Voluntary _ Public

Date: 7/1/2015
GAIN Report Number: AS1511

Australia

Post: Canberra

Australia-China Free Trade Agreement - Release of Details – June 2015

Report Categories:
Agriculture in the Economy
Agriculture in the News
Country/Regional FTA's
Trade Policy Monitoring

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Report Highlights:
The Australia-China Free Trade Agreement (ChAFTA) has now been signed and the detailed text released. ChAFTA is China's first free trade agreement with a major economy. It closes the gap between farmers in Australia and those in countries such as New Zealand and Chile which already have an FTA with China. The main agricultural sectors affected by ChAFTA are beef, dairy, wine, seafood, live animal exports and horticulture. The new text for ChAFTA provides further details of the regulatory framework for two-way investment between Australia and China and outlines the role for bilateral dispute resolution.

General Information:

Overview

The China Australia FTA (ChAFTA) was formally signed in June 2015 by Australian Trade and Investment Minister Robb and Chinese Commerce Minister Gao and the final text of the agreement was publicly released. China is Australia's biggest trading partner with two-way trade over A$160 billion in 2014 as is a growing source of foreign investment. ChAFTA is expected to boost Australia's overall trade and investment relationship with China and to attract further Chinese investment into Australia.

The bilateral free trade agreement provides preferential market access for Australian exporters, with over 85 percent of Australia's goods exports to China entering duty-free upon entry into force, rising to 93 percent after four years and 95 percent when ChAFTA is fully implemented. It is expected to deliver significant tariff cuts for various agriculture exports particularly dairy, beef, sheep meat, live animal exports, wine, seafood and horticulture.

The agreement is expected to provide Australian farmers with an advantage compared to farmers in countries without a free trade agreement with China. It also closes the gap in tariff preferences and market access between farmers in Australia and those in countries such as New Zealand and Chile, which already have an FTA with China. There will be no change to the current Chinese quotas on imports on Australian sugar, cotton, rice, maize and wheat. Australian and Chinese biosecurity arrangements are also unaffected by the agreement. In some cases, import protocols must be still negotiated before trade occurs.

Under the agreement, most tariff reductions are to be implemented within four to nine years, with the timing depending on the date of implementation. If the agreement commences in 2015, year two of the agreement will commence on January 1, 2016. Otherwise, a 2016 commencement will mean that most products will not be able to enter duty free until January 1, 2017. The implementation timeline will involve amendments to domestic law in both countries in order to give force to the agreement.

ChAFTA contains investment provisions that raise the Foreign Investment Review Board (FIRB) screening threshold for private companies from China from A$248 million to A$1,078 million. An exception is the lower threshold for private investors in agricultural land valued from A$15 million and agribusiness from A$53 million, which will have to be screened. Under the agreement, Chinese private investors will receive the same treatment as those from the United States, Japan and New Zealand, but all proposed investment by state-owned enterprises will still require FIRB screening. In three years, market access for Australian commodities such as sugar and rice are expected to be reassessed, as will Australian regulations on investment by Chinese state-owned enterprises.

Outline of the China-Australia Free Trade Agreement

The China-Australia Free Trade Agreement (ChAFTA) will make over 85 percent of Australian goods exports tariff free upon entry into force of the agreement. On full implementation of ChAFTA, 95 percent of Australian goods exports to China will be tariff free. In agriculture and food, Australia has secured:

- The removal of all tariffs on dairy products within 4 to 11 years.
- The removal of tariffs of 12-25 percent on beef over nine years.
- The removal of tariffs on live animal exports of 10 percent within four years.
- The removal of tariffs on sheep meat of 12-23 percent over eight years.
- The removal of tariffs of 14-20 percent on wine over four years.
- The removal of tariffs on horticulture products of up to 30 percent, most within four years.
- The immediate elimination of the three percent tariff on barley.
- Tariffs on barley, sorghum, oats, some animal feeds and frozen prawns will be eliminated
- The removal of tariffs on seafood over four years.
- The removal of tariffs across a range of processed foods including fruit juice and honey.
- An Australia-only duty free quota for wool.
- Tariffs of up to 20 percent on pork eliminated within four years.
- The removal of tariffs of 5-14 percent on hides, skins and leather over 2-7 years.
- Tariffs will be eliminated over four years on most seafood, fruits, nuts and vegetables and on processed foods including canned tomatoes, pasta, chocolate and biscuits.
- There are no changes to Australia's risk-based quarantine under ChAFTA.

