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South-East Asia Good Branch  
Free Trade Agreement Division  
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Dear Sir/Madam

The Australian Industry Group (Ai Group) welcomes the opportunity contribute the views of industry to the review by the Department of Foreign Affairs and Trade of non-tariff measures (NTMs) affecting trade in goods among the parties of the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA).

To enable the facilitation of greater economic integration with our Asia-Pacific neighbours, the creation of a level a playing field for international trade activities must be a high government priority. It is essential that in addition to the reduction or elimination of customs tariffs, Australia's Free Trade Agreements must also contain a general set of provisions relating to non-tariff measures affecting trade in goods.

AANZFTA includes such a chapter on Trade in Goods which provisions relate to:

- elimination of export subsidies for agricultural goods (Article 3);
- national treatment (Article 4);
- fees and charges connected with importation and exportation (Article 5);
- publication and administration of trade regulations (Article 6);
- quantitative restrictions and non-tariff measures (Article 7); and
- import licensing (Article 8).

AANZFTA also contains a Chapter on Customs Procedures (Chapter 4) which establishes arrangements for expeditious, predictable, transparent and simplified customs administration aimed at facilitating trade among the Parties. In particular, the Chapter encourages procedures that facilitate the clearance of low-risk goods and the use of automated, electronic customs transactions.

In addition, the Chapter also provides for the establishment of inquiry points and publication of all statutory, regulatory and administrative requirements. There is also a requirement for Parties to ensure importers have access to administrative review within customs administrations or access to further administrative or judicial review.

However, in practise these provisions are not always enacted entirely or with the spirit of their intent – that is, to simplify economic integration across the Parties of the Agreement to facilitate the most efficient and effective international trade.

Despite the inclusion of these provisions in AANZFTA, Australian exporters are still facing serious barriers to doing business because of NTMs such as excessive costs and regulatory red tape, complex compliance regimes and subtle protectionism. These NTMs or barriers to trade can include quarantine and other health, safety and environmental measures, Customs clearance delays, and standards which are utilised at the border to protect domestic industries.

For example, fruit exporters have advised Ai Group that Thailand has recently increased its focus on quarantine issues. Unfortunately the Thai Government's scientific capacity to implement this new focus is limited. The Australian Quarantine and Inspection Service is now, presumably at the request of the Thai authorities, screening Australian produce for a very comprehensive Thai quarantine list and denying export of any fruit with issues present. However, it is possible that these quarantine issues are already present in Thailand and this is little more than a subtle form of protectionism.

Another issue is the premature increase of tariffs when approaching quota limits for reduced tariff treatments on certain products. Despite quotas being volume based, the Thai Government has specified a date upon which the tariffs will be raised to post quota allowance levels. How is it possible when it is not known by what date exactly the specific quota will be met? Further, allowing such provisions in an agreement seems counter-intuitive to the objective of creating a more open trading environment.

Australian exporters in some markets are negatively affected by administrative procedures which can be used to delay import shipments and discourage competition by increasing transaction costs.

For example, we have been advised by exporters that some customs officials use inconsequential administrative errors on certificates of origin to delay shipments. Once an administrative error has been detected and the shipment delayed, undue additional scrutiny can follow and create further delays which add significantly to exporters' transaction costs.

There may not in fact be an error on a given certificate of origin, but refusal to accept the certificate and the "notification" of an error is sufficient to create an unnecessary delay. This can lead to additional costs and negatively impact on exporter-customer relationships. In markets where there is excessive customs paperwork, the requirements of which are inconsistent, some exporters have chosen not to access the preferential tariff treatment under the Agreement in an effort to avoid unnecessary delays and additional costs.

These complex and burdensome regulatory requirements are not restricted to any one AANZFTA member, even in open and developed economies. While Singapore does not impose import quota restrictions on most goods imported under open general licence, there are significant import duties that are levied on a small range of items, such as liquor, tobacco, petroleum products and motor vehicles.

