



# **Small And Medium Enterprises In Free Trade Agreements**

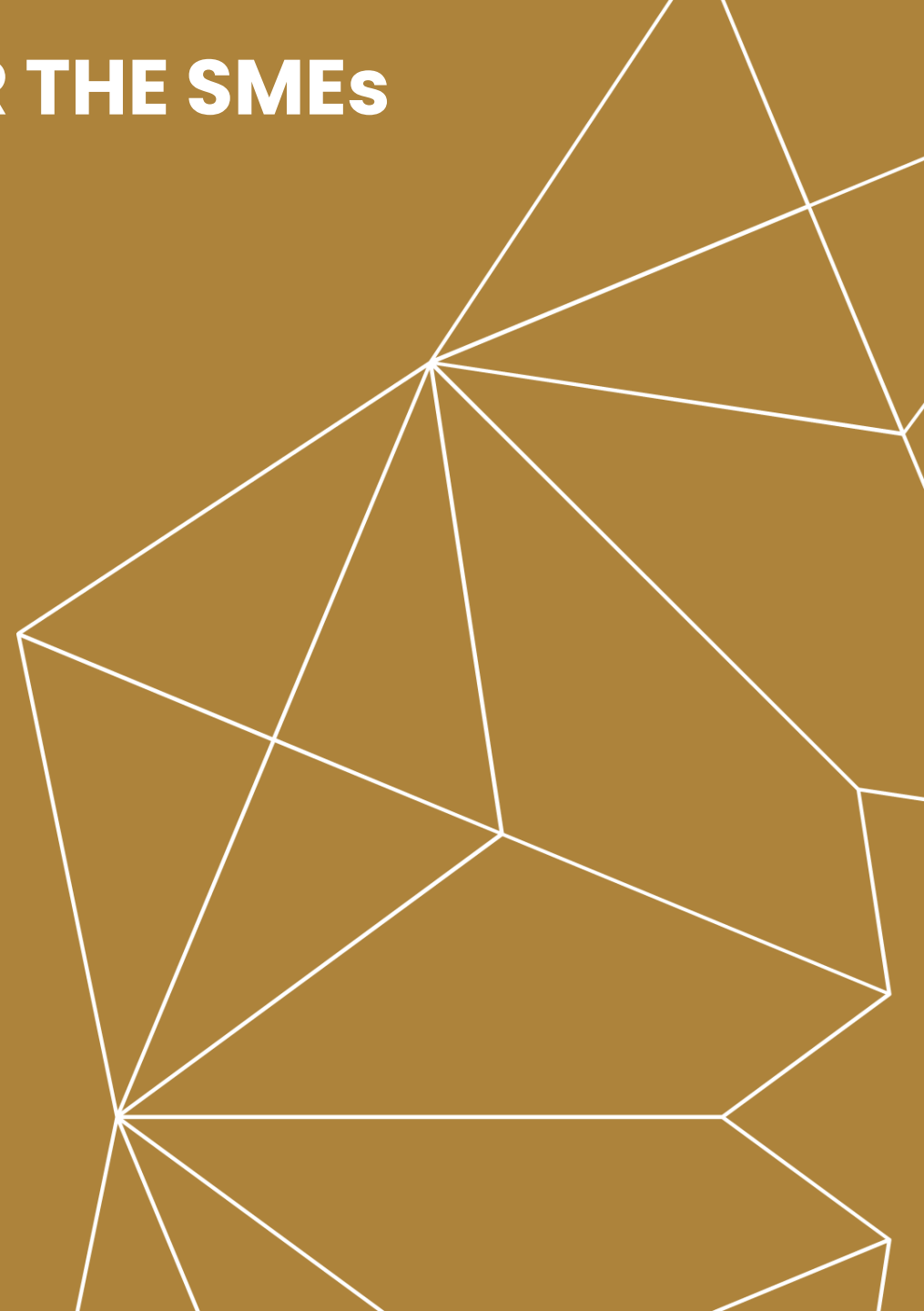
# STRUCTURE OF THE DISCUSSION

- Non-Trade Concerns in International Trade
- Role of SMEs in International Trade
- Advantages of FTAs for the SMEs
- Hindrances faced by SMEs to participate in International Trade
- Reflections on SMEs-related issues in FTAs
- Decoding the Legal Terminologies used
- Reflections on SMEs Issues through Standalone Chapter
- Strategies for negotiating SMEs Issues in FTAs



# ADVANTAGES OF FTAs FOR THE SMEs

- Better market conditions as result of the reduced tariff.
- Certainty and Predictability as result of transparency related obligations in the FTAs.
- Immediate customs clearance of the goods through trade facilitation procedures.
- Digitalization as part of the digital trade chapter benefits the SMEs.



