Korea-Australia Free Trade Agreement

Regulation Impact Statement

4 February 2013

CONTENTS

INTRODUCTION

1. This Regulation Impact Statement (RIS) relates to the Korea-Australia Free Trade Agreement (KAFTA). Negotiations on a free trade agreement (FTA) with the Republic of Korea (Korea) were launched in March 2009. The Prime Minister and Trade and Investment Minister jointly announced on 5 December 2013 that negotiations had concluded.

PROBLEM IDENTIFICATION

2. Despite Korea's importance as an economic partner and the opportunities offered by its growing economy (see 'Options that may achieve these objectives' for a discussion on the status quo), the absence of a FTA is constraining Australia's ability to realise the full potential of trading with this market.

3. Over the past decade, Korea´s economic importance to Australia has expanded significantly to become Australia´s third-largest export market, fourth-largest trading partner, and a growing investment partner. It is Australia's fifth-largest market for agricultural exports, Australia's largest export market for raw sugar (estimated at $461 million in 2012-13); third-largest for beef ($703 million in 2012-13); and an important market for wheat, malt and malting barley, dairy products, animal fodder, wine, seafood and horticulture. Korea is also an important export market for Australian ores and concentrates, crude petroleum, coal, inorganic chemical elements, pharmaceuticals and automotive parts. In services, Korea is Australia's ninth largest export market, accounting for 3.2 per cent of Australia's total services exports.

4. However, as things currently stand, Australia faces various tariff and non-tariff barriers and restrictions in Korea which limit the extent to which our goods and services exports can expand. Korea's average tariff on imports is 16.8 per cent, with an average tariff on agricultural goods – a priority for Australia – of 53.6 per cent, with tariff peaks of over 500 per cent. (Table 2 summarises selected tariff restrictions faced by Australian exporters.)

5. At the same time, Australian exporters to Korea are coming under increasing competitive pressure which threatens Australia´s existing market share as competitor countries enter bilateral and regional FTAs with Korea. The European Union (through the Korea-European Union Free Trade Agreement, or KOREU), the United States (through the Korea-United States Free Trade Agreement, or KORUS), Association of South-East Asian Nations (ASEAN) countries and Chile, key competitors of Australia in agriculture and services, already enjoy preferential access through their FTAs with Korea, Canada and New Zealand, also key competitors with Australia, are close to concluding their own FTAs with Korea.

6. Korea's FTA partners have received either immediate tariff elimination or phased reductions over several years for key products, thereby locking in a tariff disadvantage in favour of Australia's competitors over time. This is also the case in services where under KORUS and KOREU, competitor firms from the US and EU have secured preferential market access in key sectors of interest to Australian firms including financial services, telecommunications services, education services and legal and other professional services.

7. As a result of the high tariffs and market access barriers faced by Australia and the preferential access given to our competitors, Australian exports to Korea can be expected to decline as they lose competitiveness. Independent modelling by the

Centre for International Economics[1] predicts that in the absence of a bilateral Free Trade Agreement with Korea, Australia's total exports to this important market would decline by 5 per cent by 2030. Australian agriculture exporters would be most disadvantaged as Korean imports of Australian agricultural goods would decline by 29 per cent. Mining and manufacturing exports would also decline, by 1 and 7 per cent respectively.

8. On the other hand, modelling predicts that implementing a bilateral Free Trade Agreement with Korea would in fact result in exports to Korea being 25 per cent higher than they otherwise would have been by 2030. Agriculture exports would be 73 per cent higher; mining exports would be 17 per cent higher and manufacturing exports would be 53 per cent higher. Entering into an FTA with Korea would therefore not only avert the threat faced by erosion of Australia´s competitiveness in the market but would also create new and further opportunities for Australian exporters to Korea.

9. In this context, in 2013 the Government decided to seek the timely conclusion of ongoing bilateral free trade agreement negotiations with Korea.

OBJECTIVES OF GOVERNMENT ACTION

10. Consistent with Government policy, the primary objective was to conclude a comprehensive, high-quality bilateral FTA that secures Australia's competiveness in a key market, and to do so as soon as practicable. In negotiating KAFTA, the following specific outcomes were sought:

- significantly improved goods market access through the elimination of Korea's tariffs across the board, particularly on Australia's priority agriculture products, over the shortest possible timeframe;
- a KORUS and KOREU-equivalent agreement that secures Australia's competitiveness in the Korean market in light of the preferential access granted to our competitors (US, EU, ASEAN and Chile) in their agreements with Korea;
- mutual commitment to the development and application of technical standards and sanitary and phytosanitary measures, consistent with WTO Agreements;
- better access for Australian service suppliers in the Korean market, including by eliminating or reducing restrictions on commercial presence, cross-border supply and foreign equity holdings;
- streamlined licensing requirements and further opportunities for cooperation in professional services (including qualifications recognition);
- services market access outcomes equivalent to KORUS and KOREU in areas of key commercial interest to Australia, such as legal, accounting, financial, telecommunications and education services;
- government procurement market access to the Korean market broadly equivalent to that provided by Korea to members of the WTO Agreement on Government Procurement and to the US and the EU through KORUS and KOREU;
- commitments to ensure rights of Australian intellectual property holders are protected effectively and enforced by Korea's intellectual property regime;

[1] Modelling conducted in late November 2013

- commitments to enhance the use of electronic commerce in goods and services, including by ensuring that customs duties will not be introduced on electronic transactions;
- commitments to ensure that the benefits of KAFTA are not undermined by anticompetitive practices;
- promotion of appropriate labour and environment standards, recognising that labour and environment laws, regulations and policies should not be used for trade protectionist purposes;
- an audiovisual co-production agreement to facilitate joint development of Korean and Australian creative audiovisual content; and
- a framework for settling disputes under KAFTA.

OPTIONS THAT MAY ACHIEVE THESE OBJECTIVES

11. Korea is one of the fastest-growing OECD countries, with real GDP growth estimated at 3.5 per cent in 2014, picking up to 4.1 per cent in 2015[2]. Exports account for more than half of Korea´s GDP and are expected to expand in 2014 and beyond as the global economy recovers and demand increases for Korean ships, mobile devices and cars.[3] This expansion will subsequently drive an increase in imports, as domestic consumer spending expands and Korea seeks inputs for its manufacturing and export sectors.

12. If Australia had preferential access for its exports or a level playing field, increased Korean growth would lead to increased demand for Australian exports, particularly in the agricultural sector as Korea currently imports around 70 per cent of its food needs. An increasingly affluent middle-class would generate greater demand for key Australian products such as beef, wine and seafood. But under the current status quo, in which our competitors have an advantage in many of our key export sectors, Australian exports to Korea, especially in the agricultural sector, would decrease despite the overall growth in the Korean economy (see paragraph 6).

13. Thus, given the character of the primary objective, and the specific outcomes sought, the only realistic option available to Government to achieve this objective was the negotiation of a bilateral FTA with Korea. Other options, such as negotiations with Korea in the context of a regional trade agreement or multilateral trade negotiations, or taking no action, would not achieve the primary objective and specific outcomes.

No Action

14. As outlined in the 'Problem identification' section, the absence of a new trade arrangement with Korea will continue to preclude Australian exporters from the full opportunities of trading with a major and growing market. The status quo without an FTA will significantly disadvantage Australia's major exports, particularly in agriculture (sugar, beef, wheat, dairy, fodder, horticulture, seafood and wine), but also in industrial products (resources products, pharmaceuticals, auto parts, titanium dioxide) and services (legal, professional, financial, telecommunications and education). Preferential access already being granted to Korea's FTA partners, including the US, EU, ASEAN and Chile, will make Australian goods increasingly

[2] The Economist Intelligence Unit
[3] Ministry of Trade, Industry and Energy

uncompetitive against products from these countries. Service providers will also be disadvantaged against competitors from countries or regions that have FTAs with Korea. As discussed in Paragraph 7, independent modelling indicates Australia's exports to Korea would decline by five per cent in the context of KORUS and KOREU giving the US and EU a competitive advantage over Australia.

