



Australia – Japan FTA; May 2008

The fifth round of negotiations on the Australia-Japan Free Trade Agreement, was held in Canberra from 28 April to 1 May 2008.

Australian Officials report that overall, solid progress was made on the various chapter texts and, having tabled initial market access offers for goods and agriculture at the last round in February, they have now also exchanged initial offers for services and investment.

Goods

There was a continuation of the discussion begun at the last round on Australia's and Japan's initial **requests and offers on trade in goods**.

Japan has sought many exclusions in agriculture, including on items of interest to Australia. For this reason, Australia focused on its **agricultural market access requests** at this round, as it will continue to do so at the next round.

Specifically, discussions focused on supplementary market access requests prepared by Australia on dairy products and beef and bovine

products. These requests contained detailed lists of all the restrictions Australian exporters face (such as tariff rate quotas, TRQ administration arrangements, state trading requirements, tariff classification analytical measures, compositional standards and labelling requirements).

Japan reportedly responded that liberalisation was not possible on any of the measures Australia had raised.

This is consistent with Japan's public position that beef, dairy, wheat, sugar and rice should all be excluded from the FTA.

Discussion on these issues will continue at the sixth round on the outstanding issues in the beef and dairy sectors, and then move to the wheat and barley and sugar sectors.

There was a discussion on **technical barriers to trade**, focussed on the text which Japan provided at the last round. Both sides have now developed a better understanding of the intention behind some of the textual proposals on the table.

At Japan's request there was no discussion on sanitary and **phyto-sanitary cooperation** or **food supply** issues at this round.

Continued slow progress was made in the session on the **rules of origin** chapter, identifying areas of commonality, but also seeking a better understanding of the differences in both countries respective approaches that will need to be worked through.

Discussion on product specific rules will start at the next round. Australia will be seeking to make change of tariff classification the main method for determining whether a good should receive preferential tariff treatment.

Reportedly there was a productive discussion on the chapter on **customs procedures**, and much of the text is now agreed. However, more work will be required to resolve some remaining issues, including Australia's request that traders have access to advance rulings on, for example, tariff classification, which Japan had not yet agreed to.



Discussion on the **actual text of the chapter on trade in goods** was brief as Japan's preference is to wait until market access negotiations are further advanced before discussing certain areas, including possible safeguards provisions.

Reflecting its concerns about resource security, Japan has requested that Australia consider a chapter on **energy and mineral resources**. At this round, Japan provided more detail on what it is seeking.

Australia has not covered energy and mineral resources as a discrete subject in any previous FTA, and has told Japan that it will need to consider its proposals carefully.

Both sides are working to conclude a chapter on **e-commerce**. The discussion which started at the last round on Japan's counter proposal to the Australian draft chapter was completed. Both sides are now ready to develop a common text at the next round.

On **government procurement**, both sides are now at a stage where drafting can commence on a draft

consolidated text. When the text of a chapter is agreed, market access negotiations will begin, with the aim of guaranteeing access to each country's government procurement markets.

Services and Investment

The two sides exchanged *initial market access offers on services and investment* at this round. Other discussions focused on the text of chapters on *cross-border trade in services, telecommunications, financial services, movement of natural persons and investment*.

Overall, there was constructive discussion in most areas, although an extensive amount of negotiations will continue to be required across the Working Group.

With respect to the **initial services and investment offers**, Australia and Japan now have a better understanding of the quality and character of each other's offer, enabling further analysis in capitals before the next negotiating round.

Australia welcomed the initial Japanese offer, which was consistent with the highest

level of commitments they have made in previous FTAs, although Australia also noted that there were some sectors, such as **education and training, financial services, and telecommunications**, where Australia would ask them for further opening.

The two sides agreed that the initial phase of requests relating to the initial offers could begin at the next round of negotiations.

On **cross-border trade in services**, Australia and Japan continued their discussion of the consolidated text of the services chapter, in addition to consideration of some new provisions proposed by Australia. Further progress was made in narrowing areas of divergence, although key architectural differences remain, such as whether the services or investment chapter should cover commercial presence by service suppliers.

Australia also tabled an initial proposal to explore the possibility for greater cooperation on some aspects of **professional services**. Each side is considering its position on these various



issues in preparation for the sixth round of negotiations.

On **telecommunications**, intensive discussion was held on the text of a possible telecommunications chapter, and this round provided the opportunity to finish going through the entire text. Australia continues to seek strengthened disciplines on competition and regulatory outcomes. Exchanges of information will continue inter-sessionally.

On **financial services**, Australia had provided a revised consolidated text to Japan prior to the round, and discussions took place on this basis.

While the session clarified further range of regulatory arrangements and other text/structural issues, work remains in determining how much this text might be able to incorporate WTO-plus language and undertakings.

That said, this text has advanced more than most, but Australia continues to push for ambitious provisions.

On **movement of natural persons** (which covers the temporary entry of businesspeople into Australia

or Japan for work purposes), both sides advanced understanding of policy frameworks and areas of sensitivity, while highlighting the challenge of accommodating our different temporary entry regimes. Japan reportedly made some constructive proposals

On **investment**, differences continue to be cleared away, although some key issues continue to remain for further discussion.

There is no agreement yet on the approach to investor-state dispute settlement nor the coverage of performance requirements, although in both areas useful clarifications were made during the round.

Both sides have identified areas of follow-up ahead of the sixth round.

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