

## **Victorian Government Submission to the Australia-Japan Free Trade Agreement Negotiations**

### **1 Introduction**

The Victorian Government welcomes the opportunity to provide input to the Department of Foreign Affairs and Trade (DFAT) on issues relevant to the negotiation of a Free Trade Agreement (FTA) between Australia and Japan. The Victorian Government is supportive of FTAs that will provide a net benefit to Victorian industry and will ensure increased market access for Victorian goods and services exports.

In October 2005, the Victorian Government made a submission to DFAT's Australia-Japan FTA Feasibility Study. The submission highlighted issues that were considered important to be addressed in the Feasibility Study, including:

- Tariff and non-tariff barriers and quota restrictions facing all industries exporting to Japan, in particular the dairy, meat and horticulture industries;
- Consideration of key Victorian industries;
- Quarantine regulations and customs procedures;
- Rules of origin;
- Opportunities for services exports, in particular education and professional services; and
- Government procurement.

The comments in the October 2005 submission about the above issues remain relevant to the negotiations for an Australia-Japan FTA. This submission reiterates the points raised in the October 2005 submission, raises additional points, and provides further comments on some issues.

### **2 Victoria's economic and cultural relations with Japan**

#### **2.1 Goods trade**

In 2005-06, Japan was Victoria's third largest trading partner, with total merchandise trade valued at \$6.62 billion. Goods exports were valued at \$1.69 billion (4<sup>th</sup> largest export destination) and imports were valued at \$4.93 billion (3<sup>rd</sup> largest source of imports). Victoria's main goods exports to Japan are aluminium, dairy products, woodchips and beef. Key imports from Japan are passenger motor vehicles and automotive parts.

## 2.2 Services trade

While a State breakdown of detailed services trade data and destination countries is not available, Japan remains a key market for Victoria, in particular for education and tourism services.

International education is one of Victoria's largest services export industries, together with travel services and transportation services. In 2006, an estimated 62,400 students from Japan undertook some form of education experience in Australia. In 2005, 33,970 Japanese students participated in school trips to Australia, making it the most popular destination for such purposes. This represents a market share of 21 per cent, ahead of Korea and the US.<sup>1</sup>

In Victoria, Japan was the main market for student study tours in government schools, accounting for 70 per cent of the total. 92 sister school relationships have been established between schools in Victoria and Japan, and there is a high uptake of Japanese learning in Victoria. In addition, 17,400 Japanese students studied in Australia on student visas in 2006, making Japan the sixth largest source country in Australia for international students. This includes 3100 studying in Victoria. Of those studying in Victoria on student visas, 39 per cent were undertaking intensive English language courses, 22 per cent were enrolled in higher education and 12 per cent were enrolled in schools.

Victoria also attracts a relatively large number of visitors from Japan. In the year ending September 2006, over 63,000 Japanese visitors spent 1.3 million visitor nights in Victoria, making Japan Victoria's 6<sup>th</sup> largest international tourist market. In 2005, Japanese visitors contributed \$90 million to the local economy. Tourism forecasts estimate that, over the period 2006-2015, the average annual growth in Japanese visitors to Victoria will be 2.4 per cent per year. The Federal Government requirement for short-stay Japanese tourists (up to 3 months) to have a visa could be examined as part of the Australia-Japan FTA negotiations to provide greater opportunities to the tourism industry. Japan has abolished this visa requirement for Australian short term tourists.

## 2.3 Investment

Victoria is an attractive destination for Japanese investment, due to our diverse and highly skilled workforce, infrastructure and industry capabilities. Japan is now a key source of inward investment – particularly for Victoria's manufacturing industry – and a significant innovation, science and technology partner to many of the State's firms and industries. There are more than 100 Japanese companies operating in Victoria, employing over 10,000 people. This includes highly successful firms in the automotive, dairy products, seafood products, indigenous Japanese foods, ICT, forestry, education and tourism sectors. In addition, most of Japan's major companies have a

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<sup>1</sup> Australian Education International (AEI), Market Information (2005).

presence in Victoria, making Victoria a key destination for Japanese investment.

