

CHINA-AUSTRALIA FTA (CHAFTA): MYTHS VERSUS REALITIES

This document addresses some misconceptions about the China-Australia Free Trade Agreement (ChAFTA), signed in Canberra on 17 June 2015.

FIRST MYTH: CHINESE COMPANIES WILL HAVE UNRESTRICTED ACCESS TO CHINESE WORKERS FOR MAJOR PROJECTS THREATENING AUSTRALIAN JOBS

REALITY: FALSE

ChAFTA will not allow unrestricted access to the Australian labour market by Chinese workers. It will not allow Australian employment laws or conditions to be undermined, nor allow companies to avoid paying Australian wages by using foreign workers.

Australia's existing visa arrangements, including the 457 visa program, will continue to be the basis for implementing Australia's commitments on labour mobility under ChAFTA. The 457 visa program assists employers to address labour shortages by bringing in genuinely skilled workers where they cannot find an appropriately skilled Australian. ChAFTA will not remove the need for employer sponsorship under the 457 visa programme.

Through Investment Facilitation Arrangements (IFAs) made available under a separate MOU concluded alongside ChAFTA, Chinese companies making significant investments in Australia (more than \$150 million in specific types of infrastructure development projects) will have increased access to skilled overseas workers when suitable local workers cannot be found.

IFAs will strengthen infrastructure development and investment, leading to the creation of jobs and increased economic prosperity for all Australians.

IFAs will not allow unskilled or underpaid Chinese workers to be brought in to staff major projects. In fact, consistent with existing programmes, IFAs will provide certainty that investors will be able to access skilled overseas workers, under Australian employment conditions, when suitable local workers cannot be found.

Under IFAs, Australian workers will continue to be given first opportunity. Consistent with existing practice, employers will not be permitted to bring in overseas skilled workers unless there is clear evidence of a genuine labour market need, as determined by the Department of Immigration and Border Protection.

SECOND MYTH: CHAFTA WILL ALLOW CHINESE ELECTRICIANS TO WORK IN AUSTRALIA WITHOUT ANY SKILLS ASSESSMENT

REALITY: FALSE

ChAFTA does not change the required skill levels for Chinese visa applicants.

Under ChAFTA, all Chinese applicants for a subclass 457 temporary work (skilled) visa, including electricians, will still need to have the requisite skills, qualifications and work experience to work safely in Australia, as well as meeting all the other regular visa requirements, before a 457 temporary work visa is granted.

All such visa holders will also continue to have to obtain any required Federal, State or Territory licenses or registration, to commence work within 90 days of arriving in Australia and be engaged in accordance with Australian workplace law, including awards and workplace health and safety.

The commitment undertaken in the ChAFTA side letter on skills assessments simply brings China into line with visa applicants from most other countries around the world with regard to application and skills' assessment processes. For example, an additional skills' assessment from a registered training organisation approved by Trades Recognition Australia will be conducted if further verification is required by the Department of Immigration and Border Protection.

THIRD MYTH: INVESTOR STATE DISPUTE SETTLEMENT (ISDS) PROVISIONS WILL ALLOW CHINESE COMPANIES TO SUE THE AUSTRALIAN GOVERNMENT IF THEY MAKE A LOSS ON INVESTMENTS

REALITY: FALSE

The ISDS provisions in ChAFTA provide a mechanism for Australian or Chinese investors to pursue international arbitration based on a claimed violation of the national treatment commitment in the investment chapter. ISDS does not protect an investor from a mere loss of profits following a change in government policy or regulation.

ISDS does not prevent a Government from changing its policies or regulating in the public interest and investors should understand the relevant regulatory environment before they commit to making their investment. Modern ISDS mechanisms incorporate explicit safeguards to re-affirm the right of governments to take decisions in the public interest, including in the areas of health and the environment, and reduce the chances that foreign investors bring frivolous claims.

[Further information on ISDS.](#)

CHINA-AUSTRALIA

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FOURTH MYTH: CHAFTA WILL ALLOW BUSINESSES TO IMPORT DANGEROUS SUBSTANCES, SUCH AS ASBESTOS.

REALITY: FALSE

ChAFTA will not make any changes to Australia's safety regulations or import/export prohibitions. There are no changes to restrictions on the import of asbestos and other dangerous products. ChAFTA's chapter on technical barriers to trade focuses on improving information exchange and other cooperation at the level of experts on standards and compliance issues, but does not change any of our standards.

FTA tariff schedules typically list all products included in the World Customs Organisation's Harmonized Commodity Description and Coding System (or Harmonized System (HS)). Asbestos is listed on the ChAFTA tariff schedules simply because it has a HS code.

FIFTH MYTH: CHAFTA WILL ALLOW FOOD IMPORTERS TO BYPASS AUSTRALIA'S FOOD SAFETY PROCESSES AND IMPORT CONTAMINATED FOODS, SUCH AS BERRIES.

REALITY: FALSE

ChAFTA does not affect Australia's science-based biosecurity system. SPS market access matters are separate to and negotiated independently of FTA negotiations. Australia's biosecurity arrangements are science-based and Australia will not negotiate away our risk assessment processes in FTAs.

There are no changes to our quarantine and testing processes, which will continue to apply to food imports including berries. ChAFTA's chapter on sanitary and phytosanitary issues aims to strengthen information exchange and other cooperation at the technical level on these issues. It does not change or weaken any of our food safety standards.