15. On the import side, under the current status quo without an FTA, Australian demand for exports from Korea, which are dominated by refined petroleum and passenger motor vehicles, could be expected to follow current trends (in 2013 Korea's exports to Australia rose 2.3 per cent) subject to the growth of the Australian economy. An FTA which made Korean motor vehicles and consumer goods more competitive than their competitors' products would benefit Australian consumers and likely result in an increase in demand for these products as consumers shift their preferences from competitors that do not have a tariff advantage.

Regional trade negotiations

16. At present, there are two ongoing regional trade agreement negotiations which could be viewed as possible alternative options: the Regional Comprehensive Economic Partnership (RCEP) and the Trans-Pacific Partnership Agreement (TPP) negotiations.

17. RCEP negotiations include all ten ASEAN Member States and ASEAN's six FTA partners – Australia, China, India, Japan, Korea and New Zealand. While the guiding principles for RCEP potentially allow for negotiation of a high quality, comprehensive agreement, there is no certainty that the full range of specific outcomes could be achieved. RCEP negotiations are at an early stage, with key decisions still to be taken on the scope and level of goods and services market access and the comprehensiveness and coverage of the agreement. As RCEP negotiations are not scheduled to conclude before the end of 2015, KAFTA will deliver the objectives and specific outcomes sought in a more certain and timely manner.

18. As with RCEP, the approach taken in the TPP negotiations potentially allows for negotiation of a high quality, comprehensive agreement. There are currently 12 countries engaged in the TPP negotiations, including Australia, but not Korea. While Korea has expressed its interest in joining TPP negotiations, it is not yet been accepted as a participant by the TPP parties. TPP is therefore not a realistic alternative option at this time.

Multilateral trade negotiations

19. The WTO Doha Round of trade negotiations was launched in 2001 and is a trade policy priority for the Government. However, given the limited and specific mandate for the Doha Round negotiations, a successful conclusion (which at present is unlikely to be secured for at least several years) would not achieve the primary objective and specific outcomes. Furthermore, Korea has developing country status in the WTO and has access to flexibilities that reduce its level of commitment.

Bilateral trade negotiations

20. A comprehensive, WTO-consistent bilateral FTA with Korea is the only realistic option to achieve the primary objective and specific outcomes.

IMPACT ANALYSIS

Key market access outcomes of bilateral negotiations for Australia

21. KAFTA will deliver significant market access improvement and significant tariff liberalisation for Australia's merchandise exports to Korea. Korea's tariffs will be set at zero on 84 per cent of its imports (by value) from Australia immediately on entry into force with most other tariffs phased out quickly, with 99.8 per cent duty free on full implementation of the agreement. Table 2 summarises the agreed tariff elimination schedule that will apply to Australia's major goods exports to Korea.

Table 1: Elimination schedule for Korean tariffs on imports of Australian goods

Outcome	**Tariff lines**			**Korea's imports from Australia**		
				2011*		
	No.	**% of total**	**Cumulative total (%)**	**US$'000**	**% of total**	**Cumulative total (%)**
Zero at EIF	8,940	75.2	75.2	22,102,655	84.0	84.0
MFN 0	*1,932*	*16.3*	..	*18,423,065*	*70.0*	..
Tariffs eliminated on EIF	*7,008*	*59.0*	..	*3,679,589*	*14.0*	..
3-year phasing**	1,019	8.6	83.8	141,875	0.5	84.5
5-year phasing	565	4.8	88.6	2,410,403	9.2	93.7
7-year phasing	265	2.2	90.8	28,146	0.1	93.8
10-year phasing	413	3.5	94.3	509,701	1.9	95.7
11-20 year phasings	491	4.1	98.4	1,061,087	4.0	99.8
Seasonal outcomes	5	0.0	98.5	10,499	0.0	99.8
50% tariff reduction in 10 years	12	0.1	98.6	85	0.0	99.8
No access concessions	171	1.4	100.0	51,828	0.2	100.0
Total	**11,881**	**100.0**	**100.0**	**26,316,279**	**100.0**	**100.0**

2011 trade data are the most recent figures that accord with the HS2007 nomenclature, on which KAFTA market access schedules are currently based. More recent trade data will be incorporated once Korea and Australia convert their respective schedules to HS2012 nomenclature. Tariff phasings will occur in equal annual stages, i.e. "3-year phasing" means the tariff will be reduced to zero in three equal annual stages; the first cut taking place on entry into force of the agreement.*
Source: KAFTA, Global Trade Atlas

Table 2: Key goods market access outcomes for Australia

Product	Australian Exports to Korea ($ million, 2012-13)	Korea's MFN tariff (%)	Years until tariff elimination		
			KAFTA outcome	KORUS outcome	KOREU outcome
Agriculture					
Beef	703	40 - 72	15	15	16
Sugar, raw	461*	3	0	0	0
Wheat	449	1.8	0	0	0
Fodder	149	100.5	15	15	16
Malt and malting barley	88	269 and 513	15	15	16
Dairy	80	36 - 176	3 - 20 some duty-free quotas	0 - 15 some duty-free quotas	0 - 16 some duty-free quotas
Canola oil	26	8 - 10	5 - 10	5 - 10	6 – 11
Maize	20	328	7	7	14
Sheepmeat	18	22.5	10	10	11
Wine	10	15	0	0	0
Macadamia nuts	3	30	5	7	8
Southern bluefin tuna	0.5	20	3	3	4
Table grapes	0**	45	5***	5***	5***
Resources, energy and industrial products					
Crude petroleum	1,534	3	5	0	0
Natural gas	701	3	0	0	0
Unwrought aluminium	677	1 and 3	0	0	0
Propane, butane	236	3	0	0	0
Gold	209	3	0	0	0
Ammonia	196	1 and 2	0	0	0
Sea salt	90	1	0	0	0
Unwrought lead	90	1 and 3	10	0	0
Cobalt mattes and articles	35	3	0	0	0
Titanium dioxide	8	6.5	0	0	0

**Korean imports (A$ million, 2012-13); **Phytosanitary market access achieved end 2013; ***seasonal.*
Source: Australian Bureau of Statistics, WTO, Global Trade Information Services

22. A very limited number of Korea´s most sensitive products, including rice, walnuts, milk powders, honey, abalone and certain wood products receive no tariff concessions – these 171 sensitive lines account for only 0.2 per cent of exports to Korea. Korea has also excluded many of these sensitive products from their previous FTAs including rice which has been excluded from all of Korea´s FTAs, meaning Australian exporters will not be disadvantaged vis-à-vis their competitors. Australian producers will retain access to a WTO country-specific quota. Australia's rice trade with Korea was negligible in 2010-11 and 2011-12, and was worth AU$9.9 million in 2012-13.

23. The services and investment outcomes provide Australian service providers and investors with improved access and greater certainty in areas of key interest to

Australia, and ensure that Australian business interests are not disadvantaged compared with their US and EU competitors.

Key market access outcomes for Korea

24. Tables 3 and 4 summarise the market access outcomes that Australia will grant Korea under KAFTA. Consistent with Australia's other FTAs, Australia will remove its remaining tariffs on Korean goods. Tariffs will be either eliminated on entry into force or over several years.

