



29 April 2021

Levant Section
Middle East Branch
Department of Foreign Affairs and Trade
RG Casey Building, John McEwen Crescent
BARTON ACT 0221

By email: israeltrade@dfat.gov.au

Dear Sir/Madam

FEASIBILITY STUDY ON STRENGTHENING TRADE AND INVESTMENT WITH ISRAEL

We are pleased to make this submission to assist the Government's feasibility study into strengthening trade and investment with Israel (**Study**). An issue being considered as part of the Study is the merits of pursuing a free trade agreement with Israel. For the reasons set out in this submission, we believe that a free trade agreement with Israel is an important element of strengthening the trade and investment relationships with Israel.

We would be pleased to provide further information to the Government in relation to the topics raised in this submission.

1. Customs and Global Trade Law

CGT Law is a Melbourne based law firm that specialises in customs and international trade. CGT Law assists importers, exporters and logistics professionals in the use of free trade agreements, including the CPTPP. The assistance provided by CGT Law includes industry training on the benefits of free trade agreements, assistance with customs compliance issues and providing advice on how best to utilise free trade agreements. CGT Law's director, Russell Wiese, has specialised in customs and trade law for 15 years. More information on CGT Law can be found at www.cgtlaw.com.au.

2. Freight and Trade Alliance

Freight and Trade Alliance (FTA) is the peak body for the international trade sector with a vision to establish a global benchmark of efficiency in Australian border related security, compliance and logistics activities. FTA represents in excess of 400 corporate members including Australia's largest logistics service providers and major importers.

On 1 January 2017, FTA was appointed the Secretariat role for the Australian Peak Shippers Association (APSA). APSA is the peak body for Australia's containerised exporters and importers under Part X of the Competition and Consumer Act 2010 as designated by the Federal Minister of Infrastructure and Transport.

APSA is also a member and has board representation on the Global Shippers Forum (GSF) that represents shippers' interests and that of their national and regional organisations in Asia, Europe, North and South America, Africa and Australasia.

More information on FTA and APSA can be found at www.ftalliance.com.au.

3. The importance of pursuing a trade facilitation agenda

As a general comment, we are supportive of any measures to facilitate trade between Australia and other countries. Australia is very integrated into international supply chains and its prosperity is dependent on remaining both an attractive export destination and opening up protected foreign markets to Australian produced goods. Crucially, Australia needs to reduce its reliance on mining and resources exports and create a diversity of exports that:

- can sustain fluctuations in the mining sector,
- provide insulation against any shift away from exports associated with high carbon emissions; and
- appeal to a variety of countries and reduces dependence on any one particular country.

Globally, the exports subject to greatest tariff barriers tend to be agricultural goods. It makes economic sense for Australia to pursue a trade agenda that facilitates greater levels of agricultural exports by removing high tariff barriers.

Trade facilitation is not only about tariffs. We call upon the Government to consider the impact on imports and exports when implementing any policy that affects goods or cross border trade more generally. This may relate to Government charges on imports, biosecurity measures, regulation of ports and infrastructure, import and export restrictions and dumping duties.

4. Why a free trade agreement with Israel is desirable

The current level of trade with Israel is relatively low. However, this should not be a reason to delay pursuing a free trade agreement. Rather, it is contended that the absence of a free trade agreement is what is producing the low level of trade in goods. The simple reality is that currently Australian exporters are at a disadvantage when trading with Israel. This is because Israel has already entered into a number of free trade agreements, including with the US, Canada and the European Union (EU). While Israel does not impose high tariffs across all of its imports, it does impose high tariffs on a range of agricultural goods.

These agricultural goods represent a significant opportunity for Australian exporters. However, Australia has little chance of competing in this market against goods from major agricultural exporters the US, Canada and the EU. Goods from these countries face reduced or no tariffs on their agricultural exports.

This disadvantage faced by Australian farmers could increase as the US and Israel enter negotiations to lower Israeli tariffs on US agricultural exports.

Opening up the market for agricultural exports alone would justify a free trade agreement. If Australian exporters were on a level footing in respect of tariffs, they would be well placed to take advantage of the seasonal advantages that come with being located in the Southern Hemisphere.

From an import perspective, Israeli exports complement Australian industry. Israel's is well known for its high technology industries such as information technology and pharmaceuticals. Many of these products are generally duty free on entry to Australia without the need for a free trade agreement. As a result, Australian manufacturers are unlikely to face a significant increase in duty free Israeli imports as a result of a free trade agreement.

Further, given Israel has similar labour and environmental standards to Australia, it is unlikely that Australian manufacturers will be faced with unfair competition.

5. A bilateral FTA

There are two main types of free trade agreements Australian could pursue, a bilateral free trade agreement or a multilateral free trade agreement. With some countries a multilateral FTA is realistic. For instance, the UK has sought to join the Comprehensive Partnership for Trans-Pacific Trade (TPP). However, it appears unlikely that Israel will seek to join the TPP or any other free trade agreement to which Australia is a party.

As such, our recommendation is that Australia pursues a comprehensive bilateral free trade agreement with Israel.

For a free trade agreement to have an impact, it is important that it is a high quality agreement that is easy for importers and exporters to use. Difficulties with using free trade agreements can include assessing whether goods qualify for the free trade agreement and meeting any documentation requirements. Our recommendation is that to the extent possible:

- the rules of origin replicate the rules of origin in Australia's existing free trade agreements. The greater consistency between free trade agreements the more likely exporters will be able to easily assess whether their goods qualify;
- the rule of origin used must be noted on the import declaration. This is reported by use of an acronym for each rule of origin. There is currently inconsistency in the acronyms required to be used for different free trade agreements. This can lead to inadvertent non-compliance. To limit this, the acronyms for rules of origin for any new free trade agreement should be consistent with the acronyms used in previous free trade agreements;
- a declaration of origin created by the producer or exporter of the goods be permitted. This should be contrasted to an origin document that must be issued by an authorised body (such as a Government body). If origin documents have to be issued by a third party it increases the cost of using a free trade agreement and adds extra time into the supply chain. Producer/exporter created origin documents are also more flexible than a document issued authorised bodies. These documents can be easily amended and reissued. This flexible can be valuable where there is a minor error in the document that needs to be cured;
- origin documents should be able to be used for multiple exports of the same good rather than a new certificate being required for each consignment;
- rules regarding indirect shipments be as flexible as possible. Free trade agreements have rules that set out the extent to which that free trade agreement will be applicable where the goods pass through a third country. Some free trade agreements require the goods to remain under formal customs control. While other free trade agreements, like the agreement with the US, do not have this requirement. Given the geographical location of Israel, it is likely that goods will not be directly shipped to Australia and may be shipped via a distribution centre in a third country. The free trade agreement should not limit the benefit of the free trade agreement to goods that are either directly shipped or remain under customs control during transshipment;

Please feel free to contact Russell Wiese at CGT Law or Clint Latta at FTA to discuss this submission further.

Yours faithfully

**CGT Law**

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