



22 September 2023

Joint Standing Committee on Trade and Investment Growth

PO Box 6021

Parliament House

CANBERRA ACT 2600

via email: jsctig@aph.gov.au

Dear Sir/madam,

Accounting for small businesses in international trade and investment agreements.

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to comment on the inquiry into the Australian Government's approach to negotiating trade and investment agreements. Australia's small and family businesses are key contributors to national economic growth, employment and training. In 2021-22, small businesses made up 97% of all Australian businesses, produced \$506 billion – nearly one-third of Australia's GDP, and employed 40% of the workforce. Small businesses employed 42% of all apprentices and trainees in-training as at 30 September 2022 ¹

However, small and medium enterprises (SMEs) face greater challenges than their larger counterparts in entering international markets and deriving benefits from trade and investment agreements. According to the Australian Bureau of Statistics (ABS), Australian SMEs accounted for only 4% of goods exports by value in 2019-20 (noting that mining, which is dominated by large businesses, accounts for 62% of Australia's total export value).² By comparison, in the Group of Seven (G7) and European Union (EU) countries, SMEs are responsible for an average of around 30% and 38% (respectively) of goods exports in 2020.³

The ASBFEO urges the Australian Government to consider the distinctive characteristics and requirements of small businesses when negotiating trade and investment agreements, to mitigate any unintended adverse effects and maximise opportunities for growth and entrepreneurship. Accordingly, we provide the following recommendations:

¹ ASBFEO, *Small Business Matters*, ASBFEO, June 2023; *Small Business Data Portal*, ASBFEO website, viewed 20 September 2023.

² ABS, 5368.0.55.006 - Characteristics of Australian Exporters, 2019-20 (by value, data on service exporters are not available), released 27 April 2022. The ABS definition of SMEs is the business having up to 199 employees or annual turnover up to AUD\$20m.

³ Organisation of Economic Co-operation and Development, *Exports by business size* (indicator). Doi: 10.1787/54d56e8b-en (viewed September 2023). Note: G7 data excludes Japan and United Kingdom statistics, which are not available in the OECD database. The OECD definition of SME is the business having up to 249 employees.



1. The Australian Government should ensure a dedicated SME chapter is established when negotiating trade and investment agreements.

The OECD's Bologna Charter seeks to support the role of SMEs in international trade and investment agreements, by enhancing the competitiveness of SMEs in the global economy. The charter applies to agreements that are negotiated and concluded within the OECD framework and legally binding on the parties.⁴

The government should seek to emulate the following key objectives in establishing an SME chapter while negotiating agreements:

- Establish a dedicated SME Committee. The committee should compose of officials from each party to the agreement and perform accountability, transparency, and facilitation functions. Through these functions, the committee should ensure the objectives of the chapter are achieved. The committee should also perform an advisory function by reviewing the operation of other chapters (e.g. government procurement) and providing recommendations to the governments for further advance SME-related objectives throughout the agreement.
- Provide a framework for parties to undertake joint activities on SME-relevant issues which occur after exchange of agreements, or which may affect trading relationships. These activities are aimed at continuously improving the capacity for SMEs to gain access to opportunities presented by international trade and investment. These activities are also designed to include, where appropriate, public and private-sector stakeholders, such as government agencies, businesses, chambers of commerce and industry associations.
- Create and regularly update a publicly accessible website on the agreement that provides information that is clear, concise and targeted to SMEs.

2. The Australian Government should ensure adequate integration of SME-related issues by including relevant provisions throughout the trade and investment agreements that reflect the commercial and operational realities of SMEs.

While the dedicated SME chapter central to facilitating the benefits of international trade and investment for SMEs, additional opportunities can be realised by integrating relevant provisions into other chapters.

These can include the following:

- **Government procurement:** The chapter should allow sufficient flexibility for officials to take account of the national economic benefits of a procurement (including strengthening sovereign capability by extending opportunities to First Nations businesses, domestic suppliers, start-ups and businesses pursuing innovation in products or processes) while ensuring that Australia does not engage in prejudicial decision making. The procedural rules in this chapter should adhere to principles of non-discrimination, transparency and fairness.
- **Dispute resolution pathways:** Noting the often-significant power imbalance between SMEs and their larger counterparts, we suggest agreements explicitly articulate how provisions in this chapter apply to SMEs and consider opportunities to ensure provisions address this power imbalance.

⁴ OECD, *The Bologna Charter on SME Policies*, OECD Legal Instruments, adopted 15 June 2000.



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- **E-commerce and digital platform trade:** The chapter should include general provisions and mechanisms for cooperation, to encourage parties to use e-commerce as an economic development tool, including driving the uptake of eInvoicing by SMEs.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact the ASBFEO Policy & Advocacy team at advocacy@asbfeo.gov.au.

Yours sincerely

The Hon Bruce Billson

Australian Small Business and Family Enterprise Ombudsman