Table 3: Elimination schedule for Australian tariffs on imports of Korean goods

Outcome	**Tariff Lines**			**Australia's imports from Korea**		
				2011*		
	No.	**% of total**	**Cumulative total (%)**	**A$'000**	**% of total**	**Cumulative total (%)**
Zero at EIF	5,449	90.7	90.7	5,570,169	81.5	81.5
MFN 0	*2,775*	*46.2*	..	*2,471,543*	*36.1*	..
Tariffs eliminated on EIF	*2,674*	*44.5*	..	*3,098,626*	*45.3*	..
3-years	115	1.9	92.6	882,725	12.9	94.4
5-years	412	6.9	99.5	383,868	5.6	100.0
8-years (phasing beginning in year 4 of agreement)	32	0.5	100.0	1,608	0.0	100.0
Total	**6,008**	**100.0**	**100.0**	**6,838,370**	**100.0**	**100.0**

**2011 trade data are the most recent figures that accord with the HS2007 nomenclature, on which KAFTA market access schedules are currently based. More recent trade data will be incorporated once Korea and Australia convert their respective schedules to HS2012 nomenclature.*
Source: KAFTA, Global Trade Atlas

Table 4: Key goods market access outcomes for Korea

Product	Australian imports from Korea *($ million, 2012-13)*	Australia's MFN applied tariff (%)	Years until tariff elimination
Motor vehicles and parts	2,319.3	5	0, 3, 5
Heating and cooling equipment and parts	355.0	5	0, 5
Pumps and parts	255.6	0, 5	0, 3, 5
Telecommunications equipment and parts	246.0	0, 5	0
Monitors, projectors and TVs	219.2	0, 5	0
Electrical machinery and parts	148.1	0, 5	0, 3, 5
Civil engineering equipment and parts	131.5	0, 5	0
Rubber tyres and tubes	130.0	0, 5	0, 5
Tubes and pipes of Iron or steel	115.3	5	0, 3, 5
Household equipment (e.g. white goods)	109.1	0, 5	0, 3, 8, 10

Source: Australian Bureau of Statistics, WTO

25. Given these outcomes will make Korean goods more competitive than goods from countries that do not have FTAs with Australia, it can reasonably be expected that Korean exports to Australia will increase. There will likely be a shift in demand from Korea´s competitors on certain products, including electronic products and motor vehicles as tariff elimination reduces the import costs of these goods. This will benefit both Australian consumers and Australian businesses which rely on Korean imports. While Korea will conduct its own modelling on the benefits of the FTA to its economy, an initial study published in Korea in early 2013 by the Korea Institute for International Economic Policy before the FTA was concluded, suggested on tariff eliminations alone, the FTA would benefit the Korean economy by US$1.6 billion.

26. The FTA provides Korea with services and investment outcomes up to the level of other Australian FTA partners such as the United States and Chile. This includes binding a higher FIRB screening threshold for Korean investors. Australia has bound access for Korean services suppliers, ensuring their competitiveness with foreign competitors, and provided new market access in areas such as life insurance branching and audiovisual co-production.

Benefits to the Australian economy

27. Increased bilateral trade through KAFTA will benefit the Australian economy. Improved market access for Australian exports and lower import prices will increase Australia's terms of trade, increase capital accumulation, raise productivity and improve utilisation of resources. The results of independent economic modelling[4] by

[4] The modelling study conducted by the Centre for International Economics assumes entry into force on 1 January 2015 and calculates present value using a discount rate of five per cent.

the Centre for International Economics (CIE) predict that liberalisation of the bilateral goods trade would have strong benefits for the Australian economy:

- KAFTA goods liberalisation would contribute $226 million in additional GDP in the first year of its implementation. After 15 years of operation, Australian GDP would be $653 million higher than would be the case without KAFTA. The present value of the cumulative increase in GDP over the 15-year period is $5,036 million.

- Real household consumption – a measure of the welfare impacts of KAFTA – would be $754 million higher in 2015 and $1,351 million higher in 2030, equivalent to a present value of $11,148 million over the 15-year period.

- KAFTA goods liberalisation is estimated to raise real consumption per household by $82 a year in 2015, and by $118 a year in 2030, equivalent to a cumulative value of $1,088 per household over the 15-year period.

- KAFTA goods liberalisation is estimated to lead to the creation of 1,719 new jobs in its first year and 1,062 new jobs after 15 years.

28. KAFTA will have significant benefits to trade. Economic modelling predicts that Australian exports to Korea would be 25 per cent higher after 15 years of KAFTA's entry into force than a scenario in which Australia does not enter a FTA with Korea. While Australia's responsiveness to increased demand under KAFTA will differ across sectors and enterprises, it is expected that Australian exporters would increase overall production capacity to meet the increased demand, especially in those industries where tariff elimination will be phased out over a period of years.

29. The economic impacts described above reflect goods liberalisation alone.[5] The services outcomes in KAFTA will facilitate stronger services exports to Korea in key sectors of interest to the Australian economy, which is services dominated.

30. In addition to the benefits associated with increased bilateral trade, KAFTA will protect Australia's competitive position in a major market where competitor countries are already enjoying preferential access through their bilateral FTAs with Korea. Modelling results estimate that if Australia did not proceed with KAFTA, exports to Korea would be 5 per cent lower by the time the US and EU's FTAs are fully implemented in 2030.

Impacts on Australian's major merchandise exporters

31. Beef: Korea is Australia's third largest export market for beef, with exports totalling $703 million in 2012-13. Since the detection of bovine spongiform encephalopathy (BSE) in US beef in 2004, Australia has replaced the US as the largest exporter of beef to Korea. In 2012-13, Australia supplied 55 per cent by value of imports, compared to 36 per cent from the US and eight per cent from New Zealand. Prior to 2004, US beef exports to Korea were three to four times greater than Australian exports.

[5] The Centre for International Economics conducted its analysis using global and domestic computable general equilibrium economic models. The focus of this modelling was on the impact on the production and flow of goods between countries arising from changes in tariff rates and quota arrangements. Because of the difficulty in modelling services and investment trade liberalisation, these components were not included in the modelling study's main simulations.

32. Australia's position in the Korean market is under threat from the lifting of BSE restrictions by Korea and the rising tariff preferences provided to US beef exporters under KORUS, which reduces Korea's 40 per cent tariff on US beef exports to zero over 15 years in equal annual reductions. As a result, the US currently enjoys a 8.1 per cent tariff advantage over Australia, and will receive its next annual 2.7 per cent reduction cut on 1 January 2015. Under KAFTA Australia has secured equivalent terms as the US – elimination of the tariff over 15 stages. This means the tariff differential between US and Australian beef to Korea will be capped and eventually eliminated. Independent modelling shows that under KAFTA Australia's beef exports to Korea will double by 2030. Without KAFTA, Australian beef exports would halve as they become increasingly uncompetitive with US suppliers. Throughout KAFTA negotiations, Meat and Livestock Australia, the Cattle Council and the Australian Meat Industry Council emphasised the objective of achieving a KORUS-equivalent outcome. The National Farmers' Federation has warmly welcomed the KAFTA outcome for Australian beef.

33. Other meats: The 22.5 per cent tariff on all Australian sheepmeat exports ($18 million in 2012-13) and goatmeat ($5 million in 2012-13) will be eliminated over 10 years. Despite the Korean pork industry's extreme sensitivity to imports, the 25 to 30 per cent tariff currently applied on Australia's key pork exports will be eliminated over five years.

34. Dairy: Australian dairy exports to Korea were valued at $80 million in 2012-13. The Korean dairy industry is currently heavily protected. On implementation of KAFTA, Australia will receive immediate duty-free quotas for cheese, butter and infant formula, equivalent to the quotas in KOREU. Outside the duty-free quotas, most high tariffs will be eliminated over phase-out periods.

35. In the absence of a FTA, Australia's position in the Korean market would be under increasing threat from the duty free quotas enjoyed by the US and EU and the rising out-of-quota tariff preferences provided to US and EU dairy exporters, as well as by preferences likely to be given to Australia's key competitor New Zealand, which is currently negotiating a FTA with Korea. KAFTA means Australian exports of cheese, butter and infant formula will have the same duty free quota access on entry into force of the agreement as the US and EU and the tariff differential on out-of-quota trade will be capped and eliminated. Independent modelling[6] predicts total Australian dairy products exports to Korea to be 210 per cent higher by 2030 under KAFTA.

