

# Japan-Australia Economic Partnership Agreement

## Regulation Impact Statement

12 May 2014

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## INTRODUCTION

1. This Regulation Impact Statement (RIS) relates to the Australia-Japan Economic Partnership Agreement (JAEPA). Negotiations on an economic partnership agreement (EPA) with Japan commenced in April 2007 following the conclusion of a joint government study on the feasibility of a bilateral trade agreement between Australia and Japan. The Prime Minister and Trade and Investment Minister jointly announced conclusion of negotiations on 7 April 2014.

## PROBLEM IDENTIFICATION

2. Japan is a vital, longstanding and highly complementary economic partner for Australia. In 2013, two-way goods and services trade reached \$70.8 billion, making Japan Australia's second-largest trading partner, with a surplus to Australia of \$28.3 billion. The latest merchandise trade figures (for 2013) show Japan was Australia's second-largest goods export destination (15.5 per cent of total exports) and third-largest source of imports (6.5 per cent). At the end of 2013, Japanese investment in Australia was valued at \$131.0 billion and Australian investment in Japan reached \$50.2 billion.

3. Despite the strong and mutually beneficial trade and investment relationship between Australia and Japan over a sustained period, the absence of a bilateral trade agreement:

- constrains Australian producers' and exporters' ability to further build trade in the context of high tariffs;
- maintains inefficient barriers to Australia's trade which limits profitability,
- does not provide protection for Australian exporters against preferential agreements Japan has concluded, or is negotiating, with key competitors;
- maintains higher costs for Australian consumers and businesses for key Japanese imports; and
- maintains barriers to investment in trade and services.

4. JAEPA also provides an opportunity to take the bilateral relationship to the next level and further build the framework underpinning a key economic partnership for Australia.

### ***High tariffs limit trade opportunities for Australia, particularly in agriculture***

5. Australian exporters face very high tariffs into Japan, with customs duties levied on 6.5 per cent of Australian goods exported to Japan. While Japan's simple average applied Most Favoured Nation (MFN) tariff in 2012 was 4.6 per cent<sup>1</sup>, this figure does not convey the extremely high tariff peaks applied to products of export interest to Australia.

6. Japan's tariff barriers are particularly high in agriculture, a vital area of trade for Australia, with an average applied MFN tariff of 16.6 per cent. Japan is Australia's second-largest agricultural market, with an estimated total value of \$4.0 billion (or ten per cent of Australia's agricultural exports) in 2013. It is Australia's largest market for beef, cheese, animal feed and offal, and an important destination for sugar, vegetable oils, seafood and fruit and nuts.

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<sup>1</sup> WTO, World Tariff Profiles 2013

7. Japan imposes high tariffs on a range of agricultural goods, particularly on key products of interest for Australia, including beef, dairy, wheat, sugar, barley, vegetable oils, tuna and rice. For example, Japan imposes tariffs of 38.5 per cent on beef (which under certain circumstances can be increased up to 50 per cent) and up to 40 per cent on cheese. In addition to tariff peaks many agricultural exports confront a complex and opaque regulatory framework that includes tariff rate quotas, state trading and special safeguard and emergency tariffs.

8. In the absence of an EPA with Japan, Australian agricultural producers will continue to face these very high tariffs and complex barriers on major products.

9. Japan is also Australia's second-largest market for non-agricultural goods: with Australian exports worth over \$42 billion in 2013. It is Australia's largest destination for coal and liquefied natural gas, second-largest destination for iron ore and a major market for petroleum, and aluminium. Many of Australia's major resource and mineral exports (including coal, iron ore, liquefied natural gas, copper ore and aluminium), constituting over 80 per cent of Australia's merchandise exports to Japan, enter Japan tariff free. However, with tariffs of up to 11.7 per cent on a range of other resource products, including coke and semi-coke of coal and non-crude petroleum, there is scope to improve market access for Australia's non-agricultural goods. Japan also applies tariffs of up to 30 per cent on some manufactured products of interest to Australia, including textiles, forestry products, and hides and skins.

***Japanese tariffs reduce the efficiency and profitability of Australian exports***

10. Japan's imposition of high tariffs does not just constrain trade, it also reduces the efficiency and profitability on traded items by adding additional costs and reducing margins.

11. Indeed, on some key exports Japanese tariffs clearly may not limit the volume of trade. For example, Australia exports \$124 million worth of southern bluefin tuna to Japan, representing 98 per cent of Australia's total southern bluefin tuna exports despite Japan's 3.5 per cent tariff. Similarly, Australia exports \$89 million of coke and semi-coke of coal, despite Japan's 3.2 per cent tariff. These tariffs nevertheless add costs to exporters, importers and consumers.

***Australian producers and exporters face increasing competition in the Japanese market, and Japan is negotiating preferential trade deals with key competitors***

12. Japan has long been a vital market for Australia. But Australia's ongoing competitive position is not guaranteed.

13. Japan is in the process of negotiating trade agreements with Australia's key competitors including bilaterally with the European Union and Canada and multilaterally with the United States (US) and New Zealand through the Trans-Pacific Partnership (TPP). Japan already has in place trade agreements with the Association of Southeast Asian Nations (ASEAN), Chile, India, Mexico and Peru. An EPA will not only deliver earlier tariff elimination and reductions for Australia, it will also position Australia well in TPP negotiations, including through strong renegotiation provisions should Japan provide better access for competitors.

14. While Japan has not previously concluded an EPA with other significant agricultural exporters, in some sectors Australia is already losing market share to Japan's other EPA partners. This is particularly clear for wine, in which Chile enjoys a tariff advantage through its EPA with Japan. Since the Japan-Chile EPA entered into force, Japan's import of Chilean wines have more than doubled to \$178 million in

2013, while imports from Australia have decreased slightly, to \$46 million. JAEPA will help level the playing field.

15. Irrespective of progress on Japan's other trade agreements, Australian agricultural exporters are already facing growing pressure from competitors in the Japanese market. The starkest example is beef. Australian beef producers have been losing market share to competitors from the US as Japan has progressively eased Bovine Spongiform Encephalopathy (BSE) related health restrictions against US beef. (Before the discovery of BSE in US beef in 2003, US beef dominated the Japanese market.) An EPA can provide Australian exporters a competitive advantage.

***Australian consumers and businesses do not have access to cheaper Japanese goods because of Australia's existing tariffs***

16. For most goods subject to tariffs, the general duty rate imposed by Australia is five per cent. Of particular significance, a five per cent duty is imposed on Japanese motor vehicle imports, worth \$8.2 billion in 2013. JAEPA will provide Australian consumers with cheaper cars, and for small businesses, cheaper goods motor vehicles. Australian manufacturing businesses that use goods and materials produced in Japan will also enjoy lower input costs as tariffs are eliminated or phased down. Tariffs will also be eliminated on all Japanese-made consumer goods, including on electrical and white goods (worth \$501.7 million in 2013).

***Further opportunities for investment and trade in services***

17. There are opportunities to expand bilateral services trade and investment to the benefit of both countries.

18. Japan's commitments in the World Trade Organization (WTO) on trade in services are limited. Through JAEPA, Japan will bind its regulatory regime in a much wider range of service sectors, providing greater certainty of treatment for Australian service providers and investors. A bilateral EPA with Japan would improve protections and certainty for Japanese investors, making Australia a more attractive destination for Japanese investment. Japan is Australia's third largest source of foreign investment, behind the United States and the United Kingdom. Japan is ranked as the sixth-largest destination for Australian investment, but only a small proportion of this is direct investment.

***Further building the Australia-Japan partnership***

19. The Australia-Japan relationship is extremely strong and is supported by significant bilateral architecture. Economically, the 1957 Commerce Agreement was a landmark agreement setting the agenda for increased bilateral trade and investment and closer economic integration. This has served Australia and Japan well, but JAEPA would take the economic and bilateral relationship into a new phase. Not only would JAEPA provide improved market access and facilitation of trade and investment for both Australia and Japan, it would also underline the strength of the bilateral relationship.

