

2019/MRT/010

Agenda Item: 1.4

## Survey on MSME/MSME-related Provisions in APEC Economies' FTAs/RTAs

The Philippines led a proposal<sup>1</sup> on a survey on MSME/MSME-related provisions in APEC economies' FTAs/RTAs. Endorsed at CTI1 2018, the proposal aims to contribute to the implementation of the FTAAP MSME Work Programme led by the Philippines and Malaysia which was agreed in November 2017.

The goal is to take stock of existing MSME/MSME-related provisions in trade agreements of APEC economies. This will be a contribution to identifying convergences and divergences in

of cooperative activities between Parties and to more specific cooperation clauses or actions.

commercial opportunities under the CPTPP, sharing best practices and encouraging capacity building.

In some cases, these provisions only refer to MSMEs that are limited to one sector. For instance, the Guatemala-Chinese Taipei FTA has cooperation provisions that consider SMEs operating in the tourism and the environment and natural resources sectors. The Thailand-Australia FTA also has a cooperation provision in the context of trade in services where Parties shall develop cooperation in sectors that are not covered by existing cooperation arrangements, through *inter alia* SME capacity enhancement.

Based on the survey, in addition to general provisions on cooperation, specific areas that mentioned MSME provisions also emerged. These are further highlighted in the section below.

### **Government procurement**

The most common form of SME-related prov

the promotion of SME participation in procurement opportunities of each Party's territory. Similarly, the Comprehensive Economic and Trade Agreement (CETA) between Canada and the EU establishes a specific committee that would meet to discuss the promotion of joint activities to facilitate access for suppliers to government procurement opportunities. These bodies aim to facilitate the implementation of the respective government procurement chapter.

Lastly, the Singapore-Costa Rica FTA has language in its government procurement chapter that aims to support and benefit SMEs, specifying the obligation of Parties to use government procurement in promoting industry development including measures to assist SMEs to gain access to the government procurement market.

#### E-commerce

Among the most common provisions on electronic commerce included in the survey are in reference to explicitly recognizing or affirming the importance of SMEs. For example, both the Canada-Peru and Canada-South Korea FTAs specify facilitating the use of electronic commerce of SMEs. Both also explicitly affirm "working together to facilitate the use of electronic commerce of micro, small and medium sized enterprises". Similarly, in several agreements, e-commerce provisions state for Parties to cooperate in overcoming obstacles faced by SMEs in the use of e-commerce. Examples of such provisions are found in the Japan-Australia EPA, the Turkeyl agreements, e-co2s.149 a1()-5.8(y)1.U-5.(EsS coos-)-.1(gCi)83

4

Similar SME-related provisions are found in the CPTPP under its Competitiveness and Business Facilitation chapter. For instance, it specifies for Parties to provide advice and recommendations aimed at enhancing SME participation in regional supply chains and to promote seminars, workshops or other capacity building activities with appropriate experts, including private sector and international donor organizations.

The ROO Chapter under the AHKFTA also stipulates that the Sub-Committee on ROO shall review the ROO Chapter with a view to enhancing the Chapter to encourage the development of SMEs and narrow development gaps, make it responsive to dynamic change to facilitate trade and investment among Parties, and promote a regional production network<sup>5</sup>.

#### Investment

Based on the survey, provisions focused on investments that directly mention SMEs may vary in language, but are included under cooperation efforts. For instance, the FTA between Thailand and New Zealand stipulates in a specific article under its investment chapter that both Parties endeavor to strengthen and develop cooperation efforts in investment including for SMEs, particularly through capacity building. The bilateral trade agreements Japan signed with Malaysia and Mexico also include some detail on investment under its bilateral cooperation chapter. The agreements specify that cooperation may include promoting and facilitating investments, including joint ventures, between SMEs of the Parties.

In terms of newer provisions related to MSMEs, the CETA between Canada and the European Union contains new types of SME-related provisions that encourage preferable treatment of SMEs during disputes between investors (a Party, a natural persub-Committies.

cooperation. The trade agreements that present these provisions do not follow a specific format or structure. These could vary ranging from making reference to cooperation on SMEs in a general manner, or identifying more specific elements such as government procurement, e-commerce, intellectual property, and trade facilitation. Relatively unique are the more recent mega trade agreements such as the CPTPP and the CETA between the EU and Canada which provide for newer ways of thinking towards SMEs in relation to provisions on government procurement, investment and transparency.

