

BCA

Business Council of Australia

Australia-India Economic Cooperation and Trade Agreement (AI-ECTA)

Submission

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1. About this submission

The Business Council of Australia welcomes the opportunity to make a submission to the Joint Standing Committee on Treaties (JSCOT) inquiry into the Australia-India Economic Cooperation and Trade Agreement (AI-ECTA). The Business Council supports the ratification of AI-ECTA as soon as possible, while encouraging a redoubling of efforts to finalise a comprehensive FTA.

2. Key recommendation

- The Business Council recommends the Parliament support the ratification of AI-ECTA as soon as possible to lock in the gains it offers as work continues towards timely completion of a comprehensive FTA.

3. Overview

3.1 Deepening economic engagement with India will help underpin Australia's future prosperity

Over recent years, India has continued its economic development at an impressive rate and is on track to take its place among the leading economies in the world over the coming decades. Already a major power with a US\$3 trillion economy, India is a powerhouse in information technology and business services, which the Australian economy benefits from. The IMF forecasts India's GDP to grow 53 per cent on 2019 levels by 2026 and with a young population, sound economic fundamentals and ambitious economic reform agenda, India should see strong growth over the longer term. India is forecast by the UN to become the world's most populous country next year and the world's third largest economy by 2050, according to PWC.

India and Australia have a strong bilateral relationship that continues to grow and mature. With the elevation of the relationship to a Comprehensive Strategic Partnership in 2020, Australia and India have signalled the mutual ambition for a closer and deeper relationship. To complement the political and strategic relationship, deepening and growing two-way trade and investment will help take the relationship even further.

Despite strong complementarities between the Australian and Indian economies, the trade and investment relationship remains below its potential with significant scope for growth, as highlighted by the Australian government's recent Update to the India Economic Strategy to 2035. There are huge opportunities for Australian businesses if the potential can be realised. Particularly given the growing geopolitical uncertainty in the Indo-Pacific region and across other regions of the world, the increasing closeness of Australia and India provides an important signal that now is the time for greater economic engagement.

As Australian businesses seek greater diversification of markets and more resilient supply chains, it is essential Australia makes the most of the growth opportunities afforded by India over the next decade and beyond. This will help underpin Australia's future as a trading nation as the world moves towards increasing digitalisation and decarbonisation.

Opportunities for greater trade and investment exist across sectors including energy, mining and minerals, green technologies, digital technology, professional services, education and research, healthcare, defence, and agri-foods. These sectors will be key to Australia's future prosperity, wellbeing and security and there is great mutual benefit to be achieved for both countries.

People-to-people links with India are the backbone of the relationship, and a source of great strength that enriches our societies. India is a critical source of talent for the Australian economy and ensuring that the right pathways exist to promote two-way mobility for students, workers and their families will help strengthen our innovative capacity and growth potential.

3.2 Continuing towards a more comprehensive free trade agreement

The “early harvest” interim agreement AI-ECTA is a welcome and important step in the journey towards a greater trade and investment relationship. However, this agreement cannot be a reason to reduce the pace of negotiations towards a full FTA, known as the Comprehensive Economic Cooperation Agreement (CECA).

The Business Council believes it is vital that efforts be redoubled to conclude the full CECA as soon as possible. The current momentum in the political relationship must be harnessed to open a greater range of opportunities for economic cooperation as part of CECA.

Ratification of AI-ECTA by the Parliament shortly after a change of government, while the new government continues efforts to finalise CECA, would be an important signal of continuity in the commitment to the relationship with India. This will deliver greater certainty for business and signal the strength of the bilateral relationship from a broader strategic perspective.

3.3 Improving business connections

In addition to tariffs and regulatory barriers, another reason for the relatively low levels of trade and investment between Australia and India is the lack of understanding and awareness of the opportunities among business leaders. The Business Council is committed to helping build business-to-business engagement between Australia and India at the highest levels to help identify opportunities and resolve impediments to trade and investment.