36. Sugar: Korea is Australia's largest market for raw sugar, worth $461 million in 2012-13. The Australian sugar industry strongly advocated the immediate elimination of Korea's three per cent tariff on raw sugar to help maintain its leading position in the Korean market, particularly as its main competitor, Thailand, is scheduled to receive duty-free access under the Korea-ASEAN FTA. Korea has agreed to immediately eliminate the tariff on Australian raw sugar on entry into force. Independent modelling predicts Australian sugar exports to Korea to be 27 per cent higher by 2030 under KAFTA. The peak industry group Canegrowers has 'applauded loudly' the outcome and welcomed the improved access for sugar.

37. Cereals: Korea is Australia's third-largest destination for wheat exports, with exports worth $449 million 2012-13. Korea has agreed to eliminate the 1.8 per cent tariff for Australia on the entry into force of the FTA. This outcome has been

[6] Conducted by the Centre for International Economics in late November 2013

welcomed by the Australian wheat industry, which is seeking to protect Australia's market share from the US (Australia's main competitor in the Korean market), which already enjoys duty free access. Independent modelling predicts total Australian wheat exports to Korea to be nine per cent higher by 2030 under KAFTA.

38. Australia supplied two-thirds of Korea's malt imports (valued at $79 million) and 91 per cent of Korea's malting barley imports ($18 million) in 2012-13. On entry into force, Australian exporters will have immediate access to new duty-free quotas, with quota volumes larger than secured by the US and EU. Australian exporters will also obtain concessional tariffs on exports outside these quotas, as Korea's very high out-of-quota tariffs (269 per cent tariff on unroasted malt and 513 per cent tariff on malting barley) will be eliminated over a 15 year phase-out period. Maize exporters will benefit from the elimination of Korea's 313 per cent tariff over a seven-year period. Independent modelling predicts total Australian 'other cereal grains' exports to Korea to be 91 per cent higher by 2030 under KAFTA. Grains industry body Grain Growers said the 'agreement is fantastic news for Australian grain producers'. Grain Growers' economists expect to see increased exports and higher prices for Australian grain producers as a result of KAFTA.

39. Wine: Australia exported $10 million worth of wine to Korea in 2012-13. Korea has agreed to eliminate its 15 per cent tariff on wine immediately on KAFTA's entry into force. Chilean, US and EU wines currently enter Korea duty-free under their respective FTAs. The KAFTA outcome will allow Australian wine to compete on equal terms. Independent modelling suggests beverage and tobacco exports would be 48 per cent higher by 2030 under KAFTA. Wine Federation Australia has strongly welcomed the outcome saying: 'This agreement is critical to enhance the export opportunities for Australian wine and we congratulate the Australian government in bringing these negotiations to a successful conclusion'.

40. Horticulture: Korea is not currently a large market for Australian horticultural exports, accounting for less than 1 per cent ($18 million) of Australia's total horticulture exports in 2012-13. However, the horticulture industry has identified Korea as an important prospective market, particularly if prohibitively high tariffs and quarantine restrictions could be addressed. KAFTA provides improved market access for key Australian products. Independent modelling predicts total Australian vegetables, fruit and nut exports to Korea will be 183 per cent higher by 2030 under KAFTA. Ausveg, the vegetable and potato peak body has said: 'The establishment of a free trade agreement with Korea is a momentous outcome for the Australian horticulture industry and will create new opportunities for Australian growers'.

41. Additionally, key horticultural products, including potatoes, grapes and oranges, will receive seasonal tariff elimination. During certain months (Australian exporting season) these product will enjoy duty-free access, or staged tariff elimination. Potatoes (for chipping), Australia's largest horticulture export to Korea, worth $6 million in 2012-13, are currently subject to very high tariffs of up to 304 per cent and exporters have advised their contracts are in danger from duty-free US potatoes. Under KAFTA, potatoes (for chipping) will immediately enter duty-free. Oranges, with exports worth $2 million in 2012-13, will have the current high tariff of 50 per cent reduced to 30 per cent on entry into force and then eliminated over seven years. For table grapes, the current high tariff of 45 per cent will be reduced to 24 per cent on entry into force, with full elimination over five years. This result is particularly important as Australia has only very recently achieved technical (phytosanitary) market access for table grapes.

42. Other priority products, including almonds, cherries and dried grapes, will enter Korea duty free on entry into force; macadamia nuts, carrots and most fruit juices will have tariffs eliminated over five years; and tomatoes and summer fruit and mangoes will have tariffs eliminated within ten years.

43. Seafood: Korea is a growing market for seafood and is a growing net importer of seafood, with an import market valued at $3.5 billion in 2012-13. While Korea is not currently a large market for Australian seafood, industry consultation has suggested this is because of prohibitively high tariffs. On Australia's largest seafood export to Korea, frozen southern bluefin tuna (worth $0.5 million in 2012-13), the 10 per cent tariff will be eliminated in three annual stages. Other priority products, such as mackerel and lobsters, will also receive quick tariff phase-outs.

44. Minerals and fuels resources: In 2012-13, Australia exported around $13.6 billion worth of minerals and fuels resources products to Korea, our third-largest market for these goods. While many Australian mineral and energy exports to Korea already enter duty free, Korea applies tariffs of up to eight per cent on a range of priority resource products. Korea has agreed to eliminate these tariffs under KAFTA, including crude petroleum (worth $1.5 billion), natural gas ($701 million) and unwrought aluminium ($677 million).

45. Titanium dioxide: Australian titanium dioxide exporters will benefit from immediate elimination of Korea's 6.5 per cent tariff. Korea was traditionally Australia's second-largest market for titanium dioxide but, following the entry into force of KORUS, Australia's exports to Korea fell from $44 million in 2011 to $8 million in 2012-13. KAFTA will assist titanium dioxide exporters regain competitiveness in the Korean market.

46. Pharmaceutical and vitamin products: Pharmaceutical and vitamin supplement exporters will have tariffs of up to eight per cent eliminated within three years. Korea is Australia's second-largest export market for pharmaceuticals, worth $564 million in 2012-13.

47. Automotive parts: Korea is Australia's largest market for gearboxes, with exports of $93 million in 2012-13 and second largest export market for car engines, worth $53 million in 2012-13. Under KAFTA Korea's eight per cent tariff on these products will be eliminated immediately on entry into force of the agreement.

Impact on Domestic Manufacturing

48. The implications of KAFTA on domestic manufacturing will be mixed. Those industries that use parts produced in Korea will enjoy lower input costs as tariffs are eliminated or phased down, while those industries that compete with products produced in Korea will face additional pressure.

49. The elimination of Australia's five per cent tariff on automotive products will increase competitive pressure on the Australian automotive industry in the domestic market. However, the impact of tariff elimination on Australia's competitiveness is lower than other factors facing the Australian manufacturing sector generally, including higher production costs and exchange rate movements. Korean steel producers are already strong competitors in Australia for a share of the cold rolled and coated coil steel products market, which attract a tariff of five per cent. While the Australian steel industry also faces the non-tariff related pressures identified above, elimination of the five per cent tariff may contribute to an increase in Korean steel

imports. The five year phase out of sensitive tariffs to the steel industry will, however, provide the industry time to adapt to tariff elimination.

50. Other manufacturing sectors, such as the plastics, chemicals, textiles, clothing and footwear industries, will also possibly face increased competition from Korean imports following the elimination of Australian tariffs. To mitigate any negative impact, and consistent with suggestions from relevant stakeholders, tariffs on some of Australia's most sensitive products will be phased out over periods of up to eight years.

51. While KAFTA will increase competitive pressure for some Australian manufacturers, the elimination of Korea's tariffs of up to 13 per cent on Australian industrial exports will create opportunities for Australian manufacturers. Current levels of manufacturing exports are relatively small but economic modelling[7] predicts manufacturing exports to be 53 per cent higher after 15 years of KAFTA's entry into force. In particular, as discussed above, there will be improved export opportunities for pharmaceuticals, machinery and equipment, chemical, rubber and plastic products and for automotive parts and accessories (especially gearboxes) and engines.