**OBJECTIVES OF GOVERNMENT ACTION**

20. The Government's decision was to conclude a high-quality bilateral trade agreement that would secure and improve Australia's competitiveness in a key market, and to do so as soon as practicable. This included the following outcomes, which were achieved:

- . improved goods market access, including through the elimination or reduction of Japanese tariffs on key Australian agricultural, resources, energy and manufacturing goods over the shortest possible timeframe;
- . improved competitiveness for Australia's agricultural and services exports, including through renegotiation clauses should competitors secure better access with Japan;
- . better access for Australian service suppliers in the Japanese market, including by eliminating or reducing restrictions on commercial presence, cross-border supply and foreign equity holdings;
- . greater clarity and certainty of Japan's regulations for Australian service providers and investors through a binding of Japan's existing regime and commitment to bind future changes to Japan's regulation;
- . industry-based cooperative initiatives to enhance trade opportunities in the legal and education services sectors;
- . improved and more impartial administration of regulations through commitments on transparency of regulation;
- . secure access to Japan's government procurement market;
- . commitments to ensure rights of Australian intellectual property holders are protected effectively and enforced by Japan's intellectual property regime;
- . commitments to enhance the use of electronic commerce in goods and services, including by ensuring that customs duties will not be introduced on electronic transmissions;
- . commitments to ensure that the benefits of JAEPA are not undermined by anticompetitive practices; and
- . a framework for settling disputes under JAEPA.

## **OPTIONS THAT MAY ACHIEVE THESE OBJECTIVES**

21. As outlined in the 'Problem identification' section of this RIS, Japan maintains trade barriers on goods and services of interest to Australia. Without an arrangement to reduce these restrictions, Australian exporters will remain constrained in their ability to capitalise fully on the opportunities presented by Japan's large and affluent market. Furthermore, it is in Australia's interest to secure an early advantage in the Japanese market over Australia's competitors, many of which are already negotiating trade agreements with Japan.

22. The only realistic option available to the Government to achieve these objectives is the negotiation of a bilateral trade agreement with Japan. The following discusses other options available to the Government.

### ***No action***

23. The absence of a new trade arrangement would leave Australia with, at best, the status quo, but more likely losing competitiveness in the Japanese market. With no action, high tariffs would continue to constrain Australian exporters from fully capitalising on one of the world's most valuable markets. Taking no action would also deny Australian exporters a competitive advantage over suppliers from Japan's other trading partners. Moreover, some of Australia's competitors in agriculture, including Canada and the European Union, are also negotiating bilateral preferential

EPAs with Japan. Failure to enter a bilateral preferential EPA ahead of these countries would place Australian producers at a disadvantage.

24. Taking no action would also maintain any applicable Australian tariffs on imports from Japan (which were dominated by passenger motor vehicles, refined petroleum and goods vehicles), depriving Australian consumers and businesses of cheaper imports.

#### ***Regional trade negotiations only***

25. Australia and Japan both participate in two ongoing regional trade agreement negotiations: the Regional Comprehensive Economic Partnership (RCEP) and the TPP.

26. These negotiations should not be seen as an alternative to JAEPA – the Government is pursuing them in tandem with JAEPA, and JAEPA outcomes can support further progress in these regional efforts while providing early gains and protection for Australia.

27. TPP negotiations potentially allow for the conclusion of a high quality agreement between the 12 TPP negotiating countries, including Australia and Japan. When concluded, the TPP could provide benefits for Australia, including additional agricultural market access in Japan over that agreed in JAEPA. The Government has consistently stated that JAEPA would provide a floor for market access into Japan, and Australia would seek further market access outcomes through the TPP. The TPP offers the chance for further improvements to market access given the leverage that is provided in negotiating in a plurilateral form, particularly given the engagement by the United States. However, TPP negotiations have not yet concluded and it is likely to take several years before an agreement enters into force. JAEPA would deliver high-quality outcomes for Australian exporters significantly earlier than TPP. JAEPA also provides strong renegotiation provisions should Japan provide better access for competitors.

28. RCEP negotiations include all ten ASEAN Member States and ASEAN's six FTA partners – Australia, China, India, Japan, Korea and New Zealand. While the guiding principles for RCEP potentially allow for negotiation of a high quality, comprehensive agreement, there is no certainty that the full range of Australia's specific outcomes of interest in Japan could be achieved. RCEP negotiations are at an early stage, with key decisions still to be taken on the scope and level of goods and services market access. As RCEP negotiations are not scheduled to conclude before the end of 2015, JAEPA would deliver the objectives and specific outcomes sought in a more certain and timely manner.

#### ***Multilateral trade negotiations***

29. The WTO Doha Round of trade negotiations was launched in 2001 and is a trade policy priority for the Government. However, a wide divergence of views between WTO members makes conclusion of the Doha Round unlikely in the short term. In addition, while securing outcomes through the Doha Round would advance Australia's trade interests with Japan, there is no certainty that the Doha Round would deliver outcomes that address Australia's priority interests with Japan as extensively, or in as timely a way, as is possible under JAEPA.

### ***Bilateral trade negotiations***

30. A high-quality, WTO-consistent bilateral EPA with Japan is, therefore, the only realistic option to achieve the Government's objectives.

## **IMPACT ANALYSIS**

### ***Key market access outcomes of bilateral negotiations for Australia***

31. JAEPA will deliver significant market access improvement and tariff liberalisation for Australia's merchandise exports to Japan. Japan's tariffs will be set at zero on 92.8 per cent of its current imports (by value) from Australia immediately on entry into force, with most other tariffs phased out quickly. On full implementation of JAEPA, 97.5 per cent of the value of Japanese imports from Australia will benefit from preferential tariff treatment (including tariff reductions and quota arrangements). Table 1 summarises the agreed tariff elimination schedule that will apply to Australia's goods exports to Japan. Tables 2 and 3 outline the key market access outcomes for Australia for agriculture and industrial products.

**Table 1: Elimination schedule for Japanese tariffs on imports of Australian goods**

| Staging category*                  | Tariff lines |              |                | Japan's imports from Australia, 2013 |              |                |
|------------------------------------|--------------|--------------|----------------|--------------------------------------|--------------|----------------|
|                                    | No.          | % of total   | Cumulative (%) | \$'000                               | % of total   | Cumulative (%) |
| A: zero tariff on entry into force | 7,146        | 76.3         | 76.3           | 49,048,679                           | 92.8         | 92.8           |
| B3: 3-year phasing                 | 25           | 0.3          | 76.6           | 511                                  | 0.0          | 92.8           |
| B4: 4-year phasing                 | 453          | 4.8          | 81.5           | 1,509                                | 0.0          | 92.8           |
| B5: 5-year phasing                 | 120          | 1.3          | 82.7           | 70,542                               | 0.1          | 93.0           |
| B7: 7-year phasing                 | 221          | 2.4          | 85.1           | 195,333                              | 0.4          | 93.3           |
| B10: 10-year phasing               | 310          | 3.3          | 88.4           | 192,735                              | 0.4          | 93.7           |
| B15: 15-year phasing               | 24           | 0.3          | 88.7           | 4,834                                | 0.0          | 93.7           |
| Tariff reduction                   | 62           | 0.7          | 89.3           | 1,473,262                            | 2.8          | 96.5           |
| Quota**                            | 111          | 1.2          | 90.5           | 515,615                              | 1.0          | 97.5           |
| Renegotiation                      | 204          | 2.2          | 92.7           | 707,237                              | 1.3          | 98.8           |
| Excluded                           | 684          | 7.3          | 100.0          | 629,582                              | 1.2          | 100.0          |
| <b>Total</b>                       | <b>9,360</b> | <b>100.0</b> | <b>100.0</b>   | <b>52,839,839</b>                    | <b>100.0</b> | <b>100.0</b>   |

\* Tariff phasings will occur in equal annual stages, i.e. duties on originating goods classified under the tariff lines indicated with 'B5' shall be eliminated from the base rate to free over five years in six equal annual instalments beginning on the date of entry into force of JAEPA. These goods will be duty free, effective on 1 April of the fifth year. \*\* Quotas include duty-free access and some tariff reductions. Source: JAEPA, Global Trade Information Service; DFAT STARS database, based on ABS cat.no. 5368.0, January 2014 data

**Table 2: Key agricultural market access outcomes for Australia**

| Product   | Australian exports to Japan (\$ million, 2013) | Japan's MFN tariff   | JAEPa outcome  |
|-----------|--|--|--|
| Beef      | 1,433  | 38.5   | <ul style="list-style-type: none"> <li>• Tariffs reduced to 19.5 per cent for frozen beef and 23.5 per cent for fresh and chilled beef over 18 and 15 years with a safeguard set above current trade levels</li> <li>• Significant frontloading of tariff cuts to provide earlier benefits – 6 and 8 percentage points off fresh and frozen beef respectively on entry into force</li> <li>• Australia to never face 'snapback' tariff of 50 per cent</li> <li>• Renegotiate after five years and if a competitor gets better access</li> </ul>  |
| Dairy     | 452  | 0 – 40<br>specific tariffs up to ¥1,199/kg (\$12.62/kg) <sup>2</sup> | <ul style="list-style-type: none"> <li>• Tariff elimination on casein, lactose, albumen, and milk-based proteins on entry into force</li> <li>• Immediate duty free quotas for <ul style="list-style-type: none"> <li>○ natural cheese for processing (Australia's largest dairy export) growing from 4,000 tonnes to 20,000 tonnes over 20 years</li> <li>○ cheese for shredding growing from 1,000 to 5,000 tonnes over ten years</li> </ul> </li> <li>• Tariff reductions on <ul style="list-style-type: none"> <li>○ grated / powdered cheese for a quota growing to 1,000 tonnes over ten years</li> <li>○ processed cheese for a quota growing to 100 tonnes</li> <li>○ blue veined cheese (no volume restrictions)</li> </ul> </li> <li>• Tariff reductions on ice-cream and yoghurt under growing quotas</li> <li>• Renegotiate after five years and if a competitor gets better access</li> </ul> |
| Wheat and | 356  | 0 – 21.3   | <ul style="list-style-type: none"> <li>• Tariff elimination on wheat for</li> </ul>  |

