

Comprehensive and Progressive Agreement for Trans-Pacific Partnership Post-Implementation Review

Submission

August 2023

Introduction

The Australian Dairy Industry Council (ADIC) and Dairy Australia welcome the opportunity to present this submission to the Department of Foreign Affairs and Trade (DFAT) regarding the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Post-Implementation Review (PIR).

The CPTPP was welcomed by ADIC when it was signed by the 11 original signatories in March 2018. Importantly it has delivered broader market access gains into new markets, notably Canada, while also building on existing agreements with important dairy export markets such as Japan. ADIC is a strong advocate of free and open trade and supports the Government to continue to leverage the CPTPP and other existing agreements to deliver enhanced market access for Australian dairy, as well as pursuing new high-quality trade agreements.

The dairy industry is the third largest rural industry in Australia and is a key sector of the agricultural economy. Dairy generated \$4.9 billion in farmgate value in the 2021-22 financial year with the sectors exports totalling \$3.8 billion for the same period. Australia is a significant exporter of dairy products. It ranks fourth in terms of world dairy trade, with a five per cent market share behind New Zealand, the European Union and the United States.

ADIC is the peak national representative body of the Australian dairy industry, representing the interests of dairy farmers and processors through its two constituent bodies, Australian Dairy Farmers (ADF) and the Australian Dairy Products Federation (ADPF). It aims to create a more prosperous and sustainable future for the local industry and the regional communities that rely on it.

Dairy Australia is the national services body for dairy farmers and the industry. Its role is to help farmers adapt to a changing operating environment, and achieve a profitable, sustainable dairy industry. As the industry's Research and Development Corporation, it is the 'investment arm' of the industry, investing in projects that cannot be done efficiently by individual farmers or companies.

Background

When it entered into force the CPTPP delivered for Australian dairy improved market access arrangements into Japan, Australia's largest cheese export market. At this time Australia already had a trade agreement in place with Japan, the Japan Australia Economic Partnership Agreement (JAEPA). Significantly the market access gains provided by CPTPP delivered improvements in some areas that were excluded under JAEPA and additionally the CPTPP provided new access into other markets including Mexico and Canada.

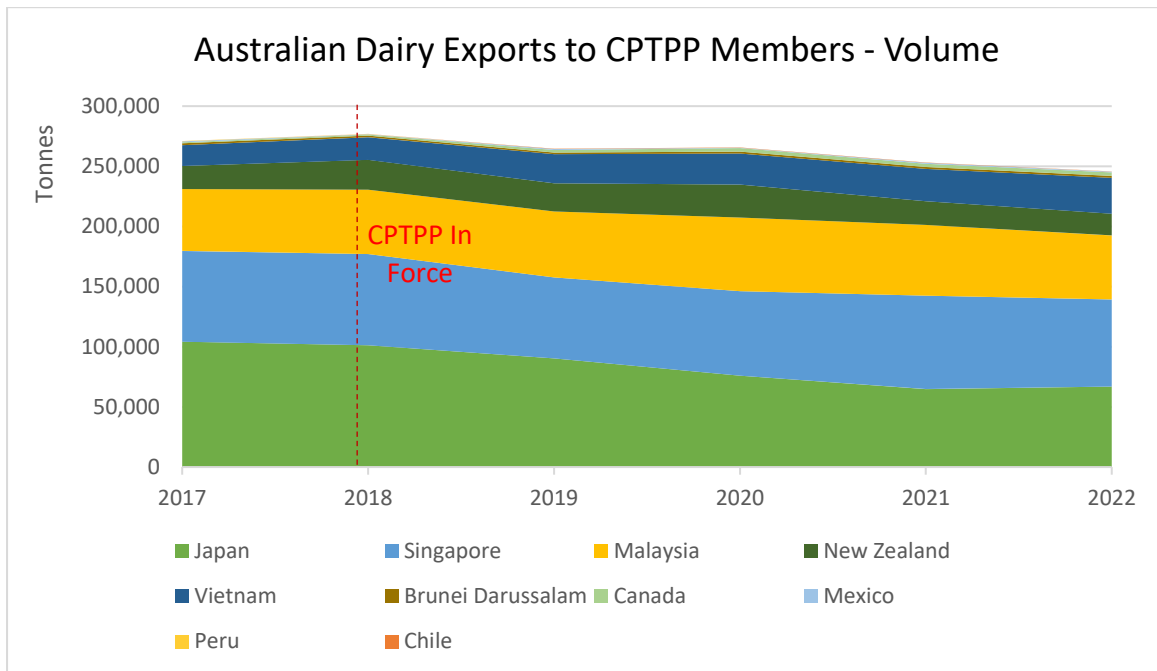
Key CPTPP market access outcomes for Australian dairy and exporters included:

- Market access improvements in Japan building on JAEPA outcomes:
 - Elimination of tariffs on certain cheese products, and tariff reductions and new quota allocations for some cheese products (i.e., material for shredded cheese).
 - Quotas for butter and skim milk powder with the in-quota mark-up eliminated within 10 years of entry into force of the CPTPP.
 - Quotas and tariff reductions for a range of dairy products including ice cream, whole milk powder, condensed milk, yoghurt and infant formula.
- Preferential access into the highly protected Canadian market with quotas for dairy products including, cheese, milk powders and butter. Tariffs on milk protein concentrates were eliminated on entry into force.

