

FTAs and other issues for agriculture exporters

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“KEEPING AUSTRALIA’S INTERNATIONAL TRADE MOVING”



Australian Peak Shippers
Association Inc. (APSA)

Topics

1. FTAs and Agriculture
2. Northern Asian FTA outcomes for agriculture
3. Rules of origin for agriculture exporters
4. Non-tariff barriers to trade
5. Export regulations

Its all about agriculture exports

- The goal of FTAs is to liberalise trade
- Agricultural trade is the most distorted sector
- High trade barriers
- Two thirds of our agricultural goods are exported
- FTAs aim to remove trade distortion caused by tariffs
- Biggest exports are iron ore and coal – but these commodities are not protected
- FTAs can improve trade relationships – quicker resolution of problems

Using FTAs – Quick recap

1. FTAs do not apply automatically or equally
2. FTAs may reduce duty:
 - a. immediately to zero
 - b. over a number of years
 - c. not at all
3. Using an FTA
 - a. Are the goods of Australia origin
 - b. What is the general rate
 - c. What is the FTA rate
 - d. Do the goods meet the rules of origin
 - e. Obtain the required certificate
 - f. Claim the benefit

FTA outcomes



ChAFTA Key tariff outcomes – winners

- Beef – 12 - 25% eliminated by 2024
- Dairy
 - infant formula 15% removed by 2019
 - liquid milk 15% by 2024
 - cheese, butter yoghurt 10-15% by 2024
 - milk powders 10% by 2026
- Sheep meat – 23% eliminated within 8 years
- Wool – increased duty free quota
- Pork – 20% by 2019
- Wine tariffs - 14-20% eliminated within 4 years

ChAFTA Key tariff outcomes – winners

- Horticulture
 - nuts 10-25% removed by 2019
 - Citrus 11-30% removed by 2023
 - All other fruit 10-30% removed by 2019
 - All fresh vegetables 10-13% removed by 2019
- Cotton seed – 15% removed by 2019
- Seafood – general reductions of 8-15% by 2019
- Juice – 30% removed by 2019-2022
- Honey – 15% removed by 2019
- Biscuits and cakes – 15-20% removed by 2019

KAFTA Key tariff outcomes – winners

- Beef – 40% tariff removed by 2028
- Other meat – 22.5 – 25% removed by 2028
- Sugar – raw 3% removed immediately, refined 35% removed by 2031
- Wheat – 1.8% (wheat gluten 8%) tariff removed immediately
- Cheese – duty free quota, Cheddar cheese 36% removed by 2026, All cheese tariffs removed by 2033
- Butter – duty free quota
- Infant formula – duty free quota – 36-40% removed by 2028
- Malt and malting barely – quota and 269-513% removed by 2028
- Canola oil – 8-30% removed by 2023
- Bottled wine – immediate elimination of 15% tariff
- Seafood – Tuna (10%) lobster (20%) removed immediate

KAFTA Key tariff outcomes – winners

- Horticulture:
 - Seasonal duty free periods for potatoes, grapes, oranges, mandarins, kiwi fruit
 - chipping potatoes (304%) removed by 2028
 - Immediate elimination of tariffs on cherries (24%), almonds (8%) and dried gapes (21%)
 - Asparagus (30%), macadamias (30%), fruit juices (54%) removed by 2018
 - tomatoes and apricots (45%) removed by 2023
 - Mangoes, peaches, plums and peanuts (30-64%) removed by 2023

JAEPA Key tariff outcomes – winners

- Beef:
 - frozen beef 38.5% to 19.5% removed by 2033
 - fresh 38.5% to 23.5% removed by 2033
 - removal of global 50% snapback – currently in effect
 - beef offal – quota reducing tariff from 50% to 30%
 - immediate review if Japan gives a competitor a better deal
- Wheat and barley – outside of quota duty free access
- Dairy:
 - cheese duty free quotas (previously 28.5%)
 - no improved access for fresh milk, milk powders, butter
- Sugar – removal of 21.5yen/kg tariff on high polarity raw sugar
- Hides and skins – 5-14% removed by 2019-2022