<sup>2</sup> All currency conversions in this RIS imply ¥95.02 per Australian dollar (as at 2 May 2014; source: Reserve Bank of Australia)

| Product                                      | Australian exports to Japan (\$ million, 2013) | Japan's MFN tariff                           | JAEPa outcome   |
|--|--|--|---|
| its milling products                         |  | specific tariffs up to ¥50/kg (\$0.53/kg)    | <ul style="list-style-type: none"> <li>feed on entry into force and for wheat gluten over ten years</li> <li>Streamlined export processes</li> <li>Immediate tariff elimination on dextrin under a quota of 14,000 tonnes</li> <li>Renegotiate after five years and if a competitor gets better access</li> </ul> |
| Malt and malting barley                      | 362*   | 0 – ¥39/kg (\$0.41/kg)                       | <ul style="list-style-type: none"> <li>Tariff elimination on barley (for feed) on entry into force</li> <li>Streamlined export processes for barley</li> <li>Renegotiate after five years and if a competitor gets better access</li> <li>Large duty-free quota for unroasted malt on entry into force</li> </ul> |
| Sugar  | 235**  | 35.3 – up to ¥106.2/kg (\$1.12/kg)           | <ul style="list-style-type: none"> <li>Tariff elimination and on high polarity raw sugar on entry into force</li> <li>Reduction in the levy on high polarity raw sugar</li> <li>Renegotiate after five years and if a competitor gets better access</li> </ul>  |
| Seafood                                      | 200  | 0 – 15                                       | <ul style="list-style-type: none"> <li>Tariff elimination on entry into force for crustaceans, shellfish and some fish</li> <li>Tariff elimination over ten years for southern bluefin tuna, swordfish, marlin and salmon</li> </ul>  |
| Beef offal, prepared and preserved beef meat | 178  | 12.8 – 50                                    | <ul style="list-style-type: none"> <li>Tariff reductions under a growing quota for beef offal</li> <li>Tariff reductions under a growing quota for prepared and preserved beef meat</li> <li>Renegotiate after five years and if a competitor gets better access</li> </ul>                                       |
| Wine and beer                                | 49*  | 15 – 23<br>specific tariffs up to ¥182/litre | <ul style="list-style-type: none"> <li>Tariffs eliminated on bottled wine and sparkling wine (over seven years), bulk wine (on entry</li> </ul>   |

| Product              | Australian exports to Japan (\$ million, 2013) | Japan's MFN tariff  | JAEP A outcome   |
|----------------------|--|---|--|
|                      |  | (\$1.92/litre)  | into force and over ten years) and fortified wine and cider (over five years)<br><ul style="list-style-type: none"> <li>• Tariffs on beer bound at zero</li> </ul>   |
| Citrus               | 39   | 16 – 32 (seasonal)  | <ul style="list-style-type: none"> <li>• Elimination of in-season tariff over ten years</li> </ul>   |
| Juices               | 30   | 5 – 29.8<br>Specific duties up to ¥23/kg (\$0.24/kg)                        | <ul style="list-style-type: none"> <li>• Tariffs on grape, grapefruit mixed vegetable and carrot juice eliminated over five to ten years</li> <li>• New quotas with tariff reductions for orange and apple juice</li> </ul>              |
| Condiments and soups | 29   | 7.2 – 21.3  | <ul style="list-style-type: none"> <li>• Tariff elimination on jam, peanut butter, sauces and soups over five to ten years</li> </ul>  |
| Vegetables           | 29   | 0-15<br>Specific duties up to ¥354/kg (\$3.73/kg)                           | <ul style="list-style-type: none"> <li>• Immediate elimination of tariffs on asparagus and many other fresh vegetables</li> <li>• Tariffs on canned tomatoes eliminated over five years</li> </ul>                                       |
| Chocolate            | 24   | 0 – 29.8<br>Specific tariffs up to ¥679/kg (\$7.15/kg)                      | <ul style="list-style-type: none"> <li>• A growing duty-free quota for chocolate slabs</li> <li>• Tariff reductions on a range of other chocolate products, from entry into force up to ten years</li> </ul>                             |
| Live cattle          | 20   | Specific tariffs of ¥38,250/head (\$403/head) and ¥63,750/head (\$671/head) | <ul style="list-style-type: none"> <li>• Tariff reduction of 20 per cent on entry into force</li> <li>• Renegotiate after five years and if a competitor gets better access</li> </ul>   |
| Nuts                 | 16.5   | 0 – 12  | <ul style="list-style-type: none"> <li>• Tariff elimination on macadamia nuts, almonds, pecans and hazelnuts on entry into force</li> <li>• Elimination over five years for walnuts and ten years for chestnuts</li> </ul>               |
| Vegetable oils       | 8  | Specific tariffs up to ¥13.2/kg (\$0.14/kg)                                 | <ul style="list-style-type: none"> <li>• Tariffs on canola oil, cottonseed oil, mixed oils, safflower oil, sunflower oil, sesame oil, linseed oil eliminated over five to ten years</li> <li>• Olive oil tariff bound at zero</li> </ul> |
| Forestry products    | 10   | 0-10  | <ul style="list-style-type: none"> <li>• Tariffs on all currently traded</li> </ul>  |

| Product   | Australian exports to Japan (\$ million, 2013) | Japan's MFN tariff                                   | JAEP A outcome  |
|---|--|--|---|
| (excluding wood chips)  |  |  | forestry products eliminated on entry into force.   |
| Wool grease (lanolin)   | 4.4  | 1.2  | <ul style="list-style-type: none"> <li>Tariff elimination on entry into force</li> </ul>  |
| Racehorses  | 2  | Specific tariff of ¥3.4 million/head (\$35,782/head) | <ul style="list-style-type: none"> <li>Tariff halved over seven years for up to 30 animals each year</li> </ul>   |
| Other fruit   | 2  | 0 – 25   | <ul style="list-style-type: none"> <li>Tariffs eliminated on mangoes, cherries, strawberries, apples, table grapes and stonefruit from entry into force and up to ten years</li> <li>Tariffs eliminated on canned peaches and pears over seven years</li> </ul> |
| Pork meat, offal and prepared or preserved pork meat products       | 2  | 0 – 20<br>Specific tariffs up to ¥482/kg (\$5.07/kg) | <ul style="list-style-type: none"> <li>Tariff reductions under a growing quota for pork meat, offal and prepared or preserved meat products</li> <li>Exemption from Japan's price safeguard</li> </ul>  |
| Honey   | 1  | 25.5   | <ul style="list-style-type: none"> <li>Tariff eliminated over ten years under a growing quota</li> </ul>  |
| Poultry meat, offal and prepared or preserved poultry meat products | 0  | 8.5 – 21.3   | <ul style="list-style-type: none"> <li>Tariff reductions under a growing quota for poultry meat, offal and prepared or preserved poultry meat products</li> </ul>   |

\*Japanese import data (A\$ million, 2013); \*\*DFAT estimate

Source: Australian Bureau of Statistics, WTO, Global Trade Information Service

32. Table 2 does not reflect significant areas of agricultural trade in which Australian products already enter duty-free. These products include fodder (worth \$289 million in 2013), oilseeds (\$139 million), pet food (\$87 million), sheep and goat meat (\$84 million), cotton (\$31 million) and wool (\$20 million) and woodchips<sup>3</sup>.

<sup>3</sup> A confidential item in Australian export data; the Japanese import figure for 2013 was \$512 million.

