



28 August 2020

China FTA Coordinator  
Regional Trade Agreements Division  
Department of Foreign Affairs

sent via email: chinafta@dfat.gov.au

Dear China FTA Coordinator

Australia's economic prosperity has been built on openness to trade and investment: the movement of people, capital, services, and goods. Our openness to the world has delivered prosperity to Australian communities, generating more opportunities for our people, boosting living standards and transforming Australia into one of the wealthiest nations in the globe. Around one in five Australian jobs relies on trade, one in 10 on Foreign Direct Investment and one in 13 on tourism.

A strong and growing trading relationship with China has been a major source of growth for Australia over the past decade, and the China-Australia Free Trade Agreement (ChAFTA) has been a key part of the supporting bilateral architecture, alongside the Comprehensive Strategic Partnership.

The Business Council of Australia welcomes the opportunity to make a submission on the post-implementation review of ChAFTA. In providing input, three key points stand out:

- 1) We acknowledge that the disruptive, uncertain and unpredictable impacts of the covid-19 pandemic and related consequences for Australia are still unfolding.
- 2) The relationship with China is dynamic and evolving rapidly - a feature which, thanks to the foresight of the negotiators of the FTA, is accounted for in the agreement through the inclusion of a built-in agenda and multiple review mechanisms. It is essential that we continue to pursue the FTA as a living agreement, not only to improve market access for Australian exporters, but to preserve our competitive position relative to other trade partners. This submission offers some suggestions on how ChAFTA could be improved when the appropriate opportunity emerges.
- 3) In assessing the value of an agreement, it is important to consider the counter-factual - the scenario where Australia did not pursue a closer trade and investment relationship with China. Outcomes in terms of living standards, economic growth, incomes and jobs would unquestionably have been lower.

We commend the Government for choosing an outward-looking strategy that embraced China and its burgeoning consumer market in a broad and ambitious trade policy agenda. Emerging from the global pandemic and economic crisis, China will remain an incredibly important partner for recovery, as we look to tap into other markets on our doorstep in Asia and further afield.

### **The benefits of ChAFTA**

ChAFTA remains the most liberalising trade agreement that China has concluded with any other country. It has leveraged the complementarities of our economies which make us natural trading

partners and plays to Australia's strengths. Australian exports meet many of China's needs such as resources, energy, tourism and education services and food.

Specifically, ChAFTA has enhanced that relationship by:

- reducing or removing tariffs, making our goods exports more competitive in the growing Chinese market;
  - o including for beef, dairy, wine, seafood, wool, fruit, cosmetics, coking and thermal coal, and pharmaceuticals (including vitamins and health products).
- eliminating tariffs on goods imported from China, benefiting Australian consumers and businesses using imported inputs;
- securing or improving access for Australian services providers in China
  - o including in legal, education, health and aged care, financial and tourism sectors.
- liberalising review thresholds on non-sensitive investment proposals from private Chinese companies, encouraging new investment into Australia.

In the years since entry into force:

- the value of Australian goods exports to China grew by 98 per cent, compared to growth of 56 per cent in overall goods exports.
  - o Prior to COVID-19 two thirds of Australia's farm production was exported and of this, 28% to China.
- the value of Australian services exports to China grew by 76 per cent, compared to growth of 40 per cent in overall services exports.<sup>1</sup>
- China has grown to be Australia's largest inbound visitor market, with visitor numbers increasing by 69 per cent and total spending increased by 116 per cent.

This astounding rate of growth has led to total two-way trade in goods and services with China valued at \$235 billion in 2018-19 (goods at \$213 billion, services at \$22 billion), and accounting for 26.4 per cent of Australia's total trade.

### **Feedback from Australian businesses**

Australian businesses regularly credit ChAFTA as giving them a competitive trade advantage in China, helping them establish and grow a commercial presence in that market. Although the following does not cover the full range of benefits accruing from ChAFTA, below are selected qualitative examples of how the agreement has supported Australian businesses:

- Survey responses from the Doing Business in China report 2018 pointed to the significance of the FTA to Australian businesses in China. When asked to comment on ChAFTA, over two-thirds of businesses responded that the agreement had a positive impact on Australian business in China. A further 54 per cent of respondents claimed ChAFTA had a positive impact on their own business directly.
- Significant growth for Australian advanced manufacturers. Cochlear, a world leader implantable hearing devices, credits ChAFTA as "*clearly articulating the desire of both countries to foster an open and productive trading relationship... undoubtedly helping to drive a more favourable business environment in China for Cochlear and other Australian companies*". Since ChAFTA was implemented in 2015, Cochlear committed to building a major manufacturing facility in China, moved largely to a direct sales model and expanded its health services delivery footprint. Cochlear cites specific commitments on the movement of