Further, the entry of a range of consumer manufactures may be subject to acceptance by different government statutory boards. For example, the importation of cosmetics, medicines, medical devices is regulated by Health Sciences Authority. While import permits for a specified list of plant and animal products are issued by the Singapore Agri-Food & Veterinary Authority. However, rice imports require an import license issued by EnterpriseOne, managed by SPRING Singapore. This level of regulatory complexity creates additional burden to exporters attempting to enter the market.

In Thailand, the control of the import, marketing, distribution and sale of products is shared between a number of government bodies including the Food and Drug Administration (FDA), the Customs Department, the Ministry of Agriculture and the Ministry of Commerce.

The Ministry of Commerce designates classes of goods that are subject to import controls which usually take the form of permission and licensing. Although these controls are being liberalised, at present more than 50 classes of goods require import licenses from the Ministry of Commerce. These regulatory burdens have not been greatly eased by AANZFTA coming into effect.

Recently, Thailand has proposed compulsory display of specific pictorial health warnings on packaging of alcoholic beverages. It has also imposed restriction on container size of alcoholic beverages. It is essential that decisions about such changes are transparent, provided with sufficient notice and are not based in a protectionist policy framework.

In some cases FTA implementation has not been able to fully realise the liberalisation agreed between the parties because of subsequent behind-the-border measures that act as a barrier to trade.

For example, Thailand has instituted measures relating to passenger motor vehicles which significantly reduced the potential for Australian vehicle exporters to benefit from AANZFTA. Thailand has restructured its motor vehicle excise tax and now applies the new excise rates on a non-discriminatory basis to all exporters. However, the fact that the rates escalate according to engine size disadvantages Australia.

Regulatory barriers, such as the use of standards, are an intensely difficult issue in the spectrum of non-tariff measures. Countries impose standards on classification, labelling and testing of products in order to be able to sell in a domestic market. These standards can be established under the pretext of protecting the safety and health of local populations, while ultimately being utilised to limit the ability to export particular products into a market.

For example, Brunei has strict import regulations on halal, chilled or frozen meat, which has restricted the export of Australian beef to only one company. Although Indonesia has yet to ratify the AANZFTA agreement, its procedures for approving halal certifiers are also a concern. Indonesia's development of a halal certification system lacks transparency, as many traders and certifiers were not informed prior to the measure being implemented. The rules by which Indonesia accredits its halal certifiers are unclear and could restrict or eliminate exports of certain foods to Indonesia.

The ability for Australian companies to fully realise the opportunities with our AANZFTA partners will require the Agreement to be a living one, which continues to evolve. This will require further action to support the ongoing opening of trade, including addressing current exclusions to the Agreement such as government procurement.

We recognise there is a considerable forward work plan for AANZFTA across a range of issues. The full implementation of this agenda is essential to delivering on the maximum potential of the Agreement and the reduction of non-tariff barriers to business.

While Australian investors will benefit from transparency provisions currently in place in the Agreement, the AANZFTA forward work program to develop market access schedules, covering pre-establishment issues such as foreign equity limits, within five years of entry into force of the Agreement should be pursued.

Further, AANZFTA includes a framework for countries to make commitments on temporary business entry of natural persons that go beyond services suppliers, to include goods sellers and investors, action on moving this agenda forward should remain a priority.

The APEC Business Travel Card (ABTC) initiative is an example of how non-tariff barriers can be ameliorated through innovation and cooperation among trading partners. The ABTC allows business people, via a single application, to obtain authority for multiple short-term visits to other APEC members. The single application saves time and resources during the application process and provides cardholders access to facilitated immigration processing.

It is important that innovative solutions are found that assist business to reduce cost and improve productivity among our AANZFTA trading partners. Ai Group commends the Department's efforts to increase transparency, examine and identify NTMs. We would strongly support action to further streamline regulatory arrangements such as Customs procedures, processing and clearances, licensing, reciprocal recognition of standards and qualifications, to reduce the cost and time of doing business.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'nforrester', written in black ink.

**Nicole Forrester**  
**Senior Adviser**  
**International and Government Relations**