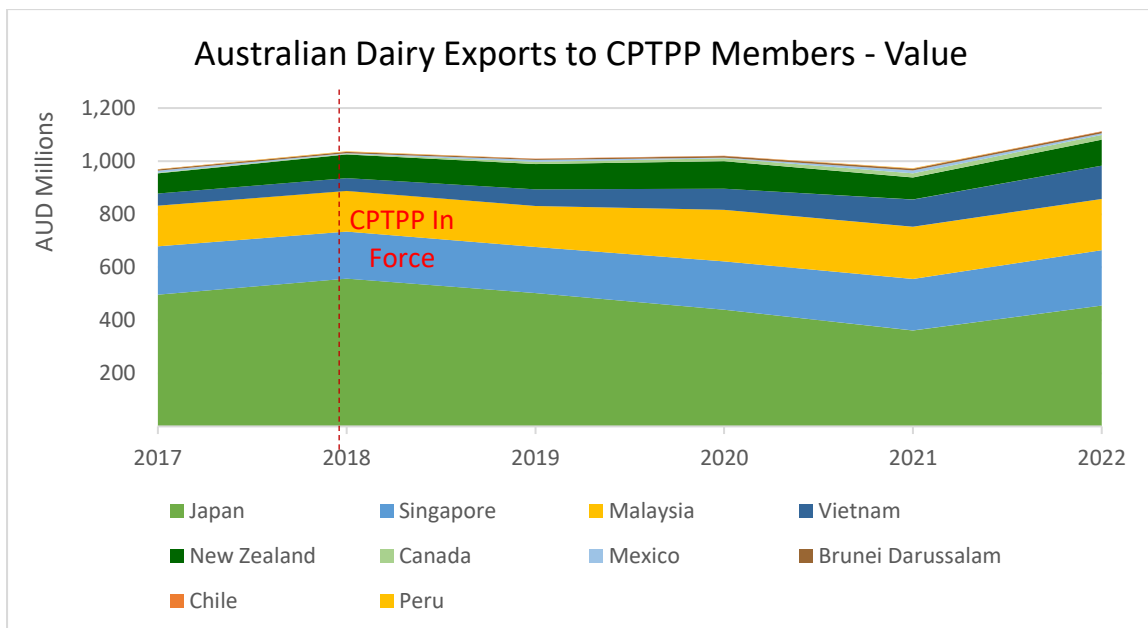
- Quotas access into Mexico, including for butter, cheese and milk powders, and elimination of tariffs on yoghurt.

Impact Analysis

In general, Australia's exports of dairy products to CPTPP member countries have not notably increased since the CPTPP entered into force, as highlighted by the charts below. However, there are two exceptions – Vietnam and Canada.



Source: ABS Data purchased via third party, Dairy Australia



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Australia's exports of dairy to Vietnam have grown significantly since 2018 with volumes up 60 per cent and values up 164 per cent. However, the impact of the CPTPP on this trend is negligible as Australia already had existing enhanced market access through the ASEAN, Australia and New Zealand Free Trade Agreement (AANZFTA).

In contrast, growth in dairy exports to Canada can be greatly attributed to the CPTPP providing improved access into the highly protected Canadian dairy market. Since 2018, Australia's dairy exports to Canada have grown 202 per cent by volume and a considerable 745 per cent by value (although it should be noted this growth came off a very low base). This growth has been driven by significant increases in the exports of Cheese (cheddar, fresh and semi-hard grated cheese) and whey powder, two commodities that benefitted from Canada introducing Tariff Rate Quotas (TRQs) as part of CPTPP.

The growth in exports to Canada has been a strong tangible benefit of CPTPP for the Australian dairy industry, however it must be highlighted that CPTPP hasn't had the same level of positive impact on the industry as other FTAs, notably the China-Australia Free Trade Agreement and AANZFTA. In summary the benefits of the CPTPP have been constrained by two key factors:

1. Australia's competitive position in the Japanese market has been eroded by the CPTPP providing New Zealand with improved access and significantly the United States and European Union securing FTAs with Japan that are equal to or superior to Australia market access arrangements.
2. Other CPTPP members which are key markets for Australian dairy – Singapore, Malaysia New Zealand and Vietnam – all saw significant market access improvements through prior FTAs and therefore there was little scope for CPTPP to make further gains.

CPTPP and JAEPA

Of the 11 other CPTPP signatories, Japan is the most important market for the Australian dairy industry. Japan has been one of Australian Dairy's premier export destinations for decades and was the number one destination by dairy export value up until 2016, when it was overtaken by China.