**Table 3: Key resources, energy and industrial market access outcomes for Australia**

| Product                                | Australian Exports to Japan (\$ million, 2013) | Japan's MFN tariff                                     | JAEP A outcome (years until tariff elimination) |
|--|--|--|---|
| Unwrought nickel (unalloyed)           | 98*  | 11.7 per cent or ¥44/kg (\$0.46/kg), whichever is less | 7   |
| Coke and semi coke of coal             | 89   | 3.2 per cent   | 0   |
| Non-crude petroleum oils               | 74   | ranging up to 7.9 per cent                             | 0   |
| Aluminium hydroxide                    | 73   | 3.3 per cent   | 0   |
| Ferro manganese                        | 37*  | 6.3 per cent   | 7   |
| Titanium dioxide                       | 14   | 3.2 per cent   | 0   |
| Hides and skins                        | 4.5  | ranging up to 30 per cent                              | 10  |
| Shaving preparations                   | 0.4  | 4.8 per cent   | 0   |
| Articles of natural or cultured pearls | 0.06   | 5.2 per cent   | 0   |

\*Japanese import data (A\$ million, 2013)

Source: Australian Bureau of Statistics, WTO, Global Trade Information Service

33. Table 3 does not include mineral and energy exports that already enter Japan duty free, including coal (worth \$13.7 billion in 2013), iron ore (\$9.6 billion), and liquefied natural gas (estimated at \$14.4 billion).

34. Benefits from tariff elimination and reductions in Australia and Japan and preferential quota access for Australian exports to Japan via country-specific quotas based on volumes of trade will be distributed across the economy. Consumers can benefit from cheaper goods, businesses through cheaper inputs, exporters can benefit through increased competitiveness of their goods and greater exports, or through increased margins due to more efficient trade. Importers can also benefit through more efficient and increased trade.

35. A limited number of products identified by Japan as most sensitive, including rice, fresh milk and certain fur skin products, will receive no tariff concessions. These sensitive lines accounted for 2.5 per cent of Japan's imports from Australia in 2013. Japan has excluded all of these sensitive products from their previous EPAs, meaning Australian exporters will not be disadvantaged in relation to their competitors by the exclusion of these products from JAEP A. Australian rice producers will retain access to a WTO country-specific quota. Japanese imports of Australian rice were worth \$43.0 million<sup>4</sup> in 2013.

#### ***Key market access outcomes for Japan***

36. Tables 4 and 5 summarise the market access outcomes that Australia will grant Japan under JAEP A. Consistent with Australia's other EPAs, Australia will remove its remaining tariffs on Japanese goods. Tariffs on 82.7 per cent of Australia's merchandise imports from Japan will be eliminated on entry into force of JAEP A, with the remaining tariffs on Australia's sensitive products phased out within eight years. An important exception exists for used motor vehicle imports from Japan, for which the specific duty of \$12,000 per vehicle will be retained.

<sup>4</sup> Japanese import data are quoted due to confidentiality restrictions in Australian export data.

**Table 4: Elimination schedule for Australian tariffs on imports of Japanese goods**

| Staging category  | Tariff lines |              |                | Australia's imports from Japan, 2013 |              |                |
|---|--------------|--------------|----------------|--------------------------------------|--------------|----------------|
|   | No.          | % of total   | Cumulative (%) | \$'000                               | % of total   | Cumulative (%) |
| A: duty-free treatment to continue from EIF   | 2,945        | 47.6         | 47.6           | 6,300,543                            | 33.8         | 33.8           |
| B: EIF elimination  | 2,658        | 43.0         | 90.6           | 9,096,864                            | 48.9         | 82.7           |
| C: 3-stage phasing  | 77           | 1.2          | 91.8           | 2,256,141                            | 12.1         | 94.8           |
| C1: 3-stage phasing of ad valorem duties, but the specific duty of \$12,000 per vehicle shall remain. | 8            | 0.1          | 91.9           | 32,526                               | 0.2          | 95.0           |
| D: 5% duties removed in 5 stages  | 231          | 3.7          | 95.7           | 921,853                              | 5.0          | 100.0          |
| E: 10% duties removed in 5 stages   | 212          | 3.4          | 99.1           | 2,281                                | 0.0          | 100.0          |
| F: 5% duties removed in 5 stages, beginning in year 4   | 41           | 0.7          | 99.8           | 6,323                                | 0.0          | 100.0          |
| G: 10% duties removed in 5 stages, beginning in year 4  | 14           | 0.2          | 100.0          | 561                                  | 0.0          | 100.0          |
| <b>Total</b>  | <b>6,186</b> | <b>100.0</b> | <b>100.0</b>   | <b>18,617,092</b>                    | <b>100.0</b> | <b>100.0</b>   |

Source: JAEPA, Australian Bureau of Statistics

**Table 5: Key goods market access outcomes for Japan**

| Product   | Australia's imports from Japan (\$ million, 2013) | Australia's MFN applied tariff (per cent) | Years until tariff elimination |
|---|---|---|--------------------------------|
| Passenger motor vehicles                                  | 6,819   | 5   | 0, 3                           |
| Goods vehicles  | 1,241   | 5   | 0, 3                           |
| Automotive parts  | 1,220   | 5   | 3, 5                           |
| Dumpers and medium-large goods vehicles                   | 737.3   | 5   | 0                              |
| Tubes and pipes of iron or steel                          | 601.3   | 5   | 5                              |
| Bull dozers, angle dozers and other earth moving machines | 497.1   | 0, 5                                      | 0                              |
| Aerials and cameras (incl. television, digital, video)    | 136.5   | 0, 5                                      | 0                              |
| Fork lift trucks  | 105.7   | 5   | 0                              |
| Water heaters and heat exchange units                     | 89.2  | 5   | 0                              |
| Certain industrial machinery                              | 86.9  | 5   | 0                              |
| Photographic goods  | 63.5  | 0, 5                                      | 0                              |
| Electrical transformers, static converters and inductors  | 58.6  | 0, 5                                      | 0                              |
| Flat-rolled steel products                                | 52.2  | 5   | 0                              |
| Certain machinery parts                                   | 49.1  | 0, 5                                      | 0                              |
| Printing ink  | 43.8  | 5   | 0                              |
| Paper and paperboard                                      | 43.6  | 0, 5                                      | 0                              |
| Cranes and lifting frames                                 | 41.9  | 5   | 0                              |
| Hand tools  | 40.7  | 0, 5                                      | 0                              |

| Product  | Australia's imports from Japan (\$ million, 2013) | Australia's MFN applied tariff (per cent) | Years until tariff elimination |
|--|---|---|--------------------------------|
| Ball or roller bearings*                       | 36.4  | 5   | 0                              |
| Valves*  | 34.9  | 0, 5                                      | 0                              |
| Electric generating sets and rotary converters | 33.1  | 0, 5                                      | 0                              |
| Liquids pumps*                                 | 27.3  | 0, 5                                      | 0                              |
| Electrical switches, fuses, plugs, etc.        | 26.3  | 0, 5                                      | 0                              |
| Centrifuges and filtering/purifying machinery* | 23.8  | 5   | 0                              |
| Air or vacuum pumps*                           | 21.8  | 0, 5                                      | 0                              |
| Refrigerators, freezers and heat pumps         | 17.2  | 5   | 0                              |

\* Excludes parts relating to automobiles

Source: Australian Bureau of Statistics, WTO

37. Given these outcomes will make Japanese goods more competitive than goods from countries that do not have free trade agreements with Australia, it can reasonably be expected that Japanese exports to Australia will increase. This will benefit both Australian consumers and Australian businesses that rely on Japanese imports. The potential reduction in price from tariff elimination will be particularly relevant in the two largest product import categories from Japan: motor vehicles and automotive parts. At 32 per cent, Japan already holds the largest share of new car sales in Australia.<sup>5</sup> It will also benefit consumers through cheaper electric and white goods.

#### ***Benefits to the Australian economy***

38. Increased and more efficient bilateral trade with Japan will benefit the Australian economy. Improved market access for Australian exports and lower import prices are likely to increase Australia's terms of trade, increase capital accumulation, raise productivity and improve utilisation of resources.

39. The reduction or elimination of tariffs on Australian exports to Japan under JAEPA is expected to increase demand in Japan for goods produced in Australia. Australian industries response to increased demand will differ across sectors and enterprises, based on commercial decisions, including developments in other markets, and any capacity issues.

#### ***Impacts on Australian's major agricultural exporters***

##### ***Beef***

40. JAEPA delivers Australian beef producers and exporters an unprecedented competitive advantage in their most important market.

41. Japan is Australia's largest export market for beef, with exports totalling \$1.4 billion in 2013. Prior to the discovery of BSE in North America in 2003, the United States was Japan's largest supplier, holding almost half of the market (by volume). Australia is currently Japan's largest supplier but, since 2006 when Japan eased BSE restrictions on beef from the US, Australia's market share has fallen. Indeed, since 2010, beef exports from the United States to Japan have doubled, while Australian exports have fallen by 19 per cent. This trend is predicted to continue without an improvement in Australia's market access.