Rules of origin: implications for exporters

52. KAFTA benefits Australian businesses trading with Korea by removing or reducing regulatory burdens such as import tariffs. Taking advantage of such benefits may require some changes to existing business processes, but such changes are not expected to impose additional costs. While under the Rules of Origin and Origin Procedures Chapter of KAFTA exporters will need to provide a certificate of origin (COO) to claim preferential tariff treatment, this is standard practice for Australian businesses accessing the benefits of existing FTAs. In addition, a substantial number of businesses already obtain third-party-issued non-preferential COOs for each consignment for other purposes as a standard practice, including for obtaining letters of credit or because of a requirement of the importer.

53. With the objective of minimising regulatory requirements, KAFTA allows traders to self-declare origin or to obtain a COO through a third party if that is their preferred approach. The COO arrangement under KAFTA is also expected to reduce the regulatory burden for many businesses because a COO can be valid for multiple consignments over a minimum two year period rather than for a single consignment.

54. COOs will also not be necessary for a large proportion of trade between Korea and Australia. Where Korea's most favoured nation (MFN) rate for a particular product is zero, no claim for preferential treatment need be made and therefore a COO would not be required. Additionally, there is no mandatory requirement for exporters to claim preferential tariff treatment under KAFTA. Exporters that do not consider there to be a net benefit from meeting the rules of origin and obtaining a COO to claim KAFTA's preferential tariff rates can still choose to export under Korea's MFN rates.

55. The Product Specific Rules (PSRs) in KAFTA assist exporters in determining whether their goods meet origin requirements and therefore qualify for preferential tariff treatment. The PSRs are based primarily on change in tariff classification (CTC), a simple means of determining whether goods have undergone substantial transformation in the production process in the partner country, and therefore meet origin requirements for the purposes of preferential tariff treatment. Industry supports

[7] Conducted by the Centre for International Economics in late November 2013

CTC rules because they do not require burdensome cost calculations or extensive records. CTC rules are already used in Australia's FTAs with the US, Thailand, Chile and with New Zealand in the Closer Economic Relations Trade Agreement. The CTC rules in KAFTA are supplemented for certain items by regional value content rules (which require a certain percentage of production to be undertaken in the territory of an FTA Party). Although these require additional records and calculations, they are necessary to take into account instances where a CTC would not reflect substantial transformation.

Impact on Australian service providers[8]

56. Korea maintains restrictions affecting market access in a wide range of commercially relevant sectors for Australian services providers, which constrain opportunities for further growth. These restrictions take a variety of forms, including: restrictions on commercial presence (for example, with respect to legal and accounting firms); cross-border supply (for example, with respect to certain financial services, education, distribution and business services); onerous licensing requirements (for example in several professional services sectors); limitations on foreign equity holdings and majority ownership (for example, in the telecommunications sector); business scope restrictions (for example in legal, accounting and other professional services); and residency requirements.

57. Under KAFTA, Korea will address many of these restrictions and provide Australia with better treatment in trade in services, including financial services, telecommunications services, education services, legal and other professional services than is currently available under Korea's existing WTO commitments. These outcomes will ensure that Australian business interests are not disadvantaged compared with their US and EU competitors, which receive preferential treatment under KORUS and KOREU. Australia will provide Korea with treatment in trade in services which is substantively equivalent to commitments made under Australia's existing FTA with the United States (AUSFTA). KAFTA encourages mutual recognition of professional qualifications. These commitments are made without prejudice to our immigration regime. All immigration related requirements are dealt with exclusively through the Movement of Natural Persons Chapter (see relevant section below).

58. Legal services: Korea's legal services market is, at present, largely closed to foreign firms and Korea's current commitments under the WTO's General Agreement on Trade in Services (GATS) do not cover legal services. KAFTA delivers a KORUS-equivalent outcome that puts Australian lawyers on equal footing with their US and EU counterparts in allowing: (i) Australian law firms to establish representative offices in Korea; (ii) Australian lawyers to provide legal advisory services on home jurisdiction and public international law; and (iii) as staged liberalisation, enter into cooperative agreements and, later, joint ventures with Korean law firms. Stakeholders, including the Law Council of Australia, the International Legal Services Advisory Council and many Australian law firms are highly supportive of improved access to the Korean legal services market through the FTA.

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[8] Current statistical data on services trade between Australia and Korea are not as comprehensive as goods trade data, and is likely to (in some cases significantly) understate actual value and volume of services trade. This is for two reasons: difficulties in measurement, particularly in relation to mode 3 (commercial presence, as defined under the WTO General Agreement on Trade in Services), which is not picked up in current services trade data methodology, and because of confidentiality restrictions impacting on the level of detail of data available.

59. Accounting services: KORUS and KOREU included liberalising outcomes on accounting and tax accounting services allowing: (i) US and EU accountants and accounting firms to supply consulting services related to home jurisdiction or international accounting laws; (ii) US and EU accountants to work in Korean accounting firms; and (iii) as staged liberalisation, US and EU investment in Korean accounting firms. Under KAFTA, Australian accountants will be able to obtain equivalent treatment, ensuring that, once staged liberalisations are complete, they will not be at a comparative disadvantage. Australia's professional accounting bodies have strongly welcomed improved access to the Korean market under the FTA.

60. Education services: Korea has strong defensive interests in education and has made no GATS commitments covering education services. Under KAFTA, Korea will liberalise aspects of the adult education market to Australian services providers, specifically allowing Australian interests to establish certain types of adult education institutions in Korea, and thereby creating new commercial opportunities for Australian education providers.

61. Telecommunications services: Australia exported $2 million in telecommunication, computer and information services to Korea in 2012-13, and Australian telecommunications companies are active in the Korean market. Australia has achieved an equivalent outcome on access to Korea's telecommunications market to that achieved by the United States in KORUS. Korea has undertaken to permit, within two years, Australian companies to control up to 100 per cent of a facilities-based telecommunications service supplier in Korea. Existing Korean law caps foreign control of telecommunications companies at 49 per cent of total voting shares. Korea's commitments also ensure that such companies will have access to licences to provide public telecommunications services. These concessions will provide new commercial opportunities for Australian service providers.

62. The Telecommunications Chapter secures detailed WTO plus commitments on access to and use of telecommunications networks, infrastructure and services in Korea. The chapter also contains improved transparency obligations, including for licensing processes and regulatory decisions, and ensures the availability of dispute resolution procedures and the independence and impartiality of telecommunications regulatory bodies.

63. Financial services: Current ABS statistical data on financial services exports to Korea value these services at $3 million in 2012-13, but this does not include services supplied by Australian financial companies through a commercial presence in Korea. Australian financial services companies are active in the Korean market and there is capacity for further growth in revenues and for expanded commercial presence. KAFTA supports Australian firms by binding current regulatory arrangements, locking in existing access for Australian services providers and ensuring that barriers cannot be put in place which would impede future opportunities. Korea has made commitments in the FTA on transparency of financial sector regulation and the removal of business scope and licensing restrictions. In preliminary briefings, stakeholders were supportive of the outcomes. Australia has similarly made commitments to Korea, binding our existing regulatory arrangements, while retaining adequate protections for interests such as prudential requirements.

64. The Financial Services Chapter contains similar obligations to the Cross-Border Trade in Services Chapter and the Investment Chapter, with additional provisions that reflect the importance of regulation of the financial sector to ensure the integrity and stability of the financial system. The Financial Services Chapter contains

provisions locking in much broader commitments from Korea on Australian cross-border financial services suppliers and for off-shore processing of financial information and data than has been previously available to Australian service suppliers in Korea.

65. Film and television producers: KAFTA will enable Australian film and television producers, in collaboration with Korean partners, to access for the first time Korean government incentives to develop audiovisual content that will count as local content in both countries.