It may be noted that majority of the MSME-related provisions are framed in terms of a best endeavor approach. In addition, the level of detail in cooperation provisions also vary, from simple provisions to explicit language on Parties' obligations under a particular chapter. Some agreements, in particular the more recent ones, incorporate more explicit provisions in dedicated articles or in chapters on SMEs. In general terms, it can also be noted that improving the capacity of MSMEs to trade remains to be an important issue in such provisions. These are provided in obligations which call for information exchange/sharing, technical assistance, workshops and seminars, as well as programs that supports the development of MSMEs.

The survey shows the range of options for policymakers and trade negotiators to incorporate MSME-related provisions in FTAs/RTAs. Whether explicitly or broadly stated, the provisions address a host of members' objectives for their MSMEs, such as seeking to level the playing field, reducing the constraints faced by MSME traders and/or fostering better participation in international trade. A useful follow-up to this survey would be to study the effectiveness of the MSME provisions and to identify what provisions are most effective in addressing members' particular objectives.

Table 1. Survey on MSME/MSME-related Provisions in APEC Economies' FTAs/RTAs

As of 26 April 2019

	Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
Australia	Japan- Australia Economic Partnership Agreement	15 Jan 2015	Chapter 3. Rules of Origin  Chapter 13. Electronic Commerce (Cooperation)	Allows declarations of origin. An Origin Certification Document may be completed by an importer, an exporter or a producer, whereas many other FTAs only allow certificate of origin issued by an authorized body. Declarations of origin can reduce the administrative costs to businesses, particularly MSMEs.  [Art. 3.16, Origin Certification Document]  "3. The Parties shall cooperate to overcome obstacles encountered by small and medium enterprises in the use of electronic commerce." [Art. 13.10]	http://dfat.gov.au/trade/agreements /in-force/jaepa/full-text/Pages/full- text-of-jaepa.aspx
Brunei	CPTPP (see Canada)				
Canada	Canada-Peru FTA	01 Aug 2009	Chapter 15. Electronic Commerce	"facilitating the use of electronic commerce of micro, small and medium sized enterprises." [Art. 1502, (d)] "working together to facilitate the use of electronic commerce of	http://international.gc.ca/trade- commerce/trade-agreements- accords-commerciaux/agr- acc/peru-perou/fta- ale/index.aspx?lang=eng

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			micro, small and medium sized enterprises" [Art. 1508, (d)]	
		Chapter 18. Trade-related	"to promote sustainable economic development, with an emphasis	
		Cooperation	on small and medium sized enterprises, in order to contribute	
			to the reduction of poverty through trade" [Art. 1801, (d)]	
Comprehensiv e Economic and Trade Agreement (CETA) (European Union)	21 Sep 2017 (provisional application)	Joint Interpretive Instrument on the CETA between Canada and the European Union and its Member States	CETA also provides benefits to small and medium-sized enterprises (SMEs) for whom trying to meet the cost requirements of customers is a constant challenge. CETA will address this issue by: allowing virtually all manufactured goods	
			to be exported duty-free; reducing processing times at the border and making the movement of goods cheaper, faster, more predictable and efficient; reducing regulatory hurdles, in particular with the possibility of having their	
			products tested and certified to Canadian standards within the EU	n2 714.6(558 TD6)8.54((a; fac)-4.6(n2 71

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Date of

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Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			with clients and offer after-sales servicing; and greatly expanding access to government procurement opportunities for SMEs at the central, sub-central and local government levels. Small farmers will equally benefit by easier access to markets and better selling opportunities, including for distinctive quality products.	
•	•	Chapter 8. Investment	The CETA Investment Chapter contains provisions that	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
		Chapter 19. Government Procurement	small and medium-sized enterprises." [Art. 16.5.a]  "The Committee on Government Procurement shall meet, upon request of a Party, to: [] (d) consider the promotion of coordinated activities to facilitate access for suppliers to facilitate access for suppliers to procurement opportunities in the territory of each Party. These activities may include information sessions, in particular with a view to improving electronic access to publicly-available information on each Party's procurement regime, and initiatives to facilitate access for small and medium-sized enterprises." [Art. 19.19.2]  "Any procurement qualifying for a derogation pursuant to this Note shall: i) be of a total value estimated at CAD\$ one million, or	http://www.international.gc.ca/trade -commerce/trade-agreements- accords-commerciaux/agr- acc/ceta-aecg/text- texte/19.aspx?lang=eng
Comprehensiv e and Progressive	30 Dec 2018	Chapter 24. Small and Medium- Sized Enterprises	less; and ii) support small firms or employment opportunities in non-urban areas. [Annex 19-A, General Notes, 4]  Standalone chapter on SMEs that promotes information sharing between Parties, as well as	http://www.international.gc.ca/trade -commerce/trade-agreements-