<sup>5</sup> March quarter 2014; source: VFACTS Report

42. Australia's beef exports to Japan currently face a high tariff of 38.5 per cent. The tariff jumps to 50 per cent if Japan's imports of beef increase rapidly, via the 'snapback' mechanism. This mechanism is designed to ensure minimum Japanese production and is driven by concerns regarding domestic food security. The 'snapback' has been activated three times since its inception in 1995, including 2003-04, when beef imports recovered following a loss of consumer confidence owing to the discovery of BSE in United States beef in 2003.
43. *Fresh and frozen beef:* Australian beef exports to Japan, worth \$1.4 billion in 2013, are currently subject to a 38.5 per cent tariff and a global safeguard with a 'snapback' tariff of 50 per cent.
44. The tariff on frozen beef will be cut to 19.5 per cent over 18 years. However, there will be significant front-end loading, with an eight percentage point cut in the first year, two in the second year and one in the third year, providing a considerable immediate advantage over the United States.
45. The tariff on fresh beef will be cut to 23.5 per cent over 15 years. These cuts will also be frontloaded. The tariff will be cut by six percentage points in the first year, followed by two annual one percentage point cuts.
46. Significantly, Japan has agreed that Australian beef will never again be subjected to the 50 per cent global snapback tariff. Australian beef will be subject to an agricultural safeguard where if the volume of Australian beef exceeds a given trigger level in any given year the tariff will revert to a maximum of the current tariff of 38.5 per cent. There are different safeguard volume levels for fresh and frozen beef. Both safeguard volume levels are set above current trade and include annual growth for ten years before they are subject to automatic renegotiation, including explicit consideration of the complete removal of the safeguards. The safeguard trigger for frozen beef starts at 195,000 tonnes (14.5 per cent above 2013 imports of Australian fresh beef of approximately 170,000 tonnes) and grows to 210,000 tonnes over ten years, and the safeguard trigger for fresh beef starts at 130,000 (12 per cent above 2013 imports of Australian frozen beef of approximately 116,000 tonnes) and grows to 145,000 tonnes over ten years.
47. Japan has also agreed to review and renegotiate the outcome on beef providing a framework for further liberalisation. This includes: a review triggered immediately if Japan provides another country a better deal on beef, aimed at providing Australia equivalent treatment; and an automatic review aimed at improving access five years after entry into force. The safeguard mechanisms are to be reviewed after ten years to consider abolishing the safeguard or increasing the safeguard trigger levels.
48. *Beef offal / preserved and prepared beef meat:* Japan is also a vital market for Australian beef offal, with exports of \$167 million in 2013. Offal faces high tariffs of between 12.8 per cent and 50 per cent. Australia exported over \$11 million of preserved or prepared beef (including sausages) to Japan in 2013.
49. Japan has agreed to reduce tariffs immediately by 40 per cent for beef offal under a growing quota starting at 17,000 tonnes and growing to 21,000 tonnes over ten years. Australia exported approximately 24,000 tonnes of beef offal to Japan in 2013 so almost all Australian offal exports would enjoy this preferential treatment immediately on entry into force.
50. Japan will also reduce tariffs immediately by between 20 per cent and 40 per cent on prepared and preserved beef meat, under a quota of 5,300 tonnes

(above current trade) growing over ten years to 8,300 tonnes. The tariff on Australia's most heavily traded item will fall from 21.3 per cent to 17 per cent immediately on entry into force.

51. JAEPA allows for automatic renegotiation of market access for beef offal and preserved and prepared beef meat five years after entry into force, with a view to improving access. If Japan provides another country a better deal, a review will be automatically triggered with the aim of providing Australia the same treatment.

52. *Live cattle:* Australia exported more than 13,000 head of live cattle to Japan in 2013, worth \$20 million. Live cattle face a tariff of ¥38,250 (\$403) per head for stock less than 300 kilograms and ¥63,750 (\$671) per head for stock above 300 kilograms.

53. Japan has agreed to immediately reduce the tariffs by 20 per cent, with no volume restrictions. This means for cattle weighing less than 300 kilograms the tariff will fall to ¥30,600 (\$322) each, and for cattle weighing over 300 kilograms the tariff will fall to ¥51,000 (\$537) each.

54. The Australian beef industry has strongly supported the agreement. Meat and Livestock Australia, has modelled lower tariffs and increased demand under JAEPA to result in increased production, exports and margins, with increased sales of \$5.5 billion over a 20-year period.

#### *Dairy*

55. Australian dairy exports to Japan were valued at \$452 million in 2013. Japan's dairy industry is heavily regulated, with a complex network of WTO commitments and domestic laws and quotas controlling all aspects of production, from industry inputs to end use requirements. Outside of very limited concessions on specialty cheese (for Switzerland) and ice cream (for the Philippines and Thailand), Japan has effectively excluded all dairy products from its existing EPAs.

56. Under JAEPA, Australia will receive significant preferential access, particularly on key dairy export, cheese, as well as on ice cream and yoghurt. Australia will also receive immediate duty-free access for increasingly important exports of lactose, casein, milk albumen and milk protein concentrates.

57. This access will allow the Australian dairy industry to build on its already very strong position in Japan, particularly given the advantage Australia will enjoy over New Zealand and the United States.

58. *Cheese:* Australia exported \$372 million of cheese to Japan in 2013, making Japan our largest cheese market. Around 30 per cent of Australia's cheese exports currently enter duty free under Japan's global quota system. Under JAEPA, around half of Australia's cheese exports will enter Japan duty-free, with Australia-only quotas (including a quota of 4,000 tonnes on entry into force growing to 20,000 tonnes with front-loading for cheese for processing) available to exporters for major cheese lines. In addition, tariffs will be permanently reduced on some cheese lines with no quota restrictions.

59. As with beef, cheese is subject to the same automatic review five years after entry into force, with a view to improving access, as well as an automatic review if Japan provides another country a better deal.

60. *Other dairy products:* Australia's exports of milk-based casein, lactose, milk albumen and milk protein concentrates to Japan were valued at \$53 million in 2013 and are subject to tariffs of up to 5.4 per cent. Under JAEPA, tariffs on casein

(5.4 per cent), lactose (8.5 per cent), milk albumen (2.9 per cent) and milk protein concentrates (5.1 per cent) will be immediately eliminated on entry into force. Australian producers dairy producers also stand to gain from improved access for some cocoa preparations.

61. Australia's exports of ice-cream to Japan were worth around \$2.8 million in 2013, despite high tariffs of up to 21 per cent. There is currently limited trade in yoghurt, with exports worth only \$129,000 in 2013, with very high tariffs of up to 29.8 per cent.

62. JAEPA outcomes include:

- . a 50 per cent reduction in the ice-cream tariff to between 14.9 per cent and 10.7 per cent over ten years under a quota growing from 180 tonnes to 2,000 tonnes; and
- . a 50 per cent reduction in the frozen yoghurt tariff to 14.9 per cent over ten years under a quota growing from 100 tonnes to 200 tonnes.

63. Consistent with Japan's other EPAs, JAEPA does not provide for specific preferential access for Japan's most sensitive dairy products (fresh milk, milk powders, butter and dairy spreads). Under JAEPA, market access for milk powders, butter and dairy spreads will be automatically reviewed five years after entry into force, with a view to improving access; and if Japan provides another country a better deal, a review will be automatically triggered with the aim of providing Australia equivalent treatment. Australian milk powder, butter and dairy spread exporters will continue to have access to Japan's WTO duty-free quotas, under which Japan currently does the bulk of its trade in these products.

64. Despite the additional access secured under JAEPA, including on Australia's major dairy export to Japan, cheese, the Australian dairy industry has expressed disappointment with the outcome. Japan's complicated regulatory structure on dairy limited opportunities for broader liberalisation, and Australia instead focussed on improving access for Australia's main export cheese, and gains in growing markets such as lactose, casein and milk protein concentrates.

### *Sugar*

65. Japan is estimated to be Australia's third-largest market for sugar (using 2013 trade data). Australia's exports were worth an estimated \$235 million in 2013. Australia accounts for just under one third of Japan's sugar imports and is Japan's second-largest supplier. Most export markets trade in high polarity raw sugar, which is a high quality product and the international standard for raw sugar. However, Japan imposes a range of tariffs and levies on high polarity raw sugar, making imports prohibitively costly. This effectively pushes exporters to sell lower quality (low polarity) raw sugar in Japan, requiring sugar to be processed specifically for the Japanese market, at a higher production cost.