<sup>1</sup> Joint-Standing Committee on Trade and Investment Inquiry Into Diversifying Australia's Trade and Investment Profile, Foreign Affairs and Trade Portfolio Joint Submission

natural persons (Chapter 10) of ChAFTA facilitating the movement of skilled intra-corporate transferees from Australia to operations in Chengdu in China.

- Australian law firms and professional audit, tax and advisory firms have reported a marked increase in requests for advice from Australian agricultural businesses exporting to China.

### **ChAFTA's future**

ChAFTA is a work-in-progress, structured in a way which aligns with the dynamic, evolving and pragmatic nature of our trading relationship. Areas of implementation (e.g. reviews of non-tariff measures, implementation of service trades rules, and intellectual property issues concerning private stakeholders) are scheduled for future negotiations and an 'upgrade'.

Securing opportunities to review ChAFTA through its built-in agendas will be vital, not only for new market access opportunities, but to remain a competitive trade partner with China in an increasingly crowded space.

Although there is much uncertainty at this point about the direction of the US-China Phase One deal, it is important to consider its implications for Australian market access in China. There is a serious risk that purchasing commitments in the deal cut across Australian goods exports. Equally, if not more concerning, is China's commitments to the US on technical market access. Particularly in agricultural goods, these commitments provide better access for US exporters than treatment conferred on Australia (e.g. dairy, beef, seafood).

### **Specific areas where implementation of ChAFTA can be improved:**

- Expanded phytosanitary market access protocols. Despite tariff reductions on a number of agricultural categories, some products have not gained access to the market as a result of non-tariff measures such as phytosanitary protocol agreements. Joint collaboration with relevant Chinese agencies around technical processes relating to traded goods can assist with forming new import standards and regulations that support the strong tariff regimes that ChAFTA has implemented. Two-way education programs incorporating both industry and government stakeholders could allow for improved communication around certification, labelling, inspection and food safety requirements to these ends.
- Reduced complexity in rules of origin. Further simplification of product specific rules of origin would assist increasing access to the ChAFTA for Australian SMEs. This could include the implementation of a regional value content rule as an option for all finished goods tariff classifications to reduce the administrative and technical burden of reviewing the change in tariff classification rule for non-originating materials in finished goods.
- Acceptance of digital certification for trade documentation and supply chain innovation. Digital certification, especially in support of the Agriculture sector, will help to reduce associated costs for businesses and enable organisations to communicate more openly across the international supply chain.
- Increased emphasis on E-commerce channels to market. Greater provision of established frameworks and agreements around e-commerce trade will support new channels to market and further enhance the significant trade volume outcomes achieved by exporters through ChAFTA. A focus on growing e-commerce will allow Australian organisations to better connect into digital-savvy Chinese consumers and more closely meet the needs of importers and end customers.
- Improving regulatory approvals of Australian medical devices. Regulatory approval times for Australian medical devices are a significant 'behind the border' trade barrier in China. These could be addressed in several ways through ChAFTA, including removal of requirement for proof of home country approval as part of China's domestic approval process; approval of a medical device by Therapeutic Goods Administration given status as evidence to meet Chinese regulatory requirements; and / or establishing a medical devices regulatory innovation pilot between Australia and China.

- Collaboration around trade facilitation and cross-border stakeholder engagement. Structured frameworks and mechanisms for engagement around cross-border trade would promote relevant updates to ChAFTA over time, and enable identified challenges to be collaboratively resolved, particularly those relating to technical and policy-based market access. The Australian and New Zealand wool industries experienced success in similar endeavours during the 1990s, through formation of a joint working group around compliance and regulation, and creation of agreed dispute resolution structures. Strengthening the mutual recognition arrangements between the parties for Chinese Authorised Economic Operators (AEO) and Australian Trusted Traders (ATT) will further enhance trade facilitation and reduce regulatory and reporting burdens in both countries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jennifer Westacott', written in a cursive style.

**Jennifer A. Westacott AO**  
Chief Executive