JAEPA Key tariff outcomes – winners

- Seafood:
 - shellfish – 9.6% eliminated immediately
 - tuna, swordfish, marlin, Atlantic salmon eliminated over 10 years
- Immediate elimination of tariffs on asparagus, carrots, potatoes, truffles, almonds, pecans, hazelnuts, mangoes, dried grapes and many berries
- counter season access for grapes, oranges and cherries
- apples (17.5%) by 2024
- Honey – 25.5% by 2023
- Fruit and vegetable juices
- Canned vegetables and fruits
- Wine – reduced over 4 – 9 years
- Preferential quotas for 19 products including pork, chicken, orange juice, bovine offal

Who missed out

Product	ChAFTA	JAEPa	KAFTA
Sugar	Excluded	Limited	Reductions
Wheat	Excluded	Excluded	Reductions
Rice	Excluded	Excluded	Excluded
Dairy	Reductions	Limited	Limited
Honey	Reductions	Reductions	Excluded
Beef	Reductions	Not total elimination	Long elimination period
Canola oil	Excluded	Excluded	Long elimination period

Imports

- Australian duty is only 5%
- Over 90% of products reduced to 0% immediately
- Exceptions reduced over 2-6 years

Automotive, steel, aluminium, plastics, canned fruit, carpets, clothing and footwear, herbicides, nappies, toilet paper, pumps, motors, generators, hot water systems

Rules of origin



Rules of origin – Agricultural goods

- Identify the required connection between Australia and the goods
- Wholly Originating
- Made from wholly originating
- Product specific rules

Wholly originating

Examples:

- products grown in Australia (fruit, vegetables)
- animals raised in Australia (livestock, fish)
- products from animals raised in Australia (meat, milk, seafood)
- products made from wholly originating goods (flour, sugar, processed foods of 100% Australian origin)

Product Specific Rules

- Used where there the goods contain non-originating material
- Ignore packaging
- Under ChAFTA, JAEPA and KAFTA the rule is primarily change in tariff classification
- Usually change in chapter sufficient
- Japan much stricter – for processed food usually requires the key ingredient to be originating
 - example – Ch16 preparations of meat – CC except Ch 1 (live animal) or Ch 2 (meat)
- Occasionally RVC requirement

Need to check the specific FTA

- Do not assume qualification under one FTA means qualification under all FTAs – Example fruit juice

	ChAFTA	KAFTA	JAEPA
Rule	CC	CTH or 40% RVC	CC except from Ch7 or Ch8
What if fruit is imported	Qualifies	Qualifies	Will not qualify
What if fruit juice is imported	Will not qualify	Qualifies if 40% RVC met	Will not qualify
Duty impact of not qualifying	12%	20%	5.2%

Non-tariff barriers



Non-Tariff Barriers

- Quarantine
- Local content
- Quotas
- Technical requirements:
 - labelling
 - local standards
- Registration/License:
 - Producer
 - Exporter
 - Importer
- Gov procurement
- Anti-dumping
- Packaging
- Import bans based on fishing methods
- Subsidies
- Embargo
- Export restrictions

General

- NTB are on the rise
- Crucial to determine market access before making commercial commitments
- Ensure that information is up to date
- Japan/Korean legislation places obligations on importer – but what about the contract?
- Chinese legislation places obligations on the exporter
- Normally need an experienced importer to help
- Changing ports may lead to new issues
- Do not underestimate time and cost of foreign quarantine

Importing country requirements

- Manual of importing country requirements:
 - difficult to understand
 - is it up to date
 - is it complete
- Different countries will have differing requirements for the same goods
- Different countries may have differing testing requirements for the same issue