66. Under JAEPA, Australia alone will receive preferential access for high polarity raw sugar, meaning Australia producers will be able to sell the same standard of raw sugar to Japan as it exports to other markets, providing greater flexibility for Australian producers. Australian sugar will be more attractive to Japan's refineries, and more cost effective for Australia to produce and refine.

67. In public statements, the Australian sugar industry has expressed disappointment that low polarity raw sugar was excluded from JAEPA. The sugar industry had pushed for improvements in access for high polarity raw sugar.

#### *Grains*

68. Grains such as wheat, barley, sorghum, and their milling products, are one of Australia's biggest agricultural exports to Japan, worth over \$770 million in 2013. Despite relatively low tariffs, Japan's grain trade is highly regulated, and includes WTO quotas, duties and other mark-ups, as well as complicated tendering arrangements.

69. *Wheat:* Australia's exports of wheat to Japan were worth \$356 million in 2013, making Japan our fourth largest wheat market. The bulk of Australia's wheat exports currently enter duty-free under Japan's WTO quota system. However, wheat exporters must participate in a tendering process, which adds inefficiencies and distorts market signals. Under JAEPA, Australia has secured access to the more efficient 'simultaneous buy and sell' process for some wheat varieties: Australian Hard and Australian Prime White.

70. Outside the quota system wheat (for food) and wheat (for feed) faces prohibitive tariffs of ¥55 (\$0.58) per kilogram meaning hardly any wheat enters outside the quotas. Australia has been able to secure immediate elimination of the ¥55 (\$0.58) per kilogram tariff on out-of-quota wheat (for feed), meaning Australia will be the only country that can export wheat (for feed) duty-free outside of the existing complicated quota system giving the opportunity for increased exports and streamlined export processes.

71. Japan imported \$20 million worth of wheat gluten from Australia in 2013 despite facing a high tariff of 21.3 per cent. This tariff will be eliminated over ten years.

72. *Barley and Malt:* Japan's imports of Australian barley were worth \$309 million in 2013, comprising \$236 million of barley (for feed) and \$74 million of barley (for food). Japan also imported \$52 million of malt from Australia in 2013. As with wheat, the bulk of Australia's barley and malt exports to Japan enter duty-free under the WTO quota system. Australia has secured immediate out-of-quota tariff elimination for barley (for feed), meaning Australia will be the only country that can export duty free to Japan without using the complex quota system. We will also receive a large Australia-only duty free quota for unroasted malt, creating opportunities for growth.

73. *Corn:* Australia's exports to Japan of corn (maize) were worth \$18 million in 2013 and its imports of worked maize for the production of cornflakes were worth \$802,000. The bulk of Australia's corn (maize) exports to Japan already enter duty-free under its domestic quota system. Under JAEPA, tariffs of up to 21.3 per cent on milled corn products (including for the production of corn flakes) will be eliminated over periods between five and 10 years.

74. *Sorghum:* Australia's exports of sorghum to Japan were worth \$4 million in 2013. Under JAEPA, the three per cent sorghum tariff will be eliminated immediately on entry into force.

75. *Oats / buckwheat / pulses:* Australia is Japan's second-largest supplier of rolled oats, with exports of over \$2 million in 2013. Under JAEPA, the 12 per cent tariff on oats will be eliminated over seven years. Japan will also eliminate its nine

per cent tariff on buckwheat over 10 years. Australian buckwheat exports to Japan were worth \$45,000 in 2013. Japan will eliminate, on entry into force, its 8.5 per cent tariff on lentils and chickpeas.

#### *Wine*

76. Australia exported over \$42 million worth of wine to Japan in 2013. Australian wine has been losing market share in Japan to Chile, which enjoys phased tariff reductions on bottled, sparkling and bulk wine over 12 years under the Japan-Chile EPA, albeit with a range of restrictions, particularly on cheaper wine. JAEPA will provide improved access for bottled, sparkling and bulk wine, with faster tariff elimination than Chile secured, to help level the playing field with Chile and provide an immediate advantage over other key competitors, including France, Italy, the United States and Spain.

77. The 15 per cent or ¥125 per litre (\$1.32/litre) tariff on bottled wine will be eliminated over seven years (current exports worth \$29 million); the ¥45 per litre (\$0.47/litre) per litre tariff on bulk wine will be eliminated on entry into force; and the ¥182/litre (\$1.92/litre) tariff on sparkling wine over seven years (current exports worth \$9 million). Tariffs on other alcohol products such as fortified wine, grape must, vermouth and cider, perry and mead will be eliminated immediately or over periods up to ten years.

78. Imports of Australian beer were worth \$2.7 million in 2013. JAEPA will bind beer tariffs at zero, providing certainty for Australian exporters.

79. The wine industry has strongly welcomed the outcomes.

#### *Horticulture*

80. Japan is an important horticultural market for Australia, with exports of fruit and nuts worth \$57 million, vegetables worth over \$24 million and juices worth \$30 million in 2013. JAEPA will provide a very liberalising outcome across horticulture. It will result in quick tariff elimination on the vast majority of Australian horticultural exports. In some cases, to take advantage of counter-seasonal production, JAEPA allows better access for Australian produce during Australia's exporting season.

81. JAEPA will also cut red tape and costs for Australian producers, particularly horticultural exporters. Australian exporters will be able to receive preferential tariff treatment with either self-certification or a certificate of declaration that the product is Australian.

82. The horticulture industry has strongly supported the JAEPA outcomes, particularly the Australian Nut Industry Council, the Australian Macadamia Society, AUSVEG, Citrus Australia and the Australian Asparagus Council.

83. *Fruit:* Citrus dominates Australia's fruit exports to Japan, with orange exports worth \$34 million and mandarins worth \$4 million in 2013. Citrus faces high tariffs: 16 per cent in season (between June and September) for oranges (32 per cent off-season) and 17 per cent for mandarins. Japan is an important market for Tasmanian cherries, exports were worth \$238,000 in 2013, and has previously been a market for Tasmanian apples, although there has been no recent trade. Japan is also an important market for dried grapes with exports worth \$851,000 in 2013.

84. JAEPA provides better outcomes than any other of Japan's EPAs and will enable Australian fruit producers to significantly expand exports. It will also provide

new opportunities, particularly for products such as table grapes, which have just received quarantine market access into Japan.

85. Key JAEPA outcomes for fruit include:
- . immediate tariff elimination on entry into force for: mangoes (three per cent tariff), dried grapes (1.2 per cent), raspberries (six per cent), blueberries (six per cent), cranberries (six per cent), and pawpaw (two per cent);
  - . immediate elimination of the seasonal tariff on cherries (8.5 per cent between November and February);
  - . elimination over three years for strawberries (six per cent);
  - . elimination over five years for: grapefruit (10 per cent), pears (4.8 per cent), apricots (six per cent), peaches (six per cent), plums (six per cent), and kiwifruit (6.4 per cent);
  - . elimination of seasonal tariff on table grapes (7.8 per cent in-season tariff over seven years; 17 per cent off-season tariff over 10 years), with agreement of biosecurity protocols in February 2014 will significantly improve market access for table grapes; and
  - . elimination over 10 years for apples (17.5 per cent) and oranges (16 per cent in season).
86. *Fruit juice and canned fruit*: Key JAEPA outcomes for fruit juice and canned fruit include:
- . grape juice: 19.1 per cent tariff eliminated over five years (exports worth over \$3.9 million);
  - . canned peaches and pears: eight per cent and 10.8 per cent tariffs eliminated over seven years (exports \$2.4 million);
  - . grapefruit juice: 23 per cent tariff eliminated over 10 years (exports worth \$756,000);
  - . orange juice: Australia-only quota of 1,300 tonnes (greater than current trade), under which Australian juice will pay half the tariff of other countries (existing tariffs ranging up to 29.8 per cent) (exports worth around \$1.7 million in 2013); and
  - . apple juice: Australia-only quota of 1,600 tonnes, with tariffs of up to 29.8 per cent eliminated over ten years (exports worth over \$1.1 million).
87. *Nuts*: Australia exported over \$16.5 million worth of nuts to Japan in 2013. The vast majority of these exports were macadamia nuts (\$16.2 million) with some exports of almonds (and traditionally pecans), but with significant production of Australian almonds and walnuts expected to come on-line soon. JAEPA provides opportunities for considerable growth. Japan's total imported nut market is worth over \$550 million.
88. Key JAEPA outcomes for nuts include:
- . macadamia nuts: immediate elimination of the five per cent tariff;
  - . almonds: immediate elimination of the 2.4 per cent tariff for both shelled and un-shelled almonds;
  - . pecans: immediate elimination of the 4.5 per cent tariff;
  - . hazelnuts: immediate elimination of the six per cent tariff;

- . walnuts: 10 per cent tariff eliminated over five years for both shelled and unshelled walnuts; and
- . chestnuts: 9.6 per cent tariff eliminated over ten years.

