical regulations and standards are non-discriminatory.

The AUKFTA entered into on the 31st May 2023 includes chapters addressing innovation, emerging digital technology and AI. Additionally, the innovation stream of the [*Innovation and Early Careers Skills Exchange Pilot*](#) (IECSEP) built into AUKFTA provides new opportunities for skilled and innovative UK citizens to live and work in Australia and may encourage the inflow of a skilled and innovative workforce.

The ASDEA also includes an [MOU on Artificial Intelligence](#), which is designed to increase R&D collaboration on civil applications of AI technology. and support AI talent creation, development attraction and retention. While not binding on either nation the MOU has the objectives of

- Encouraging the sharing of best practice
- Facilitating access to markets and talent
- Establishing linkages between research and industry to support commercialisation of AI
- Foster a human centred approach including the adoption of ethical governance frameworks

Data protection and storage

Agreement should be sought to collaborate on cybersecurity and systems to provide high standards of protection for online consumers and their data to give people confidence in online trade and digital transactions. Cybersecurity concerns and the risk of data breaches can deter Australian businesses from international trade and discourage investment in digital products and services. Chapter 14 of the AUKFTA also includes recognition of the need for workforce development in cybersecurity and encourages collaboration between the two parties.

Regulatory coherence

To ensure smooth digital trade and remove structural barriers to trade FTAs should seek to establish internationally agreed digital standards or mutual recognition agreements. Regulatory harmonisation can reduce both the cost and complexity of trying to comply with multiple different regulatory standards. As identified in AIIA previous submissions[6], Government can support domestic capabilities in a technology-driven economy through regulatory dialogue and diplomacy to harmonise regulations and standards with important trading partners for successful digital exports and/or joint innovation. Equalisation of standards is important for an open, accessible and secure digital environment and is necessary to ensure privacy, interoperability and efficiency. The US-Singapore Strategic Technology Partnership, has resulted in agreements to integrate ecosystems and cross train workforces in the latest technical tools.

A proactive approach to advantageous standards setting in areas where Australia holds a strong comparative advantage, such as AgTech (food and technology), would allow us to safeguard both our high value agricultural and food commodity exports, but also grow our exports in enabling technologies and global best practice in this area. Government could use Australia's leadership role on the global CODEX committee for trade standards to promote innovative operational technologies in which Australia is a world leader in, such as areas like eDNA for container hygiene, and remote auditing for animal welfare and meat inspection verification.

There are several digital areas where Australian innovation and expertise have established a solid presence including green technologies, Business Software, Medical Devices, Media and Design, SaaS, Fintech, Biotech, PayTech, cyber security and quantum digital games.[7] There are significant opportunities for Australia to benefit from exports in the growing areas of Cloud Computing, Big Data and Generative AI. Government's leadership on standard negotiations can ensure opportunities

---

[6] AIIA, 2024-24 pre-budget submission https://aiia.com.au/wp-content/uploads/2024/01/2024-01-25-AIIA-Pre-Budget-Submission-Final.pdf ; AIIA, submission 'Supporting the development of sovereign capability in the Australian technology sector, Feb 2024' https://aiia.com.au/wp-content/uploads/2024/02/2024-02-23-AIIA-Submission-for-Senate-inquiry-on-supporting-sovereign-capability-in-the-AU-tech-sector-final.pdf

[7] Austrade, Digital Technology Report, 2023

are maximised by aligning standards and formats established in FTAs in favour of Australian industries.

Issue 2: FTAs still not addressing certain barriers

Non-tariff trade barriers
Despite the benefits provided by FTAs, Australian digital and technology exporters still face several challenges that are not fully addressed by these agreements

Data Privacy and Protection Regulations – different countries have varying data privacy laws that must be navigated by Australian companies, e.g. The EU's General Data Protection Regulation (GDPR). Australia's privacy laws have not been acknowledged as adequate under the GDPR while that of many of our competitors and trading partners are. Reforms are being undertaken to Australia's Privacy Act (1988) and it is hoped that these reforms will allow Australia to seek adequacy status and remove additional red tape for Australian exporters.

Regulations on cross-border data flows – different countries have introduced different regulations covering storage, access and flow of data across borders. This will impact digital trade and AI development. The OECD has highlighted that data localisation requirements have been growing and are becoming more restrictive.[8]

Cybersecurity concerns - Cybersecurity threats and the need for robust protective measures pose significant challenges. While some FTAs include provisions for cybersecurity cooperation, the rapidly evolving nature of cyber threats means that exporters must continually adapt and invest in security measures independently. Government can establish public-private partnerships to work together to address these important issues in FTA negotiations.

Infrastructure limitations - In some export markets, the lack of reliable communication and digital infrastructure and connectivity can hinder the delivery of digital services. FTAs alone cannot directly address the infrastructural deficiencies in these countries, which can limit the effectiveness of market access provisions.

Local content requirements - non-tariff barriers such as local content requirements and complex regulatory environments can make it difficult for Australian exporters to enter a market successfully.

The AIIA recommends that

- Australia takes a proactive role in the promotion and adoption of digital standards for international trade requirements for competitive advantage in digital exports. We currently

---

[8] OECD, The nature, evolution and potential implications of data localisation measures, 2023

set this for a number of phytosanitary commodities but should ideally also look to have this expanded to other forms of animal, food safety and traceability.

- The Government encourages cross-border collaboration to streamline and harmonise digital trade regulations and standards for the benefit of domestic and export sales. Priority should be given to streamline and harmonise regulations and standards across our major trading partners and to update those agreements that are outdated or silent on digital trade to avoid exporters having to adopt a different approach for each market.

- The Government overcome a lack of FTA awareness and utilisation information by conducting briefings and roundtables with AIIA members.

- When considering addressing the digital economy in FTAs, Government consult with AIIA members to ensure that the most up to date and relevant industry concerns are addressed.

- The Government include preferential visa or special classes of working visas for skilled technology workers such as AI-trained or cyber security professionals in FTAs to assist in boosting the tech skilled workforce to address domestic shortfalls in skilled labour.

- Negotiated FTAs ensure software distribution arrangements and the customs duties charged, if any, are removed to ensure preferential access.

- FTAs address the need for harmonisation with international technology and information security standards. Government and industry could work together to develop critical technology security standards aligned with international partners to enable trusted trade and engagement, resilient underpinning capabilities and support Australian industry to compete on the global stage.

Conclusion

The AIIA thanks the Committee for the opportunity to share the tech industry insights and assessment on the understanding and utilisation of benefits available to Australian industry and communities under Free Trade Agreements. We are open to discuss the content of this submission. Should you have any questions, please contact Ms Siew Lee Seow, General Manager, Policy and Media at siewlee@aiia.com.au.

Yours sincerely
Simon Bush
CEO, AIIA

About the AIIA

The AIIA is Australia's peak representative body and advocacy group for those in the digital ecosystem. Since 1978, the AIIA has pursued activities to stimulate and grow the digital ecosystem, to create a favourable business environment for our members and to contribute to Australia's economic prosperity.

We are a not-for-profit organisation to benefit members, which represents around 90% of the over one million employed in the technology sector in Australia. We are unique in that we represent the diversity of the technology ecosystem from small and medium businesses, start-ups, universities, and digital incubators through to large Australian companies, multinational software and hardware companies, data centres, telecommunications companies and technology consulting companies.