4. Business Council comments regarding the key benefits of AI-ECTA

4.1 Supporting greater trade outcomes for Australian business

The trade relationship between Australia and India is already considerable and growing. Over the five years leading up to the pandemic, from 2014 to 2019, two-way trade and investment doubled. In 2020, India was Australia’s seventh-largest trading partner, with two-way trade valued at \$24.3 billion. In 2020, India was Australia’s sixth-largest export market, and Australia’s third largest export market for services.

The Business Council considers that AI-ECTA will help to further boost this trade through:

Tariff reductions and greater certainty

Australia’s exports to India are currently constrained by high tariffs across a range of areas, particularly food and agricultural products. This means that under existing arrangements Australia only trades on around 14 per cent of India’s tariff lines. Furthermore, the Indian government imposes measures such as higher tariffs, quantitative restrictions, and changes to non-tariff barriers at little or no notice, creating risk and uncertainty for Australian business, hampering investment.

AI-ECTA will remove barriers to trade and lock in preferential access across a number of important sectors. Upon entry into force 85 per cent of Australian goods exports by value to India will enter without tariffs with a further five per cent having tariffs eliminated over periods not exceeding 10 years. Key exports that will see tariffs eliminated include coal, LNG, alumina, metallic ores, non-ferrous metals, wool, sheep meat, hides and skins, barley, oats, oilseeds and oil, crude petroleum, certain critical minerals, and pharmaceutical products.

Greater certainty for Australian producers of key resource inputs required for decarbonisation and digitalisation will help ensure that Australia and India can be reliable and valuable partners in the transformation of our economies and the development of future industries.

Reductions in tariffs for wine are a welcome step to help Australian producers compete in the Indian market. Importantly, India will provide Australia MFN treatment on wine to allow Australian producers to benefit from future FTAs with competitors. Australian cotton producers will benefit from access to a significant duty-free quota. While peas and chickpeas are not included in this agreement, reduced tariffs for Australian exporters of beans and lentils should create significant opportunities.

IA-ECTA provides important reductions to tariff barriers and is a strong signal that Australia and India will continue to work together to further reduce barriers through a full CECA. Having clear rules and timelines for reducing barriers will improve business confidence, which should lead to improved trade outcomes.

AI-ECTA will also ensure that around 96 per cent of Indian imports into Australia will arrive tariff free at entry into force. These and other improvements in market access for Indian producers will deliver greater choice and lower prices for Australian importers and consumers.

Improving customs processes and greater transparency

Non-tariff barriers including specific requirements and state-based approval processes can pose challenges when doing business in the Indian market. AI-ECTA contains commitments for both countries to make publicly available their laws, regulations, decisions, and rulings will improve transparency, which should assist Australian companies operating in India.

The creation of a Committee on Trade in Goods should assist to identify and address tariff and non-tariff barriers with the intention of ensuring that goods trade can grow and take advantage of new opportunities.

The chapter on Customs Procedures and Trade Facilitation is an encouraging step, however greater detail is required on how these provisions will be adopted in practice.

Reducing barriers to services trade

AI-ECTA will assist with addressing regulatory impediments and red tape in India faced by Australian businesses by requiring transparent and reasonable fees, reasonable timeframes, status updates upon request, acceptance of electronic and authenticated applications, and not requiring physical presence to take forward an application.

Through AI-ECTA India has agreed to apply most favoured nation (MFN) status to 31 services sectors and subsectors, including higher education, business services, construction, and banking. The MFN provisions are vital to ensure Australian businesses do not lose competitive advantage as India negotiates FTAs with key competitors such as Canada, the EU, and the UK.

The agreement to establish a Professional Services Working Group, to develop mutual recognition of professional standards, qualifications, and licensing/registration procedures, will further strengthen the development of a bilateral knowledge economy.

The Financial Services Annex to the agreement includes provides financial service suppliers greater certainty and transparency regarding the rules that will apply to them when providing services in both Australia and India.

On the Australian side, the increase in the preferential Foreign Investment Review Board screening threshold from \$289m to \$500m for incoming Indian investment in non-sensitive services sectors is a positive step.

Taxation

Changes to Australian domestic tax law to cease taxing the offshore income of Indian firms providing technical services to Australia will, if implemented, promote Indian IT investment and business growth in Australia, including investment in Australian operations and workforces. This should also provide Australian businesses with greater opportunities to access services from India.