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
Agreement for Trans-Pacific Partnership (CPTPP)			establishes committee on SMEs to assist SMEs to take advantage of commercial opportunities under the CPTPP Agreement, sharing best practices and encouraging capacity building.	accords-commerciaux/agr-acc/tpp- ptp/text-texte/24.aspx?lang=eng
Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam)		Chapter 15. Government Procurement (Facilitation of Participation by SMEs)	"The Parties recognise the important contribution that SMEs can make to economic growth and employment and the importance of facilitating the participation of SMEs in government procurement.  2. If a Party maintains a measure that provides preferential treatment for SMEs, the Party shall ensure that the measure, including the criteria for eligibility, is transparent.  3. To facilitate participation by SMEs in covered procurement, each Party shall, to the extent possible and if appropriate:  (a) provide comprehensive procurement-related information that includes a definition of SMEs	http://www.international.gc.ca/trade -commerce/trade-agreements- accords-commerciaux/agr-acc/tpp- ptp/text-texte/15.aspx?lang=eng

Agreement	Date of EIF/Signing	Chapter/Provision/

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			Committee Mechanism, established by the relevant or competent authorities of the Parties.  3. Areas of SMEs cooperation may include, but are not limited to, the following:  (a) facilitating the investment flows between SMEs of the	
			Parties;  (b) fostering more exchange of information on trade procedures, trade promotion networks, joint business fora, business cooperation instruments, and any other relevant statistics and information for traders who are SMEs;	
			(c) promoting training and exchange programs for small and medium-sized enterprises traders of the Parties, and exploring promising fields suitable for intergovernmental cooperation on SMEs;	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/	Description/ Language	
		Coverage		

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			technology to labor intensive processes and human resources development to increase their knowledge about Chinese and Chilean markets.  3. Co-operation shall be developed, among other activities, through: (a) information exchange; (b) conferences, seminars, experts dialogue and training programs with experts; and (c) promoting contacts between economic operators, encouraging prospecting for industrial and technical opportunities;	
			4. Co-operation shall include, among other subjects: (a) designing and develop mechanisms to encourage partnership and productive chain linkage development; (b) defining and develop methods and strategies for clusters development; (c) increasing access to information regarding mandatory procedures and any other	

	Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
				relevant information for an SME exporter; (d) defining technological transference: programs oriented to transfer technological innovation to SMEs and to improve their productivity; (e) increasing access to information on technological promotion programs for SMEs and financial support and encouragement programs for SMEs; (f) supporting new exporting SMEs (sponsorship, exporters club); and (g) identifying specific areas subject to potential improvement." [Art. 109: Small and Medium-sized Enterprises]	
Hong Kong, China	Mainland and Hong Kong Closer Economic Partnership Arrangement	29 Jun 2003 (Agreement on Economic and Technical Cooperation (ECOTECH)			

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
		Cooperation/	Mainland enterprises, especially small and medium enterprises, to raise capital through direct listing in overseas markets." [Art. 5, 7]  The two sides agree to adopt the following measures with a view to further strengthening exchanges and cooperation between small and medium enterprises of the two places:  1. Jointly explore the strategy and support policy for the development of small and medium enterprises through visits and exchanges.  2. Organise visits and exchanges on the organisational and operational modes of the intermediaries providing services to small and medium enterprises in the two places, and promote cooperation of the intermediaries.  3. Establish channels for providing information services to small and medium enterprises in	
			the two places, exchange regularly relevant publications, implement progressively information interchange and the interconnection of information	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			website databases of the two sides.  4. Organise through different modes direct exchanges and communication between small and medium enterprises of the two places to promote their cooperation.  5. Support and assist semi-official and non-official organisations to play a part in promoting cooperation between small and medium enterprises of the two places." [Art. 15]	
		Agreement on ECOTECH (Chapter 5. Sub- Regional Economic and Trade Cooperation)	"The two sides encourage Hong Kong micro, small and medium enterprises and youth to start their businesses in the Pilot Free Trade Zones." [Art. 20, 3]	https://www.tid.gov.hk/english/cepa /legaltext/files/cepa15_main.pdf