89. *Vegetables*: Japan is Australia's largest market for asparagus, with exports worth \$14 million in 2013; our second largest market for onions and shallots, with exports worth over \$3 million, and an important market for carrots and turnips, with exports of almost \$1 million.

90. Under JAEPA, tariffs on vegetables and vegetable juices (ranging up to 12.8 per cent) will be eliminated quickly, most on entry into force of the agreement. This result is far superior to any of Japan's other EPAs. Key JAEPA outcomes for vegetables include:

- . asparagus: immediate elimination of the three per cent tariff on entry into force (Australia's largest vegetable export to Japan);
- . carrots, potatoes, leeks, garlic, tomatoes, shallots, cauliflower, broccoli, brussels sprouts, cabbage, truffles, spinach, capsicum, pumpkins, artichokes, mushrooms (except shiitake): immediate elimination of the three per cent tariff on entry into force;
- . olives (preserved): immediate elimination of the nine per cent tariff on entry into force;
- . canned tomatoes: nine per cent tariff eliminated over five years (exports from Australia worth \$4.0 million in 2013);
- . onions: 8.5 per cent tariff eliminated over five years;
- . mixed vegetable juice: 5.4 per cent tariff eliminated over five years (exports worth \$9.5 million);
- . carrot juice: seven per cent tariff eliminated over seven years; and
- . broad beans: elimination over 10 years of the 10 per cent in-quota tariff.

91. Japan has excluded only a very few horticulture products from tariff elimination, namely: shiitake mushrooms, pineapples, bananas, azuki beans and pegin beans. Australia does not export these products to Japan.

### *Seafood*

92. Australia's seafood trade with Japan is significant, with exports worth almost \$200 million in 2013, making Japan Australia's third-largest seafood market. Much of the trade comprises southern bluefin tuna, which currently faces a tariff of 3.5 per cent. Japan accounted for 98 per cent of Australia's exports of southern bluefin tuna in 2013. Australian exports of crustaceans to Japan have more than halved since 2008, now worth only around \$37 million, with exports growing significantly to other Asian markets with lower or no tariffs. Other key exports are shrimps and prawns, rock lobsters and abalone. JAEPA will provide fast tariff elimination to grant Australian exporters preferential access in this lucrative market.

93. At Japan's request, some tariff eliminations in JAEPA, including for southern bluefin tuna start a few years after entry into force to assist adjustment for its domestic fisheries industry following the 2011 earthquake and tsunami.

94. Key outcomes for seafood include:

- tariffs up to 9.6 per cent on shrimps and prawns, rock lobsters, abalone (fresh or preserved), oysters, crabs, yellowfin tuna, toothfish, sea urchins and fish oils will be eliminated immediately on entry into force
- tariff of 3.5 per cent on southern bluefin tuna will be eliminated over ten years, with reductions starting in year three after entry into force
- tariffs of 3.5 per cent on swordfish, marlin and salmon will be eliminated over 10 years, with reductions starting in year six after entry into force.

*Oilseeds and vegetable oil*

95. Australia's exports to Japan of oilseeds and vegetable oils in 2013 were almost \$148 million. Most oilseeds currently enter Japan duty-free but tariffs remain on most vegetable oils (exports worth \$8.3 million in 2013). JAEPA outcomes provide elimination of Japan's remaining tariffs on key vegetable oils that will assist Australian exporters increase exports to the Japanese market. Key JAEPA outcomes include:

- canola oil: ¥13.2 (\$0.14) per kilogram tariff eliminated over ten years (exports worth \$6.8 million in 2013)
- cottonseed oil: ¥8.5 (\$0.09) per kilogram tariff eliminated over ten years
- olive oil: tariff will be bound at zero (exports worth almost \$1 million)
- mixtures of oils: ¥13.2 (\$0.14) per kilogram tariff eliminated over ten years
- safflower oil: ¥8.5 (\$0.09) per kilogram tariff eliminated over five years
- sunflower and sesame oils: ¥10.4 (\$0.11) per kilogram and ¥8.5 (\$0.09) per kilogram tariffs eliminated over seven years (exports worth \$251,000)
- linseed oil: ¥8.5 (\$0.09) per kilogram tariff eliminated over ten years (exports worth \$17,000)
- immediate elimination on entry into force for: coconut oil (4.5 per cent tariff), palm kernel oil (four per cent), palm oil (3.5 per cent), castor oil (4.5 per cent).

*Other meats*

96. *Sheep and goatmeat:* Australian sheepmeat (valued at \$83 million in 2013) and goatmeat (\$1 million) exports currently enter Japan duty-free.

97. *Pork:* Australian pork exports to Japan were only 279 tonnes, worth around \$1.5 million in 2013. Pork meat, offal (fresh, chilled or frozen) and processed pork exports to Japan face significant tariffs (up to ¥482 (\$5.07) per kilogram) or variable duties that raise import prices to a standard level. These tariffs and duties make exporting to Japan an unattractive option for many Australian exporters. Japan also operates a complex 'gate price differential' tariff system for pork, whereby the tariff is determined by the relationship between the price of the exported product and Japanese farm gate price. In addition, a global safeguard mechanism, known as the 'gate price safeguard', operates to allow Japan to raise the 'gate price' if global imports increase significantly.

98. Australia will gain preferential access for a large volume of product (more than ten times current trade and around 40 per cent of Australia's total pork exports to

all countries) via an Australia-only quota covering pork meat (frozen, fresh and chilled), offal and prepared and preserved pork meat products. Within the quota, the ad-valorem tariff rate will be halved immediately on entry into force, and Australian product will also be exempt from Japan's global 'gate price safeguard'. The JAEPA outcome is more comprehensive, applying to a greater range of products than any of Japan's bilateral EPAs and has the potential to create a major new market, particularly for premium Australian pork. The pork industry, while acknowledging the significant quota for Australian pork, has highlighted Japan's continuing high surcharges.

#### *Forestry*

99. The vast majority of Australia's forestry industry trade to Japan is chips – which already enter Japan duty-free. But tariffs on all other forestry items Australia currently exports, including medium density fibreboard, particle board, and structural laminated timber, will be eliminated upon entry into force of the agreement. Japanese imports of Australian forestry products were worth over \$520 million in 2013.

#### *Prepared foodstuffs*

100. Australia's exports of prepared foodstuffs to Japan were worth over \$170 million in 2013. JAEPA delivers a growing quota for honey, with the in-quota tariff eliminated over ten years. Tariffs on jams, peanut butter, sauces and condiments and soups and broths range up to ten per cent but will be eliminated over periods up to ten years. JAEPA also creates a new quota for Australian chocolate exports, with in-quota tariffs reduced or eliminated and tariffs on chocolate products reduced such that 95 per cent of Australia's exports can enter Japan duty free or at a reduced rate.

101. The Australian Food and Grocery Council has welcomed JAEPA, describing it as a great example of Australia playing to its strengths in international trade to secure maximum value for high value-add exports as well as commodities.

#### *Wool and wool grease (lanolin)*

102. Australia exported almost \$20 million worth of wool to Japan in 2013. Tariffs on wool are already set at zero. The 1.2 per cent tariff on wool grease, with exports worth \$4.4 million in 2013, will be eliminated on entry into force.

### ***Impacts on Australian industrials exports***

#### *Minerals and fuels resources*

103. In 2013, Australia's minerals and fuels resources exports to Japan were worth over \$42 billion, accounting for over 80 per cent of total merchandise exports. While many Australian mineral and energy exports, including coal, iron ore and liquefied natural gas, already enter Japan duty free, Japan applies tariffs of up to 7.9 per cent on other resources of commercial interest to Australia. Japan has agreed to immediately eliminate most of these tariffs under JAEPA, including on coke and semi coke of coal, worth \$89 million, and non-crude petroleum oils, worth \$74 million. These outcomes will improve the price competitiveness of Australian products. Additionally, Japan will provide certainty to traders by binding tariffs at zero for certain petroleum oil products. These products are currently 'unbound' in the WTO, meaning there is no ceiling to the possible tariff levels Japan could apply.

104. The Minerals Council of Australia has welcomed JAEPA, noting reductions in tariffs on coking coal, as well as aluminium hydroxide, titanium dioxide, unalloyed nickel and ferro manganese, would provide 'a significant boost' to Australia's

minerals exporters.<sup>6</sup> The Business Council of Australia also welcomed the Agreement, labelling it ‘a major milestone for one of Australia’s most important bilateral relationships’.<sup>7</sup>

105. *Unwrought nickel (unalloyed)*: Japan’s tariff on unwrought nickel (unalloyed) (11.7 per cent or ¥44 (\$0.46) per kilogram), whichever is less) will be phased out over seven years. Australia is Japan’s largest supplier of unalloyed nickel, with trade worth \$98 million in 2013.