## SMEs AND INTERNATIONAL TRADE

- SMEs provide a significant contribution to the GDP.
- SMEs participate in international trade by exporting to the upstream producers.
- Very few SMEs export directly, and their primary export destinations are neighboring countries.
- Bologna Charter on SME Policies
- Developments on SMEs-related issues at the WTO

# OBSTRUCTIONS TO SMEs' PARTICIPATION IN INTERNATIONAL TRADE

- Limited Information
- Expensive International Trade Procedures and Barriers to International Trade
- Lack of familiarity with International Trade Procedures
- Access to Finance
- Other barriers are , foreign exchange rate, red tapism and burdensome administrative requirements, taxation, certification, limited access to finance, lack of research and development, lack of integration with foreign entity, and inadequate use of technology

Participation of SMEs in International Trade in Goods and International in Services

# APPROACHES TOWARDS SMEs IN FTA

FTAs focus on SMEs by merely mentioning it as one of the areas of cooperation.

Example: Article 86, EU-North Macedonia Stabilization Agreement; Article 100, EU-Kosovo Stabilization and Association Agreement

FTAs focus on SMEs by stipulating it in the Preamble.

Example: Preamble, United States-Mexico-Canada Agreement

SMEs-related provisions in the other chapters of the FTAs.

Examples: Transparency & Customs and Trade Facilitation chapter, EU-Vietnam FTA; EU-Singapore FTA E-Commerce chapter, ASEAN-Australia-New Zealand FTA

Standalone chapter in FTAs.

Examples: EU-New Zealand FTA; India-United Arab Emirates Comprehensive Economic Partnership Agreement; USMCA; United Kingdom-Australia FTA

## STANDALONE CHAPTER ON SMEs

- Objectives/ General Principles/ General Provisions
- Information Sharing
- Cooperation
- Committee on SMEs
- SMEs Contact Points
- Exclusion of Dispute Settlement

- *Shall*: Binding
- *Shall endeavour*: intention of a Party to make an effort to achieve something
- *Recognize*: used in a hortatory sense and it sets out the ethical framework
- *Affirm*: confirm, reassert or establish

# GENERAL PRINCIPLES/OBJECTIVES/ GENERAL PROVISIONS

- Do not contain binding obligations.
- State the purpose of the Chapter.
- Example: Article 25.1, USMCA:

*1. The Parties, recognizing the fundamental role of SMEs in maintaining dynamism and enhancing competitiveness of their respective economies, shall foster close cooperation between SMEs of the Parties and cooperate in promoting jobs and growth in SMEs.*

*2. The Parties recognize the integral role of the private sector in the SME cooperation to be implemented under this Chapter.*

- Example of India-UAE CEPA to address concerns pertaining to differences in defining SMEs in the domestic system.



# INFORMATION SHARING

- Lack of transparency and availability of information are major hindrances prohibiting SMEs' access to international trade, and consequentially, this Article remedies such a situation.
- Article 19.2, UK-Australia FTA

*1. Each Party shall establish or maintain its own publicly accessible website containing information regarding this Agreement, including:*

*(a) the full text of this Agreement;*

*(b) a summary of this Agreement; and*

*(c) information designed for SMEs that contains:*

*(i) a description of the provisions in this Agreement that the Party considers to be relevant to SMEs; and*

*(ii) any additional information that the Party considers useful for SMEs interested in benefitting from the opportunities provided by this Agreement.*

## INFORMATION SHARING (CONTINUE)

2. Each Party shall include in its website referred to in paragraph 1 links to:

- (a) the equivalent website of the other Party; and
- (b) the websites of its own government agencies or authorities and other appropriate entities that provide information the Party considers useful 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 subparagraph 2(b) may include:

- (a) customs regulations and procedures;<sup>[1]</sup>**
- (b) enquiry points;**
- (c) regulations and procedures concerning intellectual property rights;**
- (d) technical regulations, standards, and sanitary and phytosanitary measures relating to importation and exportation;**
- (e) foreign investment regulations;**
- (f) business registration procedures;**
- (g) employment regulations;**
- (h) taxation information;**
- (i) trade promotion programmes;**
- (j) information related to the temporary entry of business persons as defined in Chapter 11 (Temporary Entry for Business Persons); and**
- (k) rules on government procurement.**

## INFORMATION SHARING (CONTINUE)

4. Each Party shall include in the website referred to in paragraphs 1 and 2 a link to a database that is electronically searchable including where possible by HS code, and that may include, if the Party considers applicable, the following information with respect to access to its market:

- (a) rates of customs duty to be applied by the Party to the originating goods of the other Party;
- (b) the most-favoured-nation applied rates of customs duty;
- (c) tariff rate quotas established by the Party;
- (d) rules of origin; and
- (e) other relevant measures as agreed by the Parties.

