



HD Investment threshold lifted above \$1b under Korea - Australia FTA

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The foreign investment review threshold will be lifted to over \$1 **billion** under the South Korea free trade agreement, full details of which were released today.

The deal will see tariffs on primary products that range from around 15 per cent to more than 500 per cent removed.

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Trade Minister Andrew Robb says that should grow Australia's agricultural exports to Korea by 75 per cent over the next 15 years.

Business and farmer groups have generally welcomed the deal, but some community groups warn certain provisions could allow Korean companies to sue the Australian Government over various policies.

The foreign investment review threshold will be lifted to over \$1 **billion** under the South Korea free trade agreement, full details of which were released today.

That means South Korea will enjoy investment privileges equivalent to the US and New Zealand, which also have a \$1.078 **billion** threshold before the Foreign Investment Review **Board** (FIRB) is required to examine proposed deals.

Trade Minister Andrew Robb says some sensitive sectors, such as agriculture, will continue to have lower thresholds for FIRB review.

Mr Robb says agriculture will be the biggest winner in a free trade agreement that will ultimately remove tariffs on 99.8 per cent of goods that Australia exports to Korea.

"It doesn't really get any better than this in terms of its comprehensive nature," he told reporters.

"It is also restoring our competitive position with the United States and the EU and the ASEAN countries who have struck, a couple of years ago, agreements with Korea."

In particular, US and EU beef producers had a significant and growing tariff advantage over Australian exporters, with local growers saying they could be effectively driven out of the market in the space of a few years without an equivalent deal.

Tariffs of more than 500 per cent on bluefin tuna will be phased out, as will 36-176 per cent **dairy** imposts.

A 300 per cent tax on Australian chipping potatoes and 15 per cent tariff on **wine** will be removed immediately.

Mr Robb says government modelling shows the free trade deal will lift Australian agricultural exports to Korea by 75 per cent over the next 15 years.

However, he adds that the agreement also focuses on boosting services trade, and opening investment opportunities for Australian firms in Korea.

"This time we have placed also a particular emphasis on services, so there's very significant access from a legal point of view, accounting point of view, environmental point of view, health services, a whole raft of services, architecture, you name it," Mr Robb said.

"Companies can now go in and establish in their own right. This hardly ever happens anywhere in Asia."

Korean car makers are big beneficiaries of the deal, which will immediately remove the tariffs on small vehicles, affecting around 75 per cent of Korean imports, with the tariffs on bigger cars to be phased out over three years so that their final removal coincides with the closure of the Australian automotive industry.

However, Mr Robb says the FTA offers hope to some local automotive component makers which will be struggling to survive after Ford, Holden and Toyota all stop making cars in Australia.

"You look at even today there's \$130 million worth of gear boxes was sold in the last year to Korea [from Australia], \$50 million worth of engines," he said.

"Now there's an 8 per cent tariff currently on that in Korea. That will go immediately when this [agreement] takes effect."

Business enthusiasm, community **group** caution

Business groups have generally welcomed the deal, with the financial services sector particularly excited about the prospect of greater access to Korea's high income, aging population.

"The Free Trade Agreement will open up significant opportunities for Australia to increase the cross-border flows between Australia and Korea," said the Financial Services Council's John Brogden in a statement.

"We have a highly skilled financial services workforce which will benefit from a cross-cultural transfer of skills and knowledge."

However, some community groups are wary of the agreement, warning that Investor-State Dispute Settlement provisions could allow foreign companies to sue the Australian Government for policies that harm their investment, for instance by negatively affecting their ability to make profits.

"The disputes are heard in international tribunals without the legal protections of national legal systems: arbitrators can be practising advocates and there are no precedents or appeals," cautioned the Australian Fair Trade and Investment Network's convenor Dr Patricia Ranald.

Mr Robb says negotiations had dragged on for five years, and including ISDS provisions was necessary to conclude an agreement.

"We have included [ISDS], because we wouldn't have got a deal without it," he said.

"But there are important carve-outs which ensure that public policy decisions in regard to the environment or public health issues are not then covered by the ISDS."

Health policy is a significant concern for the Australian Government, which is being legally challenged by Phillip Morris under an Australia - **Hong Kong** investment agreement, with the tobacco giant seeking to have Australia's cigarette plain packing laws overturned, or be granted compensation, potentially amounting to **billion** of dollars.

However, Dr Ranald is sceptical about whether the exclusion of health and environmental policy in the Korea - Australia FTA will be effective.

"The sentence to exempt public health, safety and the environment begins with the words 'except in rare circumstances' - this leaves a huge loophole which recent cases have used to advantage," she argued.

"Another 'safeguard' is a more limited definition of 'fair and equitable treatment' for foreign investors, but tribunals have ignored these limitations and applied the previous higher standard."

Dr Ranald says even a successful defence against challenges to government policy will result in a loss for taxpayers.

"Even if governments win these cases, they will have taken years and cost **millions** of dollars in legal fees," she warned.

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