

HD Australia and China agree on Free Trade Agreement

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FTAI In Canberra yesterday, Australia and China agreed on the terms of an historic Australia/China Free Trade Agreement () following an address by Chinese President Xi Jinping to a joint sitting of Federal Parliament. Australian Trade Minister Andrew Robb and his Chinese counterpart, Gao Hucheng, signed a declaration of intent on the FTA.

While the two governments are now working on the formal treaty documents to be signed in 2015, the key outcomes have been released and are set out below. Under the FTA, 85 percent of all Australian exports to China will not attract any tariff and this is expected to rise to 93 percent within four years and 95 percent when the FTA is in full force. Initial feasibility studies for the FTA indicated that it would increase the size of the Australian economy by \$18 billion over the course of a decade.

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In this Alert, Partner Martin Klapper and Senior Associates Ryan White and Lea Fua look at the key outcomes of the FTA.

Key outcomes of the FTA are as follows:

Agriculture and processed food

The removal of all tariffs on dairy products of up to 20 percent within four to 11 years;

The removal of tariffs on beef of 12 percent to 25 percent over nine years;

The removal of tariffs on live animal exports of 10 percent within four years;

The removal of tariffs of 14 percent to 20 percent on wine over four years;

The removal of tariffs on all horticulture products of up to 30 percent, most within four years; and

The removal of tariffs on seafood over a four year period.

Resources, energy and manufacturing

The removal of all tariffs on resources and energy products (including iron ore, gold, crude petroleum oil and LNG);

The three per cent tariff on coking coal exports imposed by the Chinese government will be abolished as soon as the FTA comes into effect. However, the six per cent tariff on non-coking coal will be phased out over two years;

Tariffs on minerals commodities such as alumina, zinc, nickel, copper and uranium will be eliminated;

The removal of tariffs of up to 10 per cent on pharmaceuticals over four years; and

The removal of tariffs within four years for other manufactured products including car engines, plastic products and diamonds and other precious stones.

Services

Australian law firms will be able to establish offices in the Shanghai free-trade zone and those offices will be allowed to service the whole of **China**;

Improved market access to Australian financial services providers in banking, insurance, funds management, securities, securitisation and futures trading;

Within one year of commencement, **China** will list on an official Ministry of Education website all Australian private higher education institutions registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). This will result in 77 institutions being added to the existing 105 Australian institutions already listed on the website;

Australian tourism and travel-related service suppliers will be able to construct, renovate and operate wholly Australian-owned hotels and restaurants in **China**;

Australian-owned hospitals and aged care institutions will be allowed to be established; and

Australian maritime transport service suppliers will be allowed to establish wholly Australian-owned ship management enterprises in the Shanghai free-trade zone.

Skilled worker mobility

Chinese companies must prove there is a local skills shortage before they can import into Australia **Chinese** workers for specific projects and imported **Chinese** workers must be given Australian wages and conditions and will be subject to the existing visa system.

Investment

FIRBSOEAs with existing bilateral trade agreements to which Australia is a party, the threshold at which investments will be subject to scrutiny by the Foreign Investment Review Board () will be increased from \$248 **million** to \$1.08 **billion**. However, this does not extend to investments by **Chinese** State-owned Enterprises () which will continue to be required to have all their investments scrutinised by FIRB;

FIRB scrutiny for **acquisition** of farmland has been set at a threshold of \$15 **million** and buying an Australian agribusiness has been set at a threshold of \$53 **million**;

The investment obligations in the FTA can be enforced directly by Australian and **Chinese** investors through an investor-State dispute settlement (ISDS) mechanism.

The benefits of the FTA to Australia and Australian exporters will be significant as tariffs begin to be dismantled either immediately on commencement of the FTA or progressively over the next decade.

With the resources industry presently accounting for the lion's share of Australia's exports to **China**, the removal of tariffs on some of Australia's key export commodities is one of the most readily apparent benefits.

Australian agriculture, in particular, also stands to benefit from the significant reduction in trade barriers. **China**'s demand for safe, high quality food saw Australian agriculture and food exports total approximately \$9 **billion** in 2013-2014 and that figure looks set to rise. The phasing out of tariffs on dairy products also brings Australia in line with New Zealand and should expand Australia's position in that lucrative market.

Increasing the threshold for non-SOE investment from **China** will mean greater access to the Australian market, which in turn should positively impact the Australian economy. Maintaining (and, in fact, lowering) the notification thresholds for acquisitions of farmland or an agribusiness reflects the strategic significance of that sector.

The "dark horse" may well prove to be unparalleled market access granted to Australian services industries, with significant scope to build on an export market currently worth approximately \$7 **billion**. In some instances, the FTA simply confirms existing arrangements; however, the market for the education, tourism, and hospitals and aged care industries has opened up significantly.

As ever, the devil is in the detail and we await announcement of the full terms of the FTA when formal treaty documents are signed in 2015. HopgoodGanim will continue to analyse the benefits and potential impact of the FTA on our clients' businesses and will keep clients updated.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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