5. Each Party shall regularly, or on request of the other Party, review the information and links on the website referred to in paragraphs 1 and 2 to ensure that such information and links are up to date and accurate.

6. Each Party may recommend additional information that the other Party may consider including on its website referred to in paragraphs 1 and 2.

# CONTACT POINTS

- Article 19.3, Contact Points on SMEs, UK–Australia FTA

*1. Each Party shall designate and notify a contact point on SMEs.*

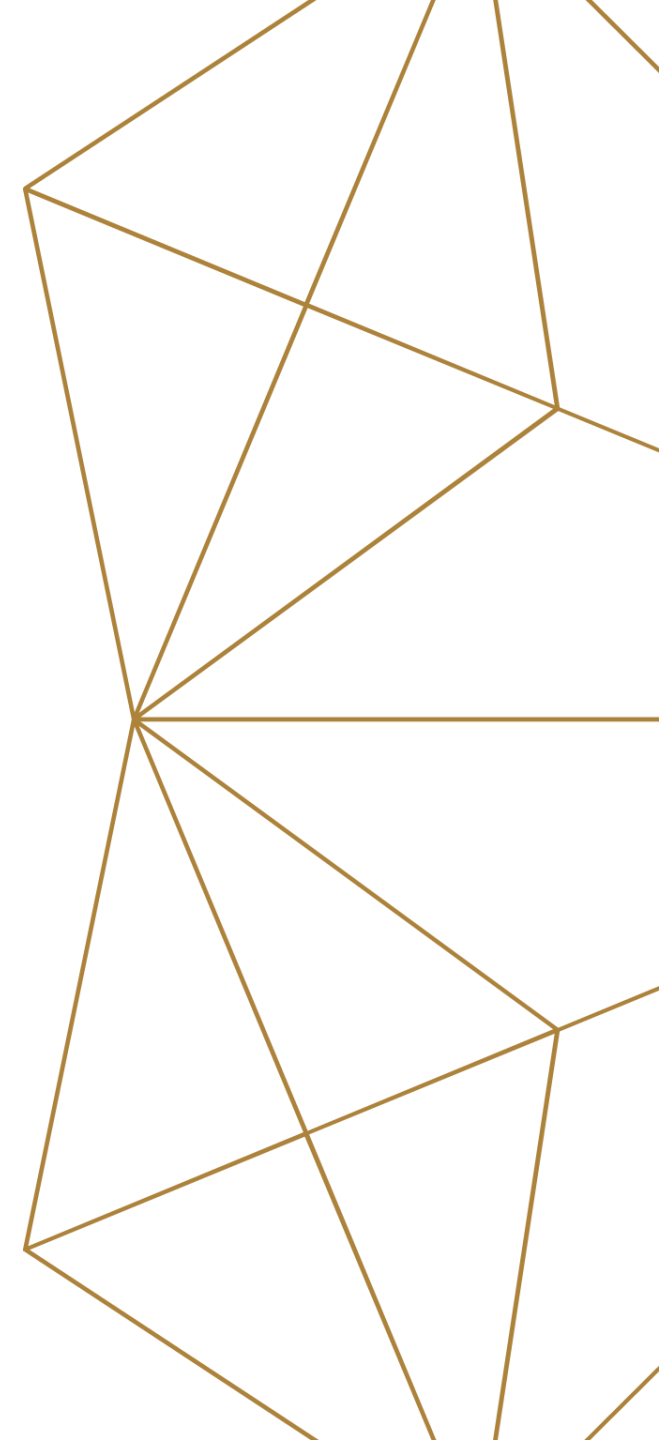
*2. Each Party shall promptly notify the other Party of any change to its contact point.*

*3. The contact points shall:*

*(a) facilitate communications between the Parties on any matter the Party considers relevant to SMEs;*

*(b) exchange information to assist in monitoring the implementation of this Agreement as it relates to SMEs; and*

*(c) where appropriate, facilitate coordination between the Parties and any committee, working group or other subsidiary body established by this Agreement, on any matter covered by this Chapter.*



# COOPERATION

- **Examples of Cooperation-based Provisions in other Chapters of the FTA:** Article 19.18 of the Digital Trade chapter of the USMCA, Article 117, Trade in Services chapter, EU-CARIFORUM FTA
- Standalone Cooperation Provision: Article 19.4 Cooperation to Increase Trade and Investment Opportunities for SMEs, UK-Australia FTA