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			Indicative Activities: - trade promotional activities on products and solutions in information, communication and technologies; - thematic symposiums and/or workshops on digital development and e-commerce; - workshop/seminar to share experiences on good practices with regard to e-commerce promotion, legislation and regulation, policies and guidelines; and - feasibility study on support to the SMEs and startup companies	

	Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
Japan	CPTPP (see Canada)				
	Japan- Australia EPA (see Australia)				
	Japan-Vietnam EPA (see Vietnam)				
	Philippines- Japan EPA (see the Philippines)				
	Malaysia- Japan EPA (see Malaysia)				
	Mexico-Japan EPA (see Mexico)				
Korea	Vietnam-Korea FTA	20 Dec 2015	Chapter 10. Electronic Commerce	"The Parties shall endeavor to share information and experiences on laws and regulations relating to electronic commerce and to assist small and medium enterprises to overcome the obstacles encountered in the use of electronic commerce." [Art. 10.8 (2)]	http://www.investkorea.org/en/fta/ft a_vietnam02.do
			Chapter 13. Economic Cooperation	"The Parties, on the basis of mutual benefit, shall explore and undertake cooperative activities  5. Other sectors may include:	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			(a) supporting policy for small and medium-sized enterprises; []" [Art. 13.2, 5a]	
China-South Korea FTA (see China)				
Canada-South Korea FTA	01 Jan 2015	Chapter 13. Electronic Commerce	"2. Considering the potential of electronic commerce as a social and economic development tool, the Parties recognise the importance of: [] (e) facilitating	

	Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
				include: [] (e) small and medium enterprises []" [Art. 140, (e)]	
	CPTPP (see Canada)				
Mexico	Mexico-Japan EPA	01 Apr 2005	Chapter 11. Government Procurement	"3. The Parties shall cooperate, on mutually agreed terms, to increase understanding of their respective government procurement systems, with a view to maximizing for the suppliers of both Parties the access to their respective government procurement market. For this purpose, each Party shall develop and implement, within one year after the entry into force of this Agreement, concrete measures for the cooperation, which may include training and orientation programs for government personnel or interested suppliers regarding such aspects as how to identify government procurement opportunities and how to participate in the respective government procurement markets. In developing such measures, special attention should be given to small	http://www.mofa.go.jp/region/latin/mexico/agreement/agreement.pdf

# Agreement

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
Pacific Alliance		Chapter 14. Bilateral Cooperation (Cooperation in the Field of Small and Medium Enterprises)	development of supporting industries." [Art. 140]  "The Parties shall cooperate in promoting the development of small and medium enterprises of both Parties (hereinafter referred to in this Article as "SMEs") in order to maintain the dynamism of their respective economies and promote favorable environment for bilateral trade and investment. Such cooperation may include:  (a) exchange of information on SMEs policies for: (i) strengthening competitiveness of SMEs; (ii) assisting SMEs to startup businesses; and (iii) promoting entrepreneurial networks of SMEs; (b) encouragement of establishment of networks among appropriate entities of both Parties that provide assistance to SMEs; and (c) encouragement of the exchange of experts on the development of SMEs." [Art. 141]	
(see Chile) CPTPP (see Canada)				

	Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
				reasonable and commensurate with costs in providing for appeals" [Art. 28, 5a]	
Peru	Pacific Alliance (see Chile)				
	Peru-Australia FTA	12 February 2018	Chapter 23: Small and Medium-Sized Enterprises	Note: SMEs, government procurement, regulatory coherence, cooperation, development and competitiveness and business facilitation chapters. Regarding the SMEs provisions, this agreement is similar to the CPTPP, but it includes even more provisions.  1. The Parties acknowledge the importance of promoting an environment that facilitates and supports the development, growth and competitiveness of SMEs, recognising their participation in domestic markets as well as in international trade, and their contribution in achieving inclusive economic growth, sustainable development and enhanced productivity.  2. The Parties recognise the importance of current initiatives, efforts and work on SMEs developed under the aegis of the OECD, WTO, APEC and any	http://www.acuerdoscomerciales.g ob.pe/images/stories/Australia/doc umentos/Capitulos/23_SMEs.pdf