66. This is a significant new opportunity for Australian producers given the size and competency of the Korean audiovisual sector and the extent to which the Korean government promotes local content. It will encourage creative collaborations on screen projects of the quality and scale to compete in the international marketplace and facilitate the wider distribution of screen products to markets.

Impact on Australian investors in Korea

67. Australian total investment in Korea was worth $10.4 billion at the end of 2012. These investments are concentrated in Korea's financial and infrastructure sectors. KAFTA will provide an opportunity to broaden and deepen Australian investment in Korea by improving market access and protections for Australian investors.

68. Korea has agreed to further open its economy to Australian investors through the progressive raising of foreign equity caps in certain sectors and removing restrictions on investment in sectors previously closed to Australian investors, including the telecommunications sector; legal services and accounting and taxation agency services.

69. The key obligations of the Investment Chapter – which operate on a reciprocal basis - include non-discrimination, most favoured nation treatment, performance requirements and obligations on senior management and boards of directors.

70. Under KAFTA, investments of all forms are protected and Australian investors, unless specifically exempted, are to be treated no less favourably that Korean investors in the establishment or acquisition, operation and sale of their investments in Korea. KAFTA also provides enhanced protections for Australian investors in Korea, with measures to ensure transparency, equitable treatment and security for investments. KAFTA protects Australian investors from discriminatory or arbitrary expropriation and nationalisation.

Impact on Korean investors in Australia

71. Korea's total investment in Australia was worth $12.0 billion at the end of 2012. The provisions and protections in the Investment Chapter apply equally to Korean investors in Australia.

72. KAFTA will promote an increase in the flow of Korean investment into Australia and affirm Australia's attractiveness to Korean investors by raising the monetary threshold at which investments from Korea in non-sensitive sectors are considered by the Foreign Investment Review Board from $248 million to $1,078 million, consistent with the threshold provided to the US and New Zealand.

73. The Australian Government has retained the ability to screen for sensitive sectors, including media, telecommunications and defence related industries, at lower levels and has also reserved policy space to introduce its policy on screening

proposals for foreign investment in agricultural land at $15 million and in agribusinesses at $53 million.

Implications of investor-state dispute settlement provisions

74. KAFTA includes an investor-state dispute settlement (ISDS) mechanism, which will promote investor confidence by providing for international arbitration of FTA-based investment disputes. The ISDS provisions do not constrain the Government's ability to regulate or implement policy.

75. To succeed in an ISDS claim, an investor must establish that the host government has breached an investment obligation. A claim could only potentially succeed if none of the relevant carve-outs and safeguards included in the agreement to protect legitimate regulation were found to apply.

76. Substantive carve-outs and safeguards have been included for key public policy concerns including public welfare, health, culture and the environment. Foreign investment screening decisions are also carved-out from the scope of the ISDS mechanism. Procedural safeguards to deter frivolous claims and contain costs are also included.

Movement of natural persons

77. The Movement of Natural Persons Chapter provides for coverage of temporary entry of service suppliers and investors. Australia has made a commitment not to apply labour market testing. The *Migration Act 1958* provides that labour market testing may only be applied if not inconsistent with Australia's international trade obligations. In order to implement Australia's undertaking not to impose labour market testing on Korean nationals, a determination needs to be made by the Immigration Minister under regulatory arrangements. As this chapter locks in existing arrangements, no significant change is expected in the number of skilled workers entering Australia.

Government procurement

78. Under the Government Procurement Chapter, Australian and Korean government procuring entities (at both the central and sub-central/State and Territory level) are obliged, subject to exceptions, to afford the suppliers, goods and services of the other country the same treatment that applies to domestic suppliers, goods and services. This will provide greater certainty and market access opportunities for Australian companies in Korea's government procurement market, broadly equivalent to those Korea provides other countries in its bilateral agreements.

79. Australia's commitments go no further than existing free trade agreement commitments. The chapter also sets out rules and procedures which are consistent with existing Australian government procurement frameworks, requiring no domestic change.

Intellectual property

80. KAFTA reinforces Australia and Korea's existing rights and obligations on intellectual property (IP) under the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). The IP Chapter in KAFTA builds on TRIPS with provisions for the protection and enforcement of IP equivalent to that provided under AUSFTA.

81. The chapter contains a number of specific obligations on the protection of IP rights, including patents, trademarks and copyright. In relation to the digital

environment, it contains measures to protect copyright rights management information, effective technological protection measures, and limitations on service provider liability. It also sets out obligations for government use of legitimate software, and for the protection of encrypted programme carrying satellite signals.

82. The provisions on the enforcement of intellectual property provide for presumptions to facilitate proceedings as well as clarifying civil and administrative procedures and remedies to ensure judicial authorities have appropriate authority to deal expeditiously with infringement cases. The chapter also includes special requirements related to border measures which ensure that Customs, or the relevant competent authority, is able to deal appropriately with suspected infringing goods and also ensure that the interests of the importer are protected.

Competition policy

83. KAFTA includes commitments to ensure that trade and investment liberalisation achieved across the FTA is not undermined by anti-competitive practices. Australia and Korea have committed to:

- address anti-competitive practices, including cartel behaviour, abuse of dominant position and anticompetitive mergers, by maintaining and enforcing competition laws in their respective jurisdictions;
- ensure that competition laws are applied to all businesses and to only allow the exemption of a business from the application of the competition laws where that exemption is transparent and made in the public interest; and
- ensure that the enforcement of their respective competition laws shall be consistent with the principles of transparency, timeliness, non-discrimination, comprehensiveness and procedural fairness.

84. The Competition Policy Chapter also provides a framework for competition authorities in Korea and Australia to cooperate and coordinate their enforcement practices.

Electronic commerce

85. The Electronic Commerce Chapter in KAFTA will contribute to a secure and liberalised environment for the growth of electronic commerce between Australia and Korea. This will aid Australian business in harnessing the efficiencies of electronic commerce, while ensuring the protection of online consumers.

Labour and the environment

86. Some stakeholder submissions expressed concern that KAFTA should not undermine human rights, labour rights and environmental protection or erode the Government's ability to regulate in the public interest in these areas.

87. The right of both Australia and Korea to determine and enforce domestic labour and environmental protection and priorities is not undermined by KAFTA. The agreement is consistent with existing international commitments and does not prevent Australia from meeting any of its international labour or environmental obligations. An ad-hoc committee can be established in the event of concerns about implementation of the Labour and Environment chapters. These chapters are not subject to dispute settlement or ISDS.

Impacts on small business

88. The overall impact of KAFTA on Australian small business is likely to be positive. Australian small businesses will benefit from cheaper inputs and consumers also will benefit from the increased choice of goods and services that flow from a reduction in trade and investment barriers.

Australian consumers

89. The impact of KAFTA on Australian consumers is likely to be positive, providing greater availability of Korean products at more competitive prices. Independent modelling indicates the cumulative value of real consumption per household would increase by over $1,000 to 2030 as a result of KAFTA.

Impact on government revenue

90. The removal of tariffs on merchandise imports will lead to reductions in tariff revenue, and thereby affect the government's fiscal position. It has been estimated that tariff revenue would decline by an additional cumulative amount of $635.9 million over the forward estimates. This figure does not include the unmodelled, second-round effects on government revenue from increased economic activity, which are expected to be positive.

State and Territory Governments

91. During negotiations, State and Territory Governments raised issues of interest to industries residing in their respective states, their regulatory responsibilities and the administrative implications of KAFTA. There are no additional impacts on State and Territory Governments beyond those discussed in other sections of this impact statement.

Australian trade regulations

92. KAFTA maintains the integrity of our system of trade remedies and is consistent with our WTO rights and obligations.

93. The Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS) Chapter reaffirms Australia and Korea's commitment to relevant WTO agreements and improve consultation arrangements. KAFTA does not change Australia's system in this area.