*1. The Parties acknowledge the importance of cooperating to achieve progress in reducing barriers to SMEs' access to international markets.*

*2. The Parties may undertake activities to strengthen cooperation under this Chapter including:*

*(a) identifying ways to assist SMEs of the Parties to take advantage of the commercial opportunities under this Agreement;*

*(b) exchanging and discussing each Party's experiences and best practices in supporting and assisting SMEs with respect to, among other things: (i) training programmes; (ii) trade education; etc.*

*(c) facilitating the development of programmes to assist SMEs to participate in and integrate effectively into global markets and supply chains;*



# COOPERATION (CONTINUE)

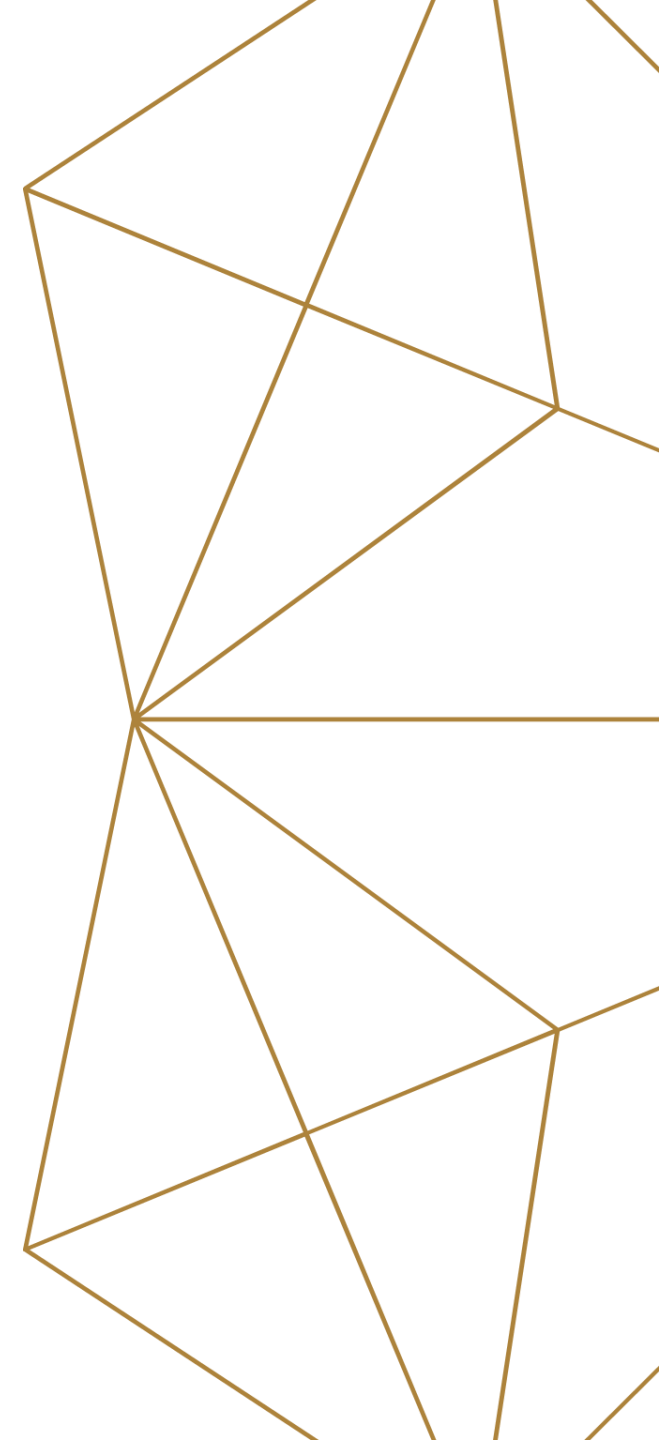
- **Standalone Cooperation Provision:** Article 19.4 Cooperation to Increase Trade and Investment Opportunities for SMEs, UK-Australia FTA.

(c) facilitating the development of programmes to assist SMEs to participate in and integrate effectively into global markets and supply chains; ...

3. In carrying out any activities or programmes pursuant to paragraph 2, the Parties may seek to collaborate with experts, international organisations, or the private sector, as appropriate.

- **Focusing on underrepresented groups in Cooperation:** Article 25.2 of the USMCA.