4.2 Labour mobility

AI-ECTA contains provisions that enhance opportunities for business travel and encourage people to travel and provide services in each respective country, supporting greater knowledge sharing and building of relationships.

The agreement will lead to positive changes to post study work arrangements for Indian students, which will assist Australian businesses to access the talent pool of Indian students for longer periods. It is valuable that high-performing Indian students will be able to stay for three years post study in science, technology, engineering, or mathematics (STEM) and information and communications technology (ICT) sectors, extended from the previous two years. Consideration should be given to extend this even further to provide greater mutually beneficial opportunities for much needed skilled workers who have been trained in Australia.

The stay-period in Australia for Indian intra-corporate transferees and contractual service suppliers (up to four years with a further stay-possibility) supports IT workforce mobility into Australia and therefore supports workforce planning by technology companies making commitments to Australian clients.

The bilateral commitment to implement the mobility undertakings within one year of IA-ECTA's entry into force indicates commitment to leveraging workforce mobility for business growth. The undertaking to establish a Working Group on the Temporary Movement of Natural Persons, to meet within one year of IA-ECTA's entry into force, suggests good prospects for the further strengthening of people-to-people and business links.

It is welcome that young Indians will have 1,000 places in Australia's Work and Holiday program within two years of entry into force, which will contribute to building cross-cultural connections between Australia and India and assist in addressing workforce shortages in Australia.

5. Key issues that require further work

Although India has undertaken significant economic reforms and has improved the ease of doing business in recent years, it remains a challenging place to invest and do business. AI-ECTA helps to address some of these issues, however significant work remains to be done to address non-tariff barriers and improve transparency. This will be essential to achieve the Australian Government's stated ambition to make India a top three export and outwards investment destination in Asia by 2035.

A comprehensive, modern FTA would be expected to include meaningful agreements covering areas such as digital trade, financial services, telecommunications, intellectual property, government procurement, state-owned enterprises, as well as environmental and labour issues.

Key areas that should be prioritised as part of CECA negotiations include:

Investment

Foreign investment provisions are not covered by AI-ECTA and should be covered comprehensively by CECA. Ensuring adequate protections and fair and equitable treatment for Australian investors will be important for growing the investment relationship to its potential.

Promoting greater mobility

CECA should include ways to further enhance and streamline the flows of highly skilled people between Australia and India. India is a critical source of tech talent, and there is a global competition for the workers needed to help companies to modernise and to create the industries of the future.

The Australian visa system needs to be competitive with countries such as the US, Canada, and the UK, so future arrangements, including if delivered through CECA, should be designed accordingly. This could include waiving labour market testing in certain highly skilled sectors.

To maximise the benefits of mobility, there will need to be greater cross-recognition of skillsets and training, recognising that the quality of Indian education and training system has been improving significantly in recent years.

Information technology, data, and telecommunications

While AI-ECTA contains confirmation that Australia provides adequate data protection, which will assist companies handling sensitive data, it will be important to explore further measures that protect and guarantee data flows between the two nations.

To promote ongoing and greater digital trade it will be essential to provide certainty for data flows in both directions, including for personal information. There is a risk that data localisation requirements become too restrictive, so CECA should reflect other international agreements that encourage cross-border services for data. In this context, the Australian Government should agree to a framework that provides greater certainty for data flows from Australia to India.

Agriculture

After AI-ECTA is implemented, considerable work will remain regarding agricultural market access. A longer-term focus is required to consider how to address obstacles across all aspects of the value chain. This includes remaining high tariffs on key Australian exports such as pulses, wheat, and dairy.

Even in areas where tariffs are reduced, non-tariff barriers will continue to present significant obstacles to trade. Salient issues to address will include sanitary and phytosanitary (SPS) issues such as weed seed protocols and chemical maximum residue levels (MRLs).

The process for recognition of Australian organic certification in India should be finalised as soon as possible to ensure Australian companies exporting organic products can benefit from the Indian market.

BUSINESS COUNCIL OF AUSTRALIA

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