## **2.4 Cultural relations**

As well as being a key trade and investment partner, Japan has strong social and cultural links with Victoria. A Victorian Government Business Office operates in Tokyo, and Victoria has had a sister-state relationship with Aichi prefecture since 1980. This forms part of a unique three-way sister-state relationship, with Jiangsu Province in China being the third member.

Melbourne has had an active sister-city relationship with Osaka since 1978. This is one of sixteen sister-city relationships between Victorian and Japanese cities in ten different prefectures. The Port of Melbourne also has a sister-port relationship with the Ports of Osaka and Yokohama.

The Victorian Government is currently developing a strategy to build on and strengthen economic and political links between Victoria and Japan. The Victorian Government committed \$5 million to the World Expo 2005 in Aichi, Japan, and sponsored several trade missions and Ministerial visits to Japan that year.

## **3 Removal of tariff barriers and quota restrictions facing key Victorian industries exporting to Japan**

The Feasibility Study noted that in 2006 the simple average applied tariff of Japan was 7.1 per cent (compared to 3.5 per cent for Australia). Although tariffs are generally low, a number of sectors face tariff peaks when exporting to Japan, particularly in agriculture, and the main Victorian exports to Japan continue to face significant tariff barriers. Removal of these tariffs (outlined below) would enhance the opportunities for Victorian industry under an Australia-Japan FTA. Please note the following tariffs are based on information from the International Trade Centre (ITC) cooperation agency of the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization (WTO).

### **3.1 Dairy**

Dairy products were the most valuable Victorian food export to Japan in 2005-06, making up 33 per cent (\$295 million) of total Victorian food and fibre exports to Japan. Fresh, unripened and uncured cheeses, and unprocessed cheddar cheese face tariffs of up to 29.8 per cent, and processed cheese attracts a 40 per cent tariff. For milk powders and butter products, trade is generally restricted to sales to the state trading body ALIC (Agriculture and Livestock Industries Corporation), which applies quotas. Outside of the quota, trade in these products attract tariffs in excess of 200 per cent (milk powders) and 350 per cent (butter).

### **3.2 Meat**

Victorian meat exports to Japan were valued at \$268 million in 2005-06. Fresh and frozen beef cuts face tariffs of up to 38.5 per cent, and a major barrier to beef exports is a Japanese safeguard in the form of a 'snap-back' tariff. That is, once foreign beef sales to Japan increase by 17 per cent in one quarter, the safeguard is triggered so that the import tariff is increased to 50 per cent.

### **3.3 Horticulture**

In 2005-06, Japan was the second largest market for Victorian horticultural exports, worth \$60 million. Citrus fruits are one of the most important horticultural exports from Victoria to Japan. From June to November, exports of citrus to Japan face tariffs of up to 16 per cent. From December to May, a season of high demand, the tariff rate is increased to 32 per cent. Asparagus is Victoria's most valuable vegetable export crop to Japan (\$18 million in 2005-06) and is facing increasing competition in Japan from other suppliers. The current tariff rate is 3 per cent.

Table grapes are Victoria's most valuable fresh fruit export crop (\$101 million in 2005-06) and have considerable potential for export to Japan if market access is granted (current tariff rate is 7.8 per cent from 1 March to 31 October, and 17 per cent from 1 November to last day of February). Strawberries are a major fresh fruit crop grown in Victoria and have considerable market opportunities in Japan. The current tariff rate is 6 per cent. Planning for future trade needs to be made in relation to market access (quarantine issues) proposals that are now in train. Submissions for table grapes and strawberries have been lodged with MAFF Japan.

Value added horticultural products such as wine, and fruit and vegetable juices have promising market development opportunities in Japan. Victorian wine exports to Japan were valued at \$13 million in 2005-06 and tariff rates were (estimated total ad valorem equivalent tariff) between 15 – 60 per cent. Victorian fruit and vegetable juice exports to Japan were valued at \$24 million in 2005-06, with tariff rates varying between 7 per cent and 30 per cent, depending on type of juice.