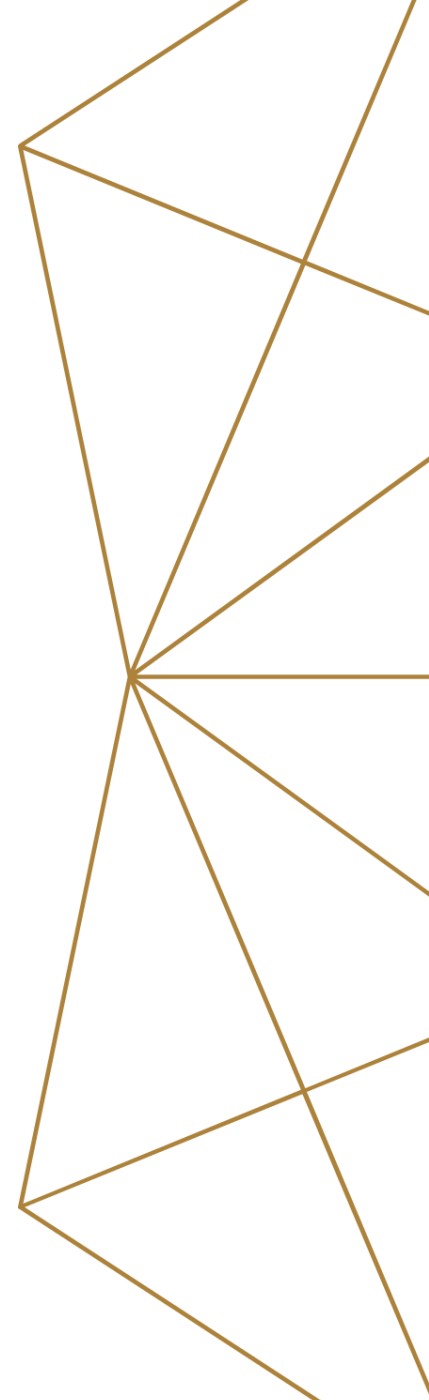
When a country has certain domestic policy objective towards certain groups, then the negotiating party may consider having specific stipulation to highlight SMEs owned by those underrepresented group.



# COMMITTEE ON SMEs

## Article 25.4, Committee on SME Issues, USMCA

1. The Parties hereby establish the Committee on SME Issues (SME Committee), comprising government representatives of each Party.
2. The SME Committee shall:
  - (a) identify ways to assist SMEs in the Parties' territories to take advantage of the commercial opportunities resulting from this Agreement and to strengthen SME competitiveness;
  - (b) identify and recommend ways for further cooperation between the Parties to develop and enhance partnerships between SMEs of the Parties;
  - ...
3. The SME Committee shall convene within one year after the date of entry into force of this Agreement and thereafter meet annually, unless the Parties decide otherwise.
4. The SME Committee may seek to collaborate with appropriate experts and international donor organizations in carrying out its programs and activities.



## DISPUTE SETTLEMENT

- Article 19.6, UK–Australia FTA:

Neither Party shall have recourse to dispute settlement under Chapter 30 (Dispute Settlement) for any matter arising under this Chapter.

The Parties shall make all possible efforts, through dialogue, consultations and cooperation, to resolve any matter that may arise relating to this Chapter.

## LISTING OF OTHER SMEs RELATED OBLIGATIONS

Article 25.6, Obligations in the Agreement that Benefit SMEs, USMCA

The Parties recognize that in addition to the provisions in this Chapter, there are provisions in other Chapters of this Agreement that seek to enhance cooperation among the Parties on SME issues or that otherwise may be of particular benefit to SMEs. These include:

(a) Origin Procedures: Article 5.18 (Committee on Rules of Origin and Origin Procedures);

...



# ANALYTICAL FRAMEWORK FOR NEGOTIATING SMES ISSUES

- Inclusive Growth and Development
- Generates employment, reduces poverty and addresses socio-economic concerns like inequality
- Provides opportunities for women
- Opportunities for unskilled workers.

*Example: Article 25.2 of the USMCA provides guidance on cooperation for the growth and development of the SMEs owned by the under-represented groups.*

# A GUIDE TO NEGOTIATING SMEs IN FTAs

## Approach towards reflecting SMEs Issues in FTAs

Standalone chapter or provisions in other chapters of the FTA

## Sectors in which SMEs are involved

Negotiators must identify whether SMEs are engaged more in goods or services sector.

## Identification of FTA-partner country SMEs policy

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Having a specific stipulation on FTA-partner in the context of sharing best practices would allow the negotiator's country to also formulate such policies.

## International consultation with stakeholders

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Since SMEs chapters involve various departments of the Government, such as customs, investment, finance, etc, the negotiator must seek mandates from those departments outlining the extent to which they can commit towards the FTA. For instance – to comply with a provision on Information Sharing, a mandate clarifying the extent to which their department can provide information.

**THANK YOU**

