

Australia – EU Free Trade Agreement

Summary of Negotiating Aims and Approach

Introduction

Australia is seeking an ambitious and comprehensive free trade agreement (FTA) with the European Union (EU) to drive Australian exports, economic growth and job creation. It also signals our shared commitment to open markets, free trade and the rules-based global trading system.

An FTA with the EU has the potential to open up a market for Australian goods and services of half a billion people and a GDP of US\$17.3 trillion. As a bloc, the EU is Australia's second largest trading partner, third largest export destination, and second largest services market. The EU was Australia's largest source of foreign investment in 2017.

Australia has been at the forefront of concluding modern, comprehensive FTAs. Our FTAs aim to maximise tariff reductions for Australian exporters, open up services markets, and set rules to enhance trade and investment, reduce regulatory risk and support further liberalisation.

As the Foreign Policy White Paper made clear, the continuing openness of the world economy is vital to our interests. Australia will work to resist protectionism and advocate for a global economy that delivers the lowest possible barriers to our trade and investment, including through modern free trade agreements. As a result, we will expand our network of FTAs to ensure that by 2020 we have agreements with countries that account for over 80 per cent of our trade.

The Government is committed to transparency and maintaining a strongly consultative approach throughout these trade negotiations. This document summarises Australia's broad negotiating aims and approach and has been prepared to make it easier for business, civil society and individuals to access information on our trade negotiations with the European Union.

We are at the start of the negotiating process. Further information and resources can be found at <http://dfat.gov.au/trade/agreements/negotiations/aeufta/Pages/default.aspx> including a report of the first negotiating round. The EU has shared its proposals for several chapters, which have also been released to the public.

We continue to welcome input from any stakeholders, including industry, civil society and business, on issues of relevance to the negotiations. To provide input, or to make a submission, please email a-eufta@dfat.gov.au.

The second round is scheduled to be held in Canberra in November.

Trade in Goods

The Trade in Goods chapter will include Australia and the EU's tariff commitments. Through the negotiations with the EU, Australia is seeking significantly improved market access for Australian agricultural and industrial products. In addition to commitments on tariffs, the chapter will incorporate or build upon Australia and the EU's World Trade Organization (WTO) obligations including national treatment obligations. This is to ensure imported goods are not treated less favourably than similar goods produced domestically, including in relation to import licensing procedures, quantitative restrictions and administrative fees and charges. The chapter will also include provisions that prohibit export duties.

Rules of Origin

Australia is committed to securing rules of origin that facilitate market access and reflect modern production processes, global value chains, and commercial transportation arrangements. Australia will seek provisions with which traders are already familiar, including with respect to origin documentation.

Customs and Trade Facilitation

Australia's approach is to include commitments to facilitate trade while allowing the Parties to maintain effective customs control. Provisions on Customs and Trade Facilitation should build upon existing disciplines and commitments under the WTO Agreement on Trade Facilitation. Australia will seek to include WTO-plus commitments to expedite customs procedures and improve business certainty, including with respect to advance rulings, temporary admission, and perishable goods.

Australia will work with the EU to improve cooperation in customs matters, including with respect to mutual recognition of Authorised Economic Operator programmes. Australia does not typically include detailed anti-fraud provisions in FTAs, but will consider provisions to prevent fraud while maintaining appropriate protections for traders who follow the rules.

Technical Barriers to Trade

Australia supports the inclusion of provisions to ensure standards, technical regulations and conformity assessment procedures do not create unnecessary obstacles to international trade. To this end, Australia will work to secure provisions on Technical Barriers to Trade that affirm and, where appropriate, build upon the Parties' existing commitments under the WTO Agreement on Technical Barriers to Trade.

Australia and the EU support provisions that increase transparency, promote good regulatory practice, and seek convergence with respect to the use of international standards. Australia will advocate for our usual practice to ensure the commitments facilitate trade, while maintaining appropriate safeguards for consumer health and safety. Australia will propose TBT annexes in key sectors of interest based on consultation with stakeholders.

Trade Remedies

Australia's approach on Trade Remedies is to include a chapter that affirms both Parties' rights and obligations under the framework of the WTO, and only consider additional

safeguards mechanisms when there are ambitious market access commitments in the agreement.

Sanitary and Phytosanitary Measures

Australia supports a chapter on sanitary and phytosanitary (SPS) measures that affirms each Party's existing rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), including confirming each Party's ability to take measures necessary to protect human, animal or plant life or health. Australia will advocate for provisions which provide for enhanced information exchange, transparency and cooperation; facilitate the mutual understanding of each Party's regulations procedures; and take into account existing SPS related dialogues.

Australia seeks to ensure chapter provisions maintain Parties' rights to establish scientifically-justified SPS measures and to determine their appropriate level of protection in establishing its measures. Australia seeks to ensure chapter provisions are not overly prescriptive, not resource-intensive, not linked to specific market access issues and without unrealistic timelines for complying with chapter requirements.

Trade and Competition, including subsidies and state-owned enterprises

Australia's approach is to include chapters on competition and state-owned enterprises (SOEs) in FTAs. The purpose of these chapters is to ensure that market access outcomes for Australian goods and services exports are not undermined by anti-competitive activities, including by ensuring that state-owned enterprises compete with private enterprises on a level playing field.