Dispute Settlement

94. KAFTA includes a binding State-to-State dispute settlement mechanism modelled on previous free trade agreements and the WTO system. Most of Australia's substantive obligations in KAFTA will be subject to this mechanism, except those found in the chapters concerning technical barriers to trade, sanitary and phytosanitary measures, competition policy, labour and the environment and some aspects of movement of natural persons.

TRADE IMPACT ASSESSMENT

95. KAFTA will support an already significant, complementary and growing economic relationship with Korea and would contribute to boosting bilateral trade and investment links. Australian and Korean two-way goods and services trade reached $30.5 billion in 2012-13. Total Australian investment in Korea in 2012 was valued at $10.4 billion, while Korean investment in Australia was valued at $12.0 billion.

96. Independent economic modelling[9] predicts that after 15 years of KAFTA’s operation, Australian exports to Korea would be 25 per cent higher than they otherwise would have been as tariffs and other barriers on Australian exports to Korea are removed. Exports of agricultural goods to Korea would be 73 per cent higher than otherwise, contributing to a total five per cent increase in Australia’s total agricultural exports to all markets. Mining exports to Korea would be 17 per cent higher and manufacturing exports would be 53 per cent higher.

97. Agricultural products that would see the largest increases in exports to Korea by 2030 include bovine meat products (100 per cent increase); horticulture (183 per cent); and dairy products (210 per cent). Other products in mining and manufacturing would also increase: oil (114 per cent); gas (155 per cent); other metals (40 per cent); chemical, rubber and plastic (52 per cent); and motor vehicles and parts (52 per cent).

98. In addition to the benefits associated with increased bilateral trade, KAFTA will protect Australia’s competitive position in a major market where competitor countries are already enjoying preferential access through their bilateral FTAs with Korea. Results of independent modelling show that if Australia did not proceed with KAFTA, its exports would be five per cent lower by the time the US and EU’s FTAs are fully implemented in 2030. Agriculture would be particularly disadvantaged: Korean imports of Australian agricultural goods would decline by 29 per cent by 2030. Mining and manufacturing exports would decline by one and seven per cent respectively.

99. KAFTA will also create new services export opportunities to Korea through the removal of Korean barriers in services sectors of commercial interest to Australian services providers including in financial services, legal services, accounting services, telecommunications services, education services and other professional services.

100. Under KAFTA, Korean exports to Australia are also expected to increase, particularly in Korea´s major export areas including passenger motor vehicles and consumer goods.

101. KAFTA is consistent with Australia’s trade policy objectives as it is a comprehensive, high-quality trade agreement that complements multilateral and regional trade liberalisation. KAFTA is consistent with Australia’s existing international commitments, including those under the WTO Agreement.

CONSULTATION

Business, industry and civil society

102. Stakeholder views were actively encouraged and considered throughout negotiations on KAFTA, including through an initial call for public submissions in December 2008 to seek views on the expected economic, regional, social, cultural, regulatory and environmental impacts of a free trade agreement with Korea. This was sent by email to over 600 addressees, by letter to over 50 key stakeholders, as well as advertised in the media and on DFAT’s website. As part of this process DFAT received more than 60 submissions, predominantly from individual companies and peak industry groups. A diverse range of sectors participated in consultations, including agriculture, education, manufacturing, telecommunications, mining and energy, and financial institutions.

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[9] Conducted by the Centre for International Economics in late November 2013

103. Most submissions supported an FTA with Korea. A common concern raised was that Korea's FTAs with competitors (ASEAN, Chile, US, EU) risked reducing the competitiveness of certain Australian food and agricultural products in the Korean market. Other industries identified sensitivity toward Australian imports of Korean goods, most particularly in the manufacturing sector.

104. Australian agricultural industry bodies (including the National Farmers' Federation, Meat and Livestock Australia, the Horticultural Market Access Committee, the Australian Dairy Industry Council, and the Australian Wine and Brandy Association) and individual producers strongly pushed for a comprehensive agriculture outcome so as to allow Australian agricultural exporters to remain on competitive terms with Chile (for horticulture and wine), ASEAN countries (for sugar), the EU (for dairy and wine) and with the US (for beef, sheep and goat meat, dairy, barley, molasses and other sugar, and some root crops, such as potatoes).

105. Stakeholder views on a FTA with Korea were mixed within Australia's automotive industry. Some members of the industry expressed concern that KAFTA would impose additional pressure on local automotive manufacturing. Some stakeholders called for a FTA to improve reciprocal access for Australian automotive products into Korea if Australia were to remove its tariffs on Korean imports. Pointing to the potential for greater collaboration through the automotive components trade between Australia and Korea, other stakeholders expressed support for a FTA.

106. Automotive parts companies were mainly concerned that the FTA not undermine the ongoing viability of the Australian passenger vehicle industry. KAFTA largely meets these concerns by providing for a phase-out of Australia's tariffs for motor vehicles and automotive parts over three to five years, while securing immediate entry into force elimination of Korea's eight per cent tariffs on motor vehicles and automotive parts.

107. Among other manufacturing industries, stakeholders noted a range of competitive pressures, including the strong Australian dollar and high domestic cost structures, had led to reduced activity and volumes in Australian manufacturing. Removal of Australia's remaining five per cent tariff on most manufactured imports would increase that pressure. Stakeholders called for a gradual phasing out of the tariff, rather than an immediate elimination on entry into force, in order to avoid significant short-term disruption to the domestic manufacturing sector.

108. Stakeholders in the textiles, clothing and footwear sector were concerned to receive reciprocal treatment in any FTA with Korea. The carpets industry sought similar treatment to that under the ASEAN-Australia-New Zealand FTA, where Australian tariffs on carpets would not be eliminated until 2020. KAFTA addresses these concerns by providing phase-out of tariffs on most carpet lines, with the five per cent tariff to be removed in five equal annual instalments beginning in year four of the agreement (i.e. duty free from year eight). Korea will eliminate its 10 per cent tariff on carpets on entry into force. The plastics and footwear industries were concerned that Australia not eliminate its tariffs without reciprocity from the Korean side, and these concerns have been addressed. Australia's tariffs on sensitive footwear and plastics lines will be phased out over five years for sensitive footwear and from three to five years for sensitive plastic lines. Korea will eliminate tariffs on all footwear lines (with the exception of a single line) on entry into force, while tariffs on the majority of plastic lines will be eliminated on entry into force, with a limited number phased-out over three to five years.

109. The Ricegrowers Association of Australia expressed disappointment that rice was excluded from KAFTA with South Korea being an important market for the Australian rice industry. While Australia negotiated on every product, some products were too sensitive for Korea to include in KAFTA. Rice is a highly sensitive product for South Korea and its inclusion in KAFTA proved too difficult, particularly since rice is excluded from all Korea's FTAs, including with the United States and European Union. Accordingly, although rice does not benefit from greater market access under KAFTA, rice growers of Australia will not be disadvantaged vis-à-vis its other foreign competitors in the Korean market.

110. Other products excluded from KAFTA include abalone, Korean citrus, ginger, apples, pears, walnuts, onions, capsicums, capsicum, garlic, chestnuts and certain wood products. However, Korea is not a significant market for Australia's exports of these products.

111. Submissions were received from a range of services industry bodies, including the Australian Bankers' Association, International Legal Services Advisory Council, Investment and Financial Services Association, TAFE Directors Australia and Universities Australia. Respondents signalled strong interest in removing barriers to Australian services in the Korean market, including restrictions on commercial presence and licensing requirements. Cooperation on professional services could also be improved. Some submissions warned that an FTA should not undermine the ability of the Australian Government to regulate on public health and welfare issues.

112. In addition to receiving written submissions, DFAT undertook consultations in Seoul, Canberra and State and Territory capitals with both industry and civil society. DFAT held six-monthly stakeholders meetings involving peak associations; conducted sectoral roundtables; regularly briefed the Australia-Korea Business Council; and provided input for community cabinet meetings. Public forums, open to individuals and groups, were held in capital cities, with invitations sent to key stakeholders. DFAT held a large number of meetings and discussions with affected organisations and companies, and provided regular updates on negotiations on its website.