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/
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	Agreement	Date of	Chapter/Provision/	Description/	Link/s to Actual Text
		EIF/Signing	Area of	Language	
			Cooperation/		
			Coverage		

a. the text of this
Agreement, including all
Annexes, tariff schedules
and product specific rules
of origin;

Aç	greement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
				to any person interested in trading, investing or doing business in that Party's territory.  3. Subject to each Party's laws and regulations, the information described in paragraph 2(b) may include:  a. customs regulations and procedures; b. regulations and procedures concerning intellectual property rights; c. technical regulations, standards, and sanitary and phytosanitary measures relating to importation and exportation; d. foreign investment regulations; e. business registration procedures; f. employment regulations; and g. taxation information.  4. Each Party shall regularly review the information and links on the website referred to in	

	Agreement	Date of	Chapter/Provision/	Description/	Link/s to Actual Text
		EIF/Signing	Area of	Language	
			Cooperation/		
			Coverage		

paragraphs 1 and 2 to ensure

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			development of productive chains;	
			b. exchange and discuss each Party's experiences and best practices in supporting and assisting SME exporters with respect to, among other things, training programmes, trade education, trade finance, identifying commercial partners between the Parties and establishing good business credentials;	
			c. facilitate access to trade promotion networks, business fora, business cooperation instruments, and any other relevant information for SME exporters;	
			d. promote seminars, workshops or other activities to inform SMEs of the benefits available to them under this Agreement;	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			e. explore opportunities for capacity building to assist each Party in developing and enhancing SME export counselling, assistance and training programmes;	
			f. explore opportunities for the development of programmes to assist SMEs to participate and integrate effectively into the global supply chain;	
			g. exchange information to assist in monitoring the implementation of this Agreement as it relates to SMEs;	
			h. facilitate provision of recommendations to the Joint Commission; and	
			<ul> <li>i. consider any other matter pertaining to SMEs, including any issues raised by SMEs regarding their ability to benefit from this Agreement.</li> </ul>	
			The Parties may seek to collaborate with appropriate	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			experts and international donor organisations in carrying out their programmes and activities. [Art. 23.3, Activities and Contact Points on SMEs]	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			to increase the knowledge of the Peruvian and Chinese markets; (c) defining and developing methods and strategies for clusters development; (d) increasing access to information regarding mandatory procedures and any other relevant information for an SME exporter; (e) defining technological transference: programs oriented to transfer technological innovation to SME and to improve their productivity; (f) increasing access to information on technological promotion programs for SME and financial support and encouragement programs for SME; (g) supporting new exporting SME (sponsorship, credits and guarantees, seed capital); and (h) encouraging partnership and information exchange for SME financing institutions (credits, banks, guarantee organizations,	
			seed capital firms).	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			of electronic commerce." [Art. 9.9, (a)]	
Singapore- Costa Rica FTA	01 Jul 2013	Chapter 8. Government Procurement  Chapter 12. Electronic Commerce (Cooperation)	"Nothing in this Chapter shall prevent the Parties from using government procurement to promote industry development including measures to assist small and medium enterprises (SMEs) within their territory to gain access to the government procurement market." [Art. 8.3, 7] "Recognizing the global nature of electronic commerce, the Parties shall encourage cooperative activities to promote it. The areas of cooperation may include the following: (a) promoting and facilitating the use of electronic commerce by small and medium	https://www.iesingapore.gov.sg/~/media/IE%20Singapore/Files/FTA/Non%20Priority%20FTAs/Singapore%20Coasta%20Rica%20FTA/Legal%20Text/Costa20Rica20SCRFTA20Legal20Text.pdf
		Chapter 14. Cooperation, Promotion and Enhancement of Trade Relations	sized enterprises []" [Art. 12.6 (a)]  "In this Chapter, priority shall be given to the following objectives: []  (g) increasing the export capacity of small and medium enterprises (SMEs)" [Art. 14.2 (g)]  "1. The Parties shall support the enhancement of SMEs' competitiveness and their	