Beef Access

Australia is the dominant supplier of beef to China, supplying almost 60 percent of the country's import market in 2013. The industry will see Chinese tariffs of 12-25 percent decline to zero over four to eleven years. A safeguard will remain at 170,000 tons (not including beef offal) but the safeguard will increase annually and will be reviewed in three years. The main changes are:

- Elimination of tariffs on beef imports (ranging from 12-25 percent) within nine years.
- Elimination of the 12 percent tariff on beef offal within 4-7 years.

Live Animal Exports

China is an important and growing market for live animal exports. Key outcomes under ChAFTA include the elimination of all tariffs on live animal exports within four years, including the ten percent tariff on live cattle. Pure-bred breeding cattle already enter China duty free.

Grains

There will be no change to the current trading quotas on Australian exports of rice, maize and wheat exports into China. Australia's trade to China in barley and sorghum will benefit from the immediate elimination of the three percent tariff on barley and two percent tariff on sorghum. The 15 percent tariff on cotton seeds will be eliminated over four years, as will the ten percent tariff on malt and wheat gluten. The two percent tariff on oats, buckwheat, millet and quinoa will be eliminated immediately. Tariffs of up to seven percent on pulses will be removed within four years from the commencement of the agreement.

Wine and Spirits

China is Australia's third-largest export market for wine, worth $201 million in 2013-14. However, Australia competes with New Zealand and Chile, both of which have preferential wine access under their FTAs with China. China's wine imports from Chile have increased seven-fold since its FTA with China entered into force in 2006. Under ChAFTA, tariffs of 14 to 20 percent on Australian wine imports will be eliminated within four years. Tariffs of up to 65 percent on other alcoholic beverages and spirits will be eliminated within four years.

Horticulture

China applies some of its highest tariffs on horticultural products but under ChAFTA, all tariffs on horticultural products will be progressively eliminated. Key outcomes include:

- Elimination of the 10-25 percent tariff on macadamia nuts, almonds, walnuts, pistachios and all other nuts within four years.
- Elimination of the 11-30 percent tariff on oranges, mandarins, lemons and all other citrus fruits within eight years.
- Elimination of the 10 to 30 percent tariff on all other fruit within four years.
- Elimination of the 10 to 13 percent tariff on all fresh vegetables within four years.

Australia currently has quarantine access protocols for export into China for many horticultural products and should be able to take immediate advantage of tariff reductions for a range of products including citrus, grapes, almonds, macadamias, mangoes and some cherries.

Seafood

Tariffs on all Australian seafood exports will be eliminated progressively over four years, creating preferential access for Australian seafood exporters into the Chinese market. Australia will also eventually gain equal treatment with exporters from New Zealand which have preferential access under the China-New Zealand Free Trade Agreement of 2008. Key outcomes include:

- Elimination of the 10-14 percent tariff on abalone within four years.
- Elimination of the 15 percent tariff on rock lobster within four years.
- Elimination of the 12 percent tariff on southern bluefin tuna, salmon, trout and swordfish within four years.
- Elimination of the 14 percent tariff on crabs, oysters, scallops and mussels within four years; and elimination of the up-to-8 percent tariffs on prawns within four years.

Processed Foods

Some Australian exporters of processed food should also benefit from ChAFTA. The 7.5 to 30 percent tariff on Australian exports of orange juice will be eliminated within seven years, and tariffs of up to 30 percent will be eliminated on other fruit juices within four years. Other reductions include:

- Elimination of the 15 percent tariff on natural honey, and the up-to-25 percent tariff on honey-related products, within four years.
- Elimination of the 15 percent tariff on pasta within four years.
- Elimination of the 8-10 percent tariff on chocolate within four years.
- Elimination of the 15-25 percent tariff on canned tomatoes, peaches, pears and apricots within four years.
- Elimination of the 15-20 percent tariff on biscuits and cakes within four years.