The JAEPA was the first FTA Japan signed with a major global dairy exporter. Coming into force in 2015, JAEPA provided a market access advantage across a variety of products, particularly cheese, for Australian dairy exporters against competition from New Zealand, the European Union and United States. However, the competitive advantage of JAEPA has been short lived with CPTPP, the Japan-EU Economic Partnership Agreement and the United States and Japan Trade Agreement equalling and, in some respects surpassing the market access provided under JAEPA and CPTPP.

In addition to providing New Zealand with improved access into the Japanese market, the CPTPP has also impacted the value of Australia's existing agreement with Japan, JAEPA, by establishing what Japan views as a 'superior agreement' that has superseded JAEPA. This is problematic for the Australian dairy industry, as Australian product no longer has a competitive edge and has lost significant market share in Japan over the last several years. Furthermore, the Australian dairy industry had hoped that the two review clauses within JAEPA would be utilised to potentially deliver further improved market access into Japan – a review at year-five and a general review year-six. Unfortunately, neither of these has occurred. The relevant clauses are:

- Article 2.20 - Reviews of Market Access and Protection of Competitiveness
 - This article outlines that in year five (April 2018 – April 2019) of JAEPA, the parties shall conduct a review with a view to improving market access conditions through,

for example, such measures as faster reduction and/or elimination of custom duties, streamlining tendering processes and increasing quota quantities, as well as addressing issues related to levies.

- Article 20.5 - General Review
 - This article outlines that the parties shall undertake a general review of the implementation and operation of JAEPA in its sixth year (April 2019 – April 2020).

Japan appears reluctant to engage in these reviews citing that with the CPTPP now implemented, JAEPA is not a priority. Clearly these reviews are a priority for ADIC.

CPTPP Expansion

While ADIC is generally supportive of expanding the membership of CPTPP, the recent process of the United Kingdom joining the agreement has highlighted two key issues that need to be addressed by Government to ensure it doesn't impact Australia's negotiating position in future CPTPP accessions:

1. CPTPP accession must involve improving market access

The United Kingdom accession process has set a concerning precedent as Australia did not seek further market access from the United Kingdom as a condition of joining the CPTPP. The reason for this was apparently due to Australia and the United Kingdom recently concluding their bilateral FTA and both parties were relatively satisfied with the level of ambition and outcomes secured within that agreement. It is apparent that non-economic drivers, particularly geo-political considerations may have influenced this approach.

However, by not seeking further market access gains from the UK, Australia has signalled to future potential CPTPP members that if there is an existing bilateral FTA, they may not be expected to provide improved market access as condition of joining the agreement.

This is a concerning development for the Australian dairy industry, as South Korea has signalled a strong intent to join CPTPP, and Australia is currently at a considerable competitive disadvantage in the South Korean market. While the Korea-Australia Free Trade Agreement (KAFTA), did provide market access improvements for dairy when it entered into force, it is an inferior agreement compared to the deals secured by the European Union, United States and New Zealand, particularly in terms of the speed of tariff reduction and TRQ volumes. South Korea potentially joining the CPTPP could provide an opportunity to help mitigate Australian dairy's competitive disadvantage in South Korea and thereby the process by which the United Kingdom acceded has potentially undermined Australia's negotiating position.

2. Dilution of market access with preexisting CPTPP members

Under the CPTPP, Japan, Canada and Malaysia have treaty wide TRQs, which are by their nature available to all CPTPP members, across a range of dairy products. With the United Kingdom now joining the CPTPP, these TRQs have now been opened up to suppliers from the United Kingdom. This has effectively resulted in a dilution of market access for dairy products into Japan, Canada and Malaysia for existing CPTPP members and their exporters, notably Australian dairy processors and dairy product manufacturers.

ADIC understands that this issue was raised during the United Kingdom accession negotiations but unfortunately no expansion or adjustment to the TRQs was made by Japan, Canada and Malaysia to

accommodate the UK while preserving the market access provided to Australia and other existing CPTPP members.

ADIC urges Government to consider how this situation can be addressed in future CPTPP accession processes to ensure a similar circumstance is not repeated, and as a condition of accession, existing market access is improved upon, and Australia's competitive position is maintained or enhanced, not diminished .

Conclusion

The Australian dairy industry has long supported free and fair trade. Dairy, as a major agricultural exporter, benefits from improved market access arrangements with key export markets and in this context the CPTPP is seen as a welcome component of Australia's broader trade liberalisation agenda. However, when analysed in terms of outcomes secured and the relative position that the Australian dairy industry is now in versus other major dairy suppliers, CPTPP has not delivered significant gains particularly when compared to other FTAs such as ChAFTA and AANZFTA.

The possibility of joining the CPTPP, considering its substantial membership base and level of ambition is an attractive proposition for many countries, including South Korea, Taiwan and the Philippines. To extract the further value of the CPTPP for the Australian dairy industry, the Australian Government must ensure that prospective CPTPP members understand that Australia has an expectation of improving upon the market access commitments within existing trade arrangements (FTA or WTO) as a condition of CPTPP accession.

ADIC and Dairy Australia would be happy to provide additional background or technical detail on matters relating to the issues highlighted by this submission.

Yours sincerely,



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