

Regulating for Globalization

Trade, Labor and EU Law Perspectives

The role of the private sector in advancing trade facilitation and modernisation

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The idea of facilitating secure and compliant trade underpins many international agreements such as the WTO Trade Facilitation Agreement (**TFA**) and WCO Safe Framework of Standards (**SAFE**) and is reflected in many “Authorised Economic Operator” programmes such as our own Australian Trusted Trader Programme (**ATTP**).

Government and its agencies also provide further assistance to those in the supply chain to take advantage of trade opportunities whether through Export Market Development Grants, other export and trade finance and education on benefits available through Free Trade Agreements (**FTA**).

As the regulator at the border there is no doubt that Government and its agencies have a crucial role. However that role is not to the exclusion of obligations on those in the “private” supply chain who also operate at the border and throughout the wider supply chain.

There needs to be some degree of collaboration between the efforts of Government, its agencies (on the one hand) and those in the private supply chain (on the other hand). There must be mechanisms for everyone to work together and even co-develop initiatives which assist trade as evidenced in the development of the ATTP. Certainly many contemporary FTAs and the TFA speak at length to the interests and importance of the private sector and the TFA in particular supports the creation of bodies such as our National Committee on Trade Facilitation (**NCTF**) and its various subcommittees. Similar concepts also support other consultative bodies such as the ITRF and the DCCC. Formally or otherwise, these bodies also provide opportunities for representatives of government and the private sector to meet to resolve issues before they become contentious.

However, there also needs to be focus on the work of the private sector whether in conjunction with Government or on its own account to contribute to improvement in the supply chain including:

- The private sector needs to continue its commitment to comprehensive engagement with Government and its agencies whether through the NCTF or other forums such as the ITRF and DCCC. While there is a cost in terms of time spent, working with memberships and attending meetings, that is outweighed by the benefits from engaging in the process. This goes beyond merely attending meetings and requires considered work on the issues.

- The private sector can usefully review the progress in agreed work by Government and its agencies to ensure that it is carried out in a timely manner. This is increasingly important as Government and its agencies at the border go through many changes which can adversely affect the progress of work.
- The commitment by the private sector can be undertaken directly and also through membership and support of industry associations. I know from my direct involvement with the Customs Brokers and Forwarders Council of Australia, the Export Council of Australia (**ECA**) and the Food and Beverage Importers Association, that the role of industry associations is vital and needs to be supported. Members of industry get significant value through their financial support and commitment to assist associations.
- Industry associations should look to leverage collective expertise and resources to advance interests which may be held by them, even if they reserve their own positions on certain specific points. An informal “Private Sector Group” (**PSG**) has been established at NCTF with the assistance of a secretariat funded by the Australian International Trade and Transport Industry Development Fund (or **AITDF**). The establishment of the PSG mirrors the existence of a similar group known at the WCO as the Private Sector Consultative Group whose work includes reporting to the WCO Policy Commission on issues such as the implementation of the TFA.
- Engagement should not be confined to work through the various collaborative forums. Government and its agencies regularly seek the views of interested parties in developing legislation or new trade initiatives such as FTAs. It is in the interests of all parties that the private sector makes its interests known at an early stage to aid the development of the outcomes.
- There needs to be close review of fees and practices adopted by private operators of facilities in the supply chain as those fees and practices can readily become an impediment to access to the facilities and a disincentive to trade. Those affected in the private sector of the supply chain may need to be more proactive in their approaches to competition authorities and Government if there are issues of concern.
- The private sector need to support attention to the interests of Small to Medium Enterprises (**SMEs**) also now known as Micro Small and Medium Enterprises (**MSMEs**). Bigger enterprises (or associations supporting those enterprises) often have the resources to support and promote their own interests while SMEs/MSMEs do not have the same resources. Due to significant interest in these entities engaging in trade (evidenced by the current [Parliamentary Inquiry](#)), their interests must also be supported by the private and public sectors. This is a focus of the ECA in its [2018 Trade Policy Recommendations](#) which identifies some measures to assist SMEs and MSMEs
- Those providing finance to the supply chain should be looking to the development of new products to assist those involved in trade. Recently, the Export Finance and Investment Commission (**EFIC**) has been developing new products but there are more to be developed especially those supporting MSMEs.
- The private sector has pressed Government and its agencies for many years to adopt e-commerce initiatives such as the Single Window for Trade but there is much work to be done by the private sector to modernise their own practices in the private sector supply chain. For example, the continued reliance on paper documents for shipping and trade finance limits the ability of e-commerce to enhance trade and could diminish the widespread adoption and use of Block Chain or Port Community Systems. Similarly the adoption of more contemporary Trade Conventions, such as the Rotterdam Rules would assist in this process. Financiers, insurers and those providing transport such as shipping lines and airlines should consider whether there are ways in which they can advance these issues in conjunction with Government.

Ultimately, even though the private sector parties may have different positions on some issues and different degrees of self-interest, the wider interests of all parties are served by sensible collaborative action by the private sector with shared contributions to this trade modernisation agenda. Being engaged at the beginning of the process is a far superior way to influence the outcome than trying to change outcomes which have already been agreed and implemented.

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