

Still chatting about ChAFTA – an update on the China- Australia Free Trade Agreement

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Introduction

The China-Australia Free Trade Agreement (ChAFTA) was signed by the Australian Minister for Trade and Investment Andrew Robb AO MP, and the Chinese Commerce Minister, Mr Gao Hucheng in June 2015 and has been tabled in parliament.[1] We've been excited by these changes as ChAFTA can present unparalleled opportunities for business engagement between Australia and China.

ChAFTA will introduce a number of investment mechanisms, allowing both Australia and China to become more economically integrated. These include:

- Reducing or removing tariffs on Australia's high quality goods such as Australian beef, sheep meat and horticulture sector, making Australian goods more competitive in the Chinese market;
- Making it easier for Australian businesses to operate in the Chinese market by improving access to Australian service providers in China; and
- Encouraging investment in Australia

Australian service industries

ChAFTA delivers opportunities to Australian industries including:

- **Financial services:** unprecedented access to Chinese markets, including allowing Australian financial service providers to establish joint venture companies with up to 49 per cent Australian Ownership; [3]
- **Tourism and related services:** allowing Australian service providers to construct, renovate and operate wholly owned hotels and restaurants in China; [4]
- **Health and aged care services:** China will permit Australian service suppliers to establish profit-making aged care institutions throughout China, wholly Australian-owned hospitals in certain provinces [5]

Chinese investment

ChAFTA improves opportunities for investment by:

- Increasing the threshold for Australian investment approval (conducted by the Foreign Investment Review Board (FITB)) from \$252 million to \$1,094 million; [6]

- The inclusion of an Investor State Dispute Settlement (**ISDS**), under which ChAFTA's obligations can be directly enforced by Australian and Chinese investors, thereby safeguarding their investment Facilitations Agreements, which increase investment by reducing the barriers to labour mobility. [8]

What's next?

Both countries must now bring ChAFTA into force in their respective countries. In Australia, the Joint Standing Committee on Treaties (JSCOT) is conducting an inquiry into ChAFTA and will table its report back to parliament (which is expected to be in October), who will consider any amendments and regulations, and then look to pass enabling legislation to give ChAFTA the force of law in Australia.

Since its signing, unfortunately the benefits of ChAFTA have been diluted, and confusion among Australians has been heightened because of certain views and campaigns led concerning labour mobility.[9] This has cast a shadow over the benefits that ChAFTA may bring to Australia and has also diverted attention away from the investment Australia has made over the last decade in negotiating this agreement with China.

It is evident that there is still a road ahead for Australian businesses to the realisation of the benefits of ChAFTA, however ChAFTA is a necessary first-step in the right direction in order to achieve greater economic integration with China.

[1] <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/implementation-timeline.aspx>

[2] <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/chafta-benefits-for-australian-business.aspx>

[3] <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/quick-guide-key-services-outcomes.aspx>

[4] <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/quick-guide-key-services-outcomes.aspx>

[5] <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/quick-guide-key-services-outcomes.aspx>

[6] <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/quick-guide-key-investment-and-investor-state-dispute-settlement-outcomes.aspx>

[7][7] <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/quick-guide-key-investment-and-investor-state-dispute-settlement-outcomes.aspx>

[8] <http://dfat.gov.au/trade/agreements/chafta/fact-sheets/Pages/fact-sheet-movement-of-natural-persons.aspx>

[9] See discussion in Troy Bramston and Scott Murdoch, "Bob Hawke warns ALP and unions on China FTA", The Australian (online), http://www.theaustralian.com.au/national-affairs/foreign-affairs/bob-hawke-warns-alp-and-unions-on-china-fta/story-fn59nm2j-1227501956380?from=public_rss&login=1, 28 August 2015.

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