### **3.4 Value-added food products**

It is anticipated that food trade with Japan will rely increasingly on value-added products used as ingredients or final products. Japanese companies are involved in all levels of Victoria's food system, with many Japanese customers having shown interest in sourcing products from Victoria due to our competitiveness, management and quality assurance practices, and our ability to provide safe clean food on a consistent basis. Therefore it is of critical importance that an Australia-Japan FTA achieves tariff rate reductions for a range of value-added products which are based on Victoria's and Australia's

competitive agricultural industries, for example cereals, canola, dairy, meat, horticulture, wine and forestry.

### **3.5 Fisheries**

Victorian seafood exports to Japan were worth \$38 million in 2005-06, with most of this being abalone exports. Victoria's seafood industry faces tariff barriers (for example, 7 per cent on abalone) and would achieve considerable benefits from the removal of these under an FTA with Japan.

### **3.6 Aluminium**

Exports of aluminium hydrate and calcines is a growing market and these products are subject to a 3 per cent tariff. Removal of the 7.5 per cent tariff on aluminium foil would also provide greater opportunities for Victorian exporters.

### **3.7 Automotive**

Victoria's main imports from Japan are motor vehicles and parts. The automotive industry is one of Australia's key manufacturing sectors and Victoria accounts for over 60 per cent of the national automotive industry, employing more than 27,500 workers.

The Australian market for automotive products is transparent, and tariffs were reduced in 2005, with further tariff reductions scheduled for 2010 and 2015. Given the recent tariff reductions and the scheduled future reductions, the Victorian Government believes that automotive tariffs are being adequately addressed. As such, there is no need to consider reductions in an Australia-Japan FTA that go beyond the current legislative arrangements for both new and used passenger motor vehicles.

### **3.8 Safeguards**

General safeguard provisions consistent with other WTO agreements and FTAs should be considered in the negotiations for an Australia-Japan FTA. While it may be necessary to include appropriate safeguards and phase-in periods in an FTA to allow companies time to adjust to the new trading environment, these should not be set at a level that is prohibitive to trade.

## **4 Removal of non-tariff barriers facing key Victorian industries exporting to Japan**

### **4.1 Standards and technical regulations**

It is important that the FTA negotiations take into consideration the removal of any non-tariff barriers, such as standards and technical regulations, facing Victorian industries exporting to Japan. Improving the recognition of

standards in some sectors would enhance Victorian and Australian trade opportunities with Japan.

For example, woodchips are Victoria's third-largest export to Japan, valued at \$170 million in 2005-06. Currently, two forest certification schemes operate in Australia – the Australian Forestry Standard (AFS), which has international recognition through the Program for Endorsement of Forest Certification (PEFC) Schemes, and the Forest Stewardship Council (FSC), which is a worldwide certification scheme. The percentage of woodchips exported to Japan from AFS or FSC certified forests in Victoria is increasing.

As part of the FTA negotiations with Japan, the Victorian Government urges the Federal Government to ensure equal recognition of AFS and FSC certified timber. Equal recognition of standards will continue to provide opportunities for the Australian forestry industry in Japan.

There are also ongoing barriers for Australian companies wishing to operate in the financial services sector in Japan. An FTA should seek improved transparency in regulation of financial institutions in line with international standards and best practices.

#### **4.2 Professional Services**

There are cultural and regulatory barriers to entering the professional services market in Japan. There are a number of restrictions on wholly foreign owned enterprises, restrictive licensing provisions, and administrative and bureaucratic complexities.

For example, foreign lawyers in Japan must become registered as a 'foreign law practice lawyer' before they can open a foreign law firm or practise law in Japan. However, foreign lawyers, even when registered in Japan, are not permitted to practise Japanese law and can only advise on the law of their home jurisdiction or international law. An Australia-Japan FTA should seek to ease the current restrictions on Australian law firms that wish to establish a law office in Japan, and ease the current restrictions on Australian lawyers who wish to be registered and practise law in Japan.