NTB - China

- Limited access for fruit and vegetables
- All food and beverages subject to inspection
- Labelling to be in Chinese (English can be in addition)
- Ingredients to be listed in %
- Importers must be registered
- Foreign food manufacturers to be registered with the Chinese authority
- Dairy, meat and seafood require additional registration
- Recent examples – beef labelling, infant formula registration

NTB - Japan

- Food regulation is strict and complex
- The importer must give notification of all intended food importations – details of ingredients and manufacturing process should be provided
- For new products a sample for testing should be provided before making larger commitments
- Plants, perishables and quota items require an import license
- Wheat purchased by Gov body and resold at very high prices
- New country of origin labelling
- Food additives:
 - are the additives banned
 - long approval process
 - treatment of post harvest fungicides as food additives

Korea NTB

- Food regulation is strict but transparent and consistent
- No product registration required
- However, all new imports will be subject to a detailed review (allow 2 weeks) – subsequent imports should be only a document review (1 week)
- Labelling must be in Korean but can be attached in a Korean bonded warehouse
- Label must include the % of the top 5 ingredients
- Meat products require abattoir and processing facility approval
- Web based registration for food facilities
- Most fruits prohibited
- Many mainland Australia vegetable restrictions

New Australian Legislation



Introduction to Australian export regulation

- Purpose of Export Controls:
 - meeting the controls of trading partners
 - maintaining the reputation of Australian exports
 - not community protection
- Legislation provides controls over the inspection and certification of goods being exported
- Standards are set for preparing, packaging and handling goods, transportation and registration of exporters
- The extent of regulatory burden depends on the good being exported
- Prescribed goods – dairy, live animals, animal reproductive materials, fish, plants and plant products (grain, fresh fruit and vegetables), eggs, meat and meat products, some animal food, organic produce and some pharmaceuticals

Regulation of prescribed goods

- Prescribed goods are subject to Export Control Orders which set out:
 - requirements for processing and production establishments
 - procedures for audits and inspections
 - manufacturing processes, hygiene measures and traceability
 - processes for obtaining export permits and certificates
 - trade descriptions
- Most establishments that produce prescribed goods must be registered
- Must be managed by a fit and proper person
- Approved arrangements in place – how to export
- In addition, exporters of meat and livestock require a license
- Most prescribed goods require an export permit (some goods are subject to inspection and some permits are based on documents)

Types of certificates

A Government certificate may also be required if it is a condition of the importing country (meat, live animals, some plant products, wine)

- phytosanitary certificates - plants inspected and free from pests
- health certificates – animal products are free from disease
- Australian origin
- available for sale for human consumption in Australia
- organic produce
- Halal meat

Need for new legislation

- Legislation will expire in April 2020
- Overly complex
- Large amounts of duplication
- Inflexible regulation process
- Limited compliance options

What will not change

- Not a change in policy
- Regulation is seen as crucial to market access
- Importing country requirements
- Cost recovery
- Reforms to livestock export regulation

Proposed changes

- One primary Act and set of rules
- Export Control Rules to be made by the Department
- Compliance options to include infringement notices, suspensions, enforceable undertakings, injunctions
- Greater ability to issue certificates for non-prescribed goods
- Greater ability for accredited (as opposed to registered) properties
- One fit and proper person test

Comments

- There is no change in policy, so no fundamental concerns
- Consolidation needs to be monitored to ensure standard rules are not applied where not necessary
- Use of infringement notices can be a concern
- The flexibility of the rule making process may lead to a flood of regulation
- Non-scientific importing country requirements must continued to be challenged
- No attempt to link approved arrangements with Trusted Trader
- Communication of legislative requirements is most important – SME's struggle with the current manual of importing country requirements

Other issues

- Why wait until 2020
- Phytosanitary certificates in place of CoO for certain classifications?
- Australian country of origin labelling requirements – retaliation
- The balance between product specific regulation and minimizing the amount of regulation
- Protectionist policies on the rise

Questions



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