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			insertion in the international markets on the basis of strengthening their productive capabilities.	
			2. Cooperation shall include, among others, activities to:	
			(a) design and execute mechanisms to encourage partnerships and development of productive linkages; and	
			(b) develop SMEs'	

Agreement	Date of EIF/Signing

Agreement	Date of EIF/Signing	

Cooperation/ Coverage		Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
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Guatemala-Chinese Taipei

	Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			Chapter 20. Cooperation (Cooperation Regarding Environment and Natural Resources)	"3. The Parties will promote mutual access to programs in matters according to their specific characteristics, including cleaner production programs in micro, small and medium enterprises."  [Art. 20.12, 3]	
	Singapore- Chinese Taipei (ASTEP)	19 Apr 2014	Chapter 11. Electronic Commerce  Chapter 13. Intellectual Property Cooperation	"Recognising the global nature of electronic commerce, the Parties affirm the importance of: (a) working together to promote the use of electronic commerce by small and medium enterprises []" [Art. 11.7 (a)]  "2. Recalling the contributions achieved in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, the areas of the cooperation may include: []  (b) endeavouring to facilitate industrial property exploitation with each Party's private sector industries, in particular small and medium enterprises []" [Art. 13.1, 2(b)]	https://www.iesingapore.gov.sg/Tra de-From-Singapore/ASTEP/Legal- Text
Thailand	Thailand-Chile FTA	05 Nov 2015	Chapter 11. Economic Cooperation	Fields of cooperation and capacity building under this Chapter may include, among others: (f) Small and Medium-	https://www.direcon.gob.cl/wp- content/uploads/2015/11/FTA- Chile-Thailand-english.pdf

Cooperation/
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Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
Thailand-New Zealand EPA	01 Jul 2005	Chapter 9. Investment	property by persons of each Party, particularly individual inventors and creators as well as small to medium-sized enterprises (SMEs)" [Art. 1305, b (ii)] "1. The Parties shall strengthen and develop cooperation efforts in investment including through [] (e) capacity building, including for small and medium enterprises []" [Art. 9.4, 1 (e)]	https://www.mfat.govt.nz/assets/FT

Agreemen	t Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
Promotion Agreement		Government Procurement	government procurement systems, with a view to maximizing access to government procurement opportunities, especially for small business suppliers. To that end, a Party may ask the other Party to provide trade-related technical assistance, including training of government personnel or interested suppliers on specific elements of that Party's government procurement system, in coordination with the Committee on Trade Capacity Building, as appropriate."  [Art. 9.15 (d)]	https://ustr.gov/trade- agreements/free-trade- agreements/peru-tpa/final-text

Labor Cooperation and Capacity Building Mechanism (Annex 17.6)

"2. Cooperation and Capacity5 Tt

Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
			conditions, competitiveness, and productivity levels, and public awareness of relevant laws."  [Annex 17.6, 2 (p)]	
		Chapter 20. Administration of the Agreement and Trade Capacity Building	"5. The Commission may review the impacts, including any	

	Agreement	Date of EIF/Signing	Chapter/Provision/ Area of Cooperation/ Coverage	Description/ Language	Link/s to Actual Text
				Chapter shall include, inter alia: [] (f) small and medium-sized enterprises []" [Art. 9.3 (f)]	?_afrLoop=32136320536085624#! %40%40%3F_afrLoop%3D321363 20536085624%26centerWidth%3D 670px%26leftWidth%3D286px%26 rightWidth%3D0%26showFooter% 3Dfalse%26showHeader%3Dfalse %26_adf.ctrl- state%3D7h0cwmd1k_172
E	apan-Vietnam PA	01 Oct 2009	Chapter 12. Cooperation	"The Parties shall, in accordance with their respective applicable laws and regulations, promote cooperation under this Agreement for their mutual benefits in order to liberalize and facilitate trade and investment between the Parties and to promote the wellbeing of the peoples of the Parties. For this purpose, the Parties shall cooperate between the Governments of the Parties and, where necessary and appropriate, encourage and facilitate cooperation between the parties, one or both of whom are entities other than the Governments of the Parties, in the following fields [] (c) small and medium enterprises []" [Art. 111 (c)]	http://www.mofa.go.jp/region/asia-paci/vietnam/epa0812/agreement.pdf
	CPTPP (see Canada)				