Australia's practice is to ensure our ability to use SOEs to deliver public services in FTAs. Competition chapters typically include provisions on the enforcement of competition law, principles of transparency, due process, procedural fairness and non-discrimination. SOE chapters typically include provisions requiring SOEs to act in accordance with commercial considerations when buying or selling goods, and that they are regulated in an impartial manner.

Small and Medium-sized Enterprises

There is much common ground between Australia and the EU on maximising the benefits of FTAs for small and medium-sized enterprises (SMEs). Both Parties are keen to enhance SMEs' access to information on rules, regulations, and procedures, and to reduce costs and red tape for SMEs. Australia and the EU will continue to discuss how best to implement these measures to ensure that SMEs can take advantage of the agreement.

Government Procurement

Australia aims to achieve comprehensive and improved access to government procurement opportunities in the EU. This includes agreeing to rules, procedures and requirements that are consistent with both parties' existing international government procurement obligations to provide business with certainty and transparency when tendering for government procurement opportunities.

Intellectual Property Rights

Australia's approach is to include a chapter on intellectual property (IP) that promotes the adequate, effective and balanced protection and enforcement of intellectual property rights, and encourages innovation and creativity. Our chapters also facilitate trade and investment in intellectual property between the Parties, and balance the legitimate interests of rights holders, users and the public interest. Our approach is focused on promoting open and transparent IP systems, including ensuring appropriate procedures and safeguards.

Australia has a robust system for the protection of intellectual property and we look forward to explaining the benefits of Australian approaches. As with previous FTAs, Australia will protect its right to regulate in important public policy areas. We will preserve flexibility to ensure our intellectual property settings can continue to provide an appropriate level of incentives for innovation, investment and the production of creative works.

In the context of a comprehensive and ambitious FTA, Australia is open to considering the protection of geographical indications in a mutually acceptable way that will include consultation with agricultural and other stakeholders.

On intellectual property and health, we are committed to protecting the integrity of Australia's health and pharmaceuticals systems, including the Pharmaceutical Benefits Scheme, as we have done in previous FTAs.

Trade in Services and Investment

Services

Services trade represents a third of Australia's two-way trade relationship with the EU. We are seeking to lock in access for Australian services exporters, and create new opportunities in sectors such as education, financial and professional services. We want to enhance certainty on conditions of stay, and reduce barriers to temporary labour mobility for skilled professionals, in a manner consistent with existing immigration and workplace relations frameworks. The FTA also provides an opportunity to address behind-the-border barriers to services trade, including exploring ways to increase regulatory coherence. We will work to develop a framework for mutual recognition of professional qualifications. We are looking for commitments on telecommunications which support an open and competitive telecommunications sector, at both the wholesale and retail level, and reflect the changing nature of global telecommunications.

Investment

The EU remains one of our top destinations and sources of investment. We are seeking to improve market access for Australian investment and increase investment into Australia, including through obligations which ensure the free flow of capital related to investments between our economies. We will also seek an undertaking from the EU not to impose residency and/or citizenship requirements on senior representatives of Australian companies established in the EU. Australia will uphold the government's right to regulate for legitimate public purpose and screen investments for national interest.

On 22 May, the EU Council authorised the Commission to open trade negotiations with Australia (9102/18). In a separate decision (8622/18), the Council noted that the Commission had not presented a recommendation for a negotiating directive for an investment agreement.

Digital trade

We are seeking to establish ambitious digital trade commitments that strike a balance between facilitating modern trade and ensuring appropriate protections for consumers. High-quality rules on issues such as data flows and localisation will create a more certain and secure online environment and support increased growth of e-commerce between Australia and the EU.

Trade and Sustainable Development

Labour

Australia and the EU share high standards in terms of labour protection, commitment to fundamental labour rights and adherence to relevant ILO Conventions. Australia's approach is to include commitments promoting compliance with internationally-recognised labour standards. We will work to ensure high levels of labour protection consistent with internationally agreed labour rights and principles.

Environment

Australia and the EU share high standards on environmental protection, and adherence to relevant multilateral environmental agreements. Australia's approach is to include commitments that ensure high levels of environmental protection, consistent with internationally agreed principles, standards and rules. We will work to foster a mutually supportive relationship between trade and the environment.

Energy and Raw Materials

Australia's negotiating preference is not to include a separate chapter on energy, but to include relevant disciplines, for example on competition, in core chapters.

Animal Welfare

Australia will consider EU proposals for cooperation on animal welfare and anti-microbial resistance (AMR).

Transparency

Australia and the EU have common approaches to transparency, and the agreement should include cross-cutting and ambitious transparency rules that provide greater certainty to Australian individuals and businesses seeking to trade and invest in the EU.

Dispute Settlement

Australia and the EU will work to establish a state-to-state dispute settlement mechanism that provides transparent and efficient procedures for settling disputes regarding the FTA. We have common approaches to many issues, particularly in relation to enhanced transparency of proceedings. Not all provisions in the agreement will be subject to state-to-state dispute settlement.

Regulatory Cooperation

Both Australia and the EU have strong regulatory frameworks and the FTA should include provisions on greater regulatory cooperation that build upon the existing frameworks.

Institutional Arrangements

The Institutional Arrangements should establish the broad legal architecture for the FTA and include an overarching body with a number of committees and working groups.

General Provisions and Exceptions

There will be exceptions to the commitments in the FTA, some of which draw upon general exceptions in the WTO Agreement, and which provide parties with the right to regulate to achieve legitimate public policy objectives.