Dairy Access

China is Australia's largest market for dairy exports although New Zealand dairy exporters enjoyed earlier preferential access under that country's FTA with China. ChAFTA will reduce this margin of preference as tariffs will be progressively eliminated across all dairy products. Under the agreement, tariffs of up to 19 percent on all dairy products will be phased out completely, including on infant formula, liquid milk and manufactured products.

Key dairy outcomes under ChAFTA include:

- Elimination of the 15 percent tariff on infant formula within four years.
- Elimination of the 10-19 percent tariff on ice cream, lactose and casein within four years.
- Elimination of the 15 percent tariff on liquid milk within nine years.
- Elimination of the 10-15 percent tariff on cheese, butter and yogurt within nine years.
- Elimination of the ten percent tariff on milk powders within eleven years.

New Zealand's FTA with China contains restrictive safeguard measures on a wide range of dairy products, including liquid milk, cheese, butter and all milk powders (where China raises the tariff back to the higher normal rate when New Zealand exports exceed a certain volume). In contrast, under ChAFTA, Australia will only face a discretionary safeguard on whole milk powders, with the safeguard trigger volume set well above current trade levels and indexed to grow annually. For all other dairy products, Australia will receive unlimited preferential access.

Investment Provisions of the China-Australia Free Trade Agreement

Under ChAFTA, Australia provides private Chinese investors the same threshold as given to investors from the United States, Japan and Korea. This means that proposals by Chinese businesses to invest in Australia (excluding rural land, agriculture and agribusiness) that are below the A$1.078 billion threshold will not require approval under Australia's foreign investment rules. This threshold will only apply if the investment comes directly from China.

Investments by Chinese state owned enterprises (SOEs) and sovereign wealth funds (SWFs) will still require approval under Australia's foreign investment rules regardless of their size. ChAFTA includes new investment thresholds of A$15 million for rural land and A$53 million for agribusiness interests, which are consistent with thresholds under FTAs with Japan and Korea which Australia concluded in 2014. Chinese private investors in rural land in Australia below these new investment thresholds will be exempted from the need to seek approval from FIRB. The China-Australia FTA will contain an Investor-State Dispute Settlement (ISDS) mechanism to protect investors from regulatory changes, which should promote confidence for investors.

Provisions for Labor Mobility and Implications for Agriculture

The China-Australia FTA will introduce measures to reduce some of the barriers to labor mobility between Australia and China to provide improved access for a range of Australian and Chinese skilled service providers, investors and business visitors. Certain Chinese companies registered in Australia will have increased labor flexibility (Investment Facilitation Arrangements) if they are undertaking certain infrastructure projects above A$150 million. These arrangements need to operate within Australia's existing immigration system and will need to satisfy Australian employment laws and standards.

Chinese workers will receive expanded visa approvals in Australia for up to four years, with the possibility of staying longer for 'contractual service suppliers'. The agreement defines such suppliers as a Chinese person 'who has trade, technical or professional skills and experience and who is assessed as having the necessary qualifications, skills and work experience accepted as meeting Australia's standards'.

Conclusion

China is already Australia's largest economic partner and the Australia-China agreement is expected to deepen and broaden between the two countries. Around 85 per cent of Australian exports will enter China tariff-free, increasing to 95 per cent within a decade. The agreement phases out the major existing barriers in agricultural trade, with tariffs of close to 20 percent on beef, dairy, wine and pork to be phased out. Some commodities such as sugar, wheat and rice are excluded from the agreement.

Under ChAFTA, Australian exporters appear to have gained an advantage in preferential market access into China compared to exporters in countries without an FTA with China. The agreement also closes the gap between farmers in Australia and those in countries such as New Zealand and Chile which already have an FTA with China. Private investment from China into Australia will be accorded the same treatment as for non-State investors from the United States and several other countries. The agreement should lead to expanded Australian exports to the Chinese market, especially for agriculture and possibly to increased Chinese investment into this sector, as well as into the Australian economy overall.