States and Territories

113. State and Territory governments were consulted through regular Senior State and Territory Trade Officials Group (STOG) and Commonwealth-State-Territory Standing Committee on Treaties (SCOT) meetings. State and Territory departments were contacted and invited to make public submissions at the outset of negotiations. In September 2009 the then Trade Minister wrote to State and Territory leaders seeking endorsement of Australia's initial services and investment offer, reflecting the responsibilities State and Territory Governments have for regulation of services and investment activities, prior to exchanging offers with Korea. State and Territory Governments subsequently advised that they supported the initial offer subject to continuing consultations on KAFTA.

114. State and Territory Governments and Ministers were also consulted via correspondence, Officials' Groups meetings (including the Standing Committee on Treaties) and teleconferences. Federal Government agencies and Ministers have been consulted via bilateral meetings, correspondence and inter-departmental committee meetings. Stakeholders were updated via bulletins following each round of negotiations.

Commonwealth Government agencies

115. Commonwealth Government departments were consulted extensively throughout the negotiations and representatives from relevant departments attended negotiations in Australia and Korea.

CONCLUSION

116. It is in Australia's interests to enter into an FTA with Korea, given KAFTA is expected to:

- deliver commercially meaningful market access gains that will benefit Australian agriculture, resources, energy and manufacturing exporters, service providers, consumers and investors;
- secure Australian exporters' competitive position in Korea against other countries' suppliers that are enjoying preferential treatment under Korea's existing bilateral FTAs and against competitors from countries that are currently negotiating their own FTAs with Korea;
- deliver faster and deeper market access gains than are possible through multilateral WTO or any regional negotiations;
- be consistent with WTO requirements for free trade agreements;
- complement Australia's efforts to seek additional trade liberalisation from Korea through the WTO and regional mechanisms; and
- only impose adjustment costs that would be outweighed by the overall economic gains to the Australian economy.

It should be noted that:

- the removal of tariffs on merchandise imports will lead to reductions in tariff revenue, and thereby affect the government's fiscal position, although this would be offset over time by the second-round effects of increased economic activity;
- KAFTA will eliminate Australia's remaining low-level (five per cent) tariff protection for Australia's automotive and other consumer products industries against Korean competition, resulting in lower costs to Australian consumers; and
- Korea will maintain protection on a small number of sensitive sectors including rice, walnuts, milk powders, honey, abalone and certain wood products. However, these represent about 0.2 per cent of Australian exports to Korea and we will not be disadvantaged vis-à-vis our competitors in relation to these products.

IMPLEMENTATION AND REVIEW

117. Following the conclusion of negotiations in December 2013, the text of KAFTA will be translated and undergo legal verification before it is signed. Both

English and Korean versions will be official versions of the agreement. Following Cabinet and Executive Council approval, the finalised FTA text will be signed by representatives of the Australian and Korean governments. Upon signature, the full text of the agreement will be made publicly available.[10] Following signature, the text will be tabled in Parliament and examined by the Joint Standing Committee on Treaties.

118. Implementation of KAFTA will require changes to: the *Customs Act 1901;* the *Customs Tariff Act 1995* and associated regulations; the *Copyright Act 1968*; the *Foreign Acquisitions and Takeovers Regulations 1989*; and the *Life Insurance Regulations 1995*.

119. Once domestic processes are completed, including amendments to relevant legislation and regulatory changes, Australia and Korea will exchange diplomatic notes advising that the ratification process has been completed by both Parties. Both Parties are aiming for entry into force before the end of 2014.

120. The provisions of the FTA do not set out dates for the review or expiry of the FTA. However, the FTA provides mechanisms for unilateral termination by either party and review through the joint FTA institutional provisions.

[10] Consistent with past practice, Korea wishes to initial the agreement prior to signature and may release publicly the FTA text at that time. At time of writing, Australian officials were consulting with Korean counterparts on when the text would be made available publicly.

ATTACHMENT: REGULATORY BURDEN AND COST OFFSET ESTIMATE

1. The entry into force of KAFTA is expected to result in a small reduction in ongoing business compliance costs for Australian exporters to Korea. The reduction arises from the possibility that some businesses that previously sought and obtained non-preferential certificates of origin (COOs) may now be able to self-certify the origin of their goods.

2. There is a significant level of uncertainty regarding the number and composition of COOs issued in respect of Australian exports into Korea. Accordingly, the estimates of the compliance costs under the status quo – as well as the likely incremental changes – are largely assumption driven and should be interpreted as such. However, based on the available data, it is possible to gain an appreciation of the order of magnitude of these changes.

Certificates of Origin

3. COOs are issued by industry groups such as the Australian Chamber of Commerce and Industry and the Australian Industry Group.

4. Preferential certificates account for around 10 per cent of all certificates issued. Preferential certificates are generally issued in respect of countries with whom Australia has an FTA, but which do not allow for self-declaration.

5. Korea is Australia's third largest export destination, with the share of Australian exports going to Korea rising to eight per cent in 2012-13.

7. However, under the status-quo, it is expected that demand for Australian exports would be relatively less relative to Korea's other trading partners, and that figure could be expected to decline over time.

Direct Costs

8. Where businesses seek third-party certification from industry groups, the cost of each certificate varies from between $20-70 at an average of $33.

9. The cost of a certificate depends on the level of complexity – relatively simple or 'wholly obtained' goods (such as primary products, agricultural exports or resources) attract lower fees than complex or composite manufactured goods (which may require more complex cost of manufacture calculations).

10. It is estimated that around 70 per cent of Australian goods exported to Korea are 'wholly obtained' goods. A representative cost for the certification of Australian exports to Korea in general would therefore be towards the lower end of the $20-70 range.

Administrative costs

11. The ongoing administrative costs incurred by a business in preparing the documentation to obtain a COO are likely to be relatively low. As noted above, the bulk of Australian exports to Korea are 'wholly obtained' goods. Further, while new businesses may expend considerable time applying for certification for their initial consignment, as a matter of practice this information is re-submitted for subsequent certifications. In addition, much of the information required would be collected for other purposes. The administrative time burden for each application is therefore estimated to be modest.

12. Similarly, the records related to certificate of origin are required to be kept for five years for most foreign customs agencies. However, businesses are required under Australian Tax Law to retain these records for seven years. The incremental compliance burden associated with record keeping for COOs is therefore assessed as nil.

Incremental reduction in number of certificates under KAFTA

13. COOs are required for Australian exports to Korea for a range of purposes in addition to tariff compliance. For example, overseas customs agencies may require COOs for the purpose of calculating import quotas. Alternatively, foreign banks may require COOs in order to provide letters of credit.

14. Therefore, it is possible that of the total number of Australian COOs currently issued in respect of Korea, some of these will no longer be required as a result of the KAFTA. However, each business will have to consider for themselves, as a commercial decision, whether the benefits of obtaining a COO is outweighed by the costs (administrative and otherwise).

15. It is therefore assumed that there will be a modest reduction in the number of COOs issued in respect of Australian exports to Korea as a result of the KAFTA. To the extent that this reduction occurs, those businesses will save the direct costs of certification by industry bodies; together with the administrative costs.

Regulatory Burden and Cost Offset (RBCO) Estimate Table

Average Annual Compliance Costs (from business as usual)				
Costs ($m)	**Business**	**Community Organisations**	**Individuals**	**Total Cost**
Total by Sector	($96 318.20)	$	$	($96 318.20)
Cost offset ($m)	**Business**	**Community Organisations**	**Individuals**	**Total by Source**
Agency	$	$	$	$
Within portfolio	$	$	$	$
Outside portfolio	$	$	$	$
Total by Sector	$	$	$	$
Proposal is cost neutral?	☑ **yes** ☐ **no**			
Proposal is deregulatory	☑ **yes** ☐ **no**			
Balance of cost offsets	**$96,318.20**			