With regard to professional services in general, the FTA negotiations should seek to improve the conditions and time periods that apply to the temporary movement of business persons and their spouses between Australia and Japan. The Feasibility Study notes that Japanese businesses will strongly request that an Australia-Japan FTA remove any restrictive measures on the movement of people. The Victorian Government is supportive of this approach because a low cost administrative system for the movement of people will lead to greater trade and investment opportunities for both countries.

The Feasibility Study also notes that Japan will request that an Australia-Japan FTA remove restrictions on investment. Given the importance of Japanese investment in Victoria, the Victorian Government is supportive of liberalising investment requirements so that Japanese investors are granted the same access as US investors under the Australia-US FTA (AUSFTA).

#### **4.3 Quarantine regulations and customs procedures**

While it is acknowledged that there is transparency in Japan's quarantine restrictions, exporters report that Japan's quarantine regulations are complex and customs procedures are arduous. Victorian industry representatives have noted in the past that Japan's quarantine regulations have prevented the export of certain Victorian products such as table grapes and strawberries. It is important that quarantine rules are purely science based as they are in Australia. An Australia-Japan FTA should therefore seek a clear set of quarantine rules and procedures which will assist to improve trade in goods between Australia and Japan.

#### **4.4 Rules of origin**

The Victorian Government seeks a consistent and uniform rules of origin system for all industries which prevents transshipment and has the lowest possible administration costs. Ensuring consistency in the rules of origin systems adopted in Australia's FTAs will make it easier for exporters to understand the mutual obligations of both countries in a bilateral agreement, and will minimise any administrative burden on companies.

#### **4.5 Government procurement**

The inclusion of government procurement in an FTA could present significant opportunities for Australian businesses to tender for government work in Japan. The feasibility study estimated that government procurement accounts for around 11 per cent of Australia's GDP and 5.7 per cent of that of Japan. Government procurement, at both an inner and outer agency level, should be included in an Australia-Japan FTA, if genuine freedom of access and transparency can be ensured. It is important to ensure that government procurement rules are adhered to uniformly at both a central and state/prefectural level.

#### **4.6 Protection of intellectual property (IP)**

The Feasibility Study cited the high standard of protection given to IP rights in both countries, but also noted that the inclusion of IP commitments in an FTA would serve to promote high standards in the region. The Victorian Government supports the consistent application of IP protection measures across all FTAs.

#### **4.7 Investor-State Dispute Settlement Mechanism**

The Victorian Government opposed the inclusion of an investor-state dispute settlement (ISDS) provision in an Australia-China FTA and the AUSFTA because it would leave Australia unnecessarily exposed to challenges to its regulations and laws. Other States and Territories (and many Non-Government Organisations) also opposed the inclusion of an investor-state dispute settlement mechanism in the AUSFTA. Victoria also had serious concerns at that time about the range of regulations which could be challenged under this provision which may impede the right of governments to regulate over non-trade issues such as the environment and social policy.

Japanese companies are afforded the same legal protection as Australian companies in Australia. There is therefore no need to include an ISDS provision in an Australia-Japan FTA.

### **5 Conclusion**

The Victorian Government is supportive of the negotiations for an Australia-Japan FTA, recognising the potential to increase commercial opportunities for Victorian businesses through better market access and supporting the continuation of close economic and cultural ties with Japan.

The Victorian Government is supportive of an Australia-Japan FTA that does the following:

- seeks the removal of all tariff barriers and quota restrictions facing all Australian industries exporting to Japan, in particular the dairy, meat and horticulture industries;
- seeks the removal of all non-tariff barriers facing all Australian industries exporting to Japan, including professional services;
- ensures appropriate safeguards and phase-in periods are considered in the FTA negotiations;
- includes a clear set of quarantine rules and procedures which will assist to improve trade in goods between Australia and Japan;
- achieves a consistent and uniform rules of origin system for all industries which prevents transshipment and has the lowest possible administration costs;
- includes government procurement at both an inner and outer agency level;
- ensures effective enforcement of IP laws; and
- excludes investor-state dispute settlement provisions.

The Victorian Government requests that the Federal Government ensures that the States and Territories are fully consulted throughout the negotiation process.