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CHAFTA: The Rough Guide for Importers and Brokers

CHAFTA was signed on 17 June 2015 and the text of the agreement has been made public. However, it is unknown at this time as to when this key FTA will commence. It is necessary for CHAFTA to pass domestic ratification procedures in Australia and China and we estimate it to commence operating in late 2015.

CHAFTA is a lengthy legal document comprising of 17 chapters and multiple annexes. It will impact on Australian trading and trade-exposed businesses in a number of ways. Below is a snapshot of some key issues that are likely to affect importers and brokers.

Tariff Rates

Tariffs on most goods of Chinese origin imported into Australia after the commencement of the Agreement will be duty free. However, tariffs on some categories of goods imported from China will be gradually phased out, generally over a 3 or 5 year period. For example, certain fabrics, footwear, nut products and car parts will be phased out over 3 years and certain garments, iron, steel and glass products are to be phased out over 5 years. You will need to check individual tariff classifications which are in a 500 page schedule to the agreement.

Anti-Dumping and Countervailing Duties

The ability of Australian producers to complain to the Anti-Dumping Commission to have anti-dumping and/or countervailing duties imposed on foreign exports is retained under Articles 7.9 and 7.10 of CHAFTA and the procedures are predominantly unchanged.

It is noteworthy that in relation to countervailing complaints (dealing with unlawful subsidies) that there are several provisions dealing with the requirement for government to government consultations. This is likely to have been requested by China.

There is also a bilateral safeguard regime which deals with instances where a domestic industry has been injured by a sudden increase in the level of imports.

The continuing irony with the retaining of various trade remedy measures is that whilst tariffs are reduced to zero, there is a likelihood that Australia and/or China will, by default, reintroduce a higher tariff wall particularly in industries that are politically sensitive or strategic.

Certificates of Origin

Under CHAFTA, Australian importers will need to obtain a Certificate of Origin is a standard form issued by an authorised body in China in order to import goods at concessional or duty free rates. Each government will have to provide a list of authorised bodies for the benefit of traders.

The only alternative to obtaining a Certificate of Origin is that an importer may rely upon what is termed a Declaration of Origin. This may be completed and signed by the exporter or producer only in the case of imports into Australia where an advance ruling has been issued by Australian Customs. There is a stipulation that Customs authorities must provide such rulings expeditiously within 60 days of receiving all necessary information and for such rulings to be made publically available to other traders. Further, rulings shall be valid for a minimum period of 3 years. Obtaining an advance ruling may well be more attractive to importers than obtaining a Certificate of Origin through an authorised body for each shipment.

The rules of origin themselves are quite similar to other FTAs Australia has entered into. If goods are not wholly obtained or entirely made in the export country from locally produced materials, in most cases they will have to have undergone a change in tariff classification during the production process. If there is no change in tariff classification, at least 90 percent local content is required. There are also special rules for certain products and transportation consignment rules to retain origin status.

I trust this rough guide has been of some assistance. Do not hesitate to contact me should you have any queries arising from the matters discussed in this update.

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