106. *Aluminium hydroxide*: Australian aluminium hydroxide exporters will have Japan’s 3.3 per cent tariff eliminated immediately on entry into force. Australia’s exports of aluminium hydroxide to Japan were worth \$73 million in 2013.

107. *Ferro manganese*: Japan’s 6.3 per cent tariff on ferro-manganese will be phased out over seven years. Japan imported \$37 million of ferro-manganese from Australia in 2013. Australia is Japan’s second-largest supplier.

108. *Titanium dioxide*: Australian titanium dioxide exporters will benefit from immediate elimination of Japan’s 3.2 per cent tariff. Australia’s exports to Japan were worth nearly \$15 million in 2013. This outcome will help improve Australian titanium dioxide exporters’ competitiveness against US exporters (currently Japan’s largest source of imports).

#### *Manufactured products*

109. Japan currently applies tariffs of up to 30 per cent on some manufactured products. Under JAEPA, tariffs on \$218 million worth of Australian manufactured exports to Japan will be eliminated immediately on entry into force, while 100 per cent of Australia’s industrials exports will benefit from duty free entry on full implementation of the Agreement. Japanese tariffs on motor vehicles, automotive parts and most pharmaceuticals are already zero. With the exception of a small number of leather and footwear tariff lines of limited commercial interest to Australia, all Japanese tariffs will be eliminated over a transition period of up to ten years for the most sensitive items.

110. *Textile products*: In addition to the phased elimination of tariffs of up to 10.9 per cent on 20 of Australia’s priority textile exports, Japan has agreed to a single transformation origin rule. This is the first time Japan has agreed to such a liberal approach on textiles in an EPA. Australia exported around \$1.1 million worth of these products to Japan in 2013.

111. *Hides and skins*: Japan’s high tariffs of up to 30 per cent on hides and skins will be eliminated within ten years. Australia exported \$4.5 million worth of hides and skins to Japan in 2013.

112. *Sandalwood products*: Japan will immediately eliminate tariffs of up to 3.8 per cent on Australian sandalwood products. This outcome will provide scope for future trade as Australian producers expand their capacity and seek new markets.

113. *Articles of natural or cultured pearls*: Australian pearl exporters will benefit from immediate elimination of Japan’s 5.2 per cent tariff on entry into force. In 2013 Japan imported \$13.9 million of Australian pearls in 2013.

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<sup>6</sup> Minerals Council of Australia, media release: ‘MCA welcomes Australia-Japan Free Trade Agreement’, 8 April 2014

<sup>7</sup> Business Council of Australia, media release: ‘Conclusion of Free Trade Agreement Negotiations with Japan’, 8 April 2014

114. *Exclusions:* A limited number of products, of which the manufacturing process has cultural sensitivity for Japan, are excluded. These products include chamois and patent leather, certain fur skin products and leather footwear. These products are excluded in all of Japan's EPAs. Australia's exports to Japan of these products are small (worth less than \$200,000 in 2013).

#### ***Impact on domestic manufacturing***

115. The implications of JAEPA on domestic manufacturing will be mixed. Australian manufacturing businesses that use goods and materials produced in Japan will enjoy lower input costs as tariffs are eliminated or phased down, while industries that compete with products produced in Japan will face additional pressure.

116. The elimination of Australia's five per cent tariff on new motor vehicles and automotive products will increase competitive pressure on the domestic Australian automotive industry, although major manufacturers have already announced the cessation of vehicle manufacturing in Australia by 2017. The impact of tariff elimination on Australia's competitiveness is smaller than other factors facing the Australian manufacturing sector generally. Both GM Holden and Toyota mentioned a range of factors, including high production costs, low economies of scale and a strong Australian dollar, influencing their decisions to end manufacturing operations in Australia.

117. Other manufacturing sectors, including the steel, copper, plastics, chemicals, textiles, clothing and footwear industries, may also face increased competition from Japanese imports following the elimination of Australian tariffs. To mitigate any negative impact, and consistent with suggestions from relevant stakeholders, tariffs on some of Australia's most sensitive products will be phased out over periods of up to eight years.

118. While JAEPA will increase competitive pressure for some Australian manufacturers, the elimination of Japan's tariffs of up to 30 per cent on Australian industrial exports will create opportunities for Australian manufacturers. Current levels of manufacturing exports to Japan are relatively small but can be expected to grow after JAEPA's entry into force. In particular, there are improved export opportunities for chemicals, certain base metals, including unwrought nickel and ferro-alloys, articles of natural pearls and personal hygiene products, sandalwood products, titanium dioxide and processed foods. Australia is regarded as a competitive and high-quality manufacturer in these specialised product categories. Tariff elimination will make Australian products even more competitive in the Japanese market.

#### ***Impact on retail/servicing networks***

119. The elimination of tariffs on Japanese made new motor vehicles is likely to have a positive impact on automotive retailers and service networks, to the extent that importers and suppliers pass on the price benefit of tariff elimination further down the supply chain. Vehicle retailers are likely to benefit from an improved ability to market and merchandise more competitively priced or a broader range of goods while automotive service providers would be able to access more competitively priced parts.

#### ***Rules of origin: implications for exporters***

120. JAEPA benefits Australian businesses trading with Japan by removing or reducing regulatory burdens such as import tariffs. Taking advantage of such benefits

may require some changes to existing business processes, but such changes are not expected to impose additional costs.

121. With the objective of minimising cost and red tape, JAEPA allows traders to self-declare origin, but the option of obtaining a certificate of origin (COO) through a third-party issuing authority is also available.

122. The Product Specific Rules (PSRs) in JAEPA assist exporters in determining whether their goods meet origin requirements and therefore qualify for preferential tariff treatment. The PSRs are based primarily on change in tariff classification (CTC), a simple means of determining whether goods have undergone substantial transformation in the production process in the partner country, and therefore meet origin requirements for the purposes of preferential tariff treatment. Industry supports CTC rules because they do not require burdensome cost calculations or extensive records. CTC rules are already in use under Australia's FTAs and trade agreements with the United States, Thailand, Chile and New Zealand and are included in the recently-signed agreement with Korea. The CTC rules in JAEPA are supplemented for certain items by regional value content rules (which require a certain percentage of production to be undertaken in the territory of an EPA Party).

#### ***Impact on Australian service providers***<sup>8</sup>

123. Under JAEPA, Japan will bind its existing regime for the regulation of service providers and provide Australia with better treatment in trade in services, including financial services, education services, legal and other professional services than is currently available under Japan's existing WTO commitments. JAEPA provides greater clarity and certainty for Australian service suppliers by binding existing market access and committing Japan to bind any future improvements to its regulatory regime. It also provides avenues to address behind-the-border barriers through greater commitments from Japan on transparency of regulation and a number of cooperative initiatives to enhance dialogue with Japan.

124. Australia will provide Japan with treatment in trade in services which is substantively equivalent to commitments made under Australia's existing trade agreements with the United States and Korea. JAEPA encourages mutual recognition of professional qualifications. These commitments are made without prejudice to our immigration regime. All immigration related requirements are dealt with exclusively through the Movement of Natural Persons Chapter (see relevant section below).

#### ***Legal services***

125. Australian lawyers operating in Japan are restricted to the practice of their home jurisdiction's law upon registration as a foreign lawyer with the Japan Federation of Bar Associations (JFBA). The approvals process is opaque and time-consuming, and registration imposes residency requirements. Until recently, Australian law firms could only access the Japanese market in particular legal forms, being restricted to partnerships with Japanese firms, and more recently the formation of legal professional corporations. In addition to binding the existing regime, including a commitment to allow Australian law firms to form legal professional

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<sup>8</sup> Current statistical data on services trade between Australia and Japan are not as comprehensive as goods trade data, and is likely to (in some cases significantly) understate actual value and volume of services trade. This is for two reasons: difficulties in measurement, particularly in relation to mode 3 (commercial presence, as defined under the WTO General Agreement on Trade in Services), which is not picked up in current services trade data methodology, and because of confidentiality restrictions impacting on the level of detail of data available.

corporations – this goes beyond Japan’s current commitments under the WTO’s General Agreement on Trade in Services (GATS) – Japan has confirmed expedited registration procedures will be available for Australian lawyers under JAEPA. Japan has also committed to dialogue between the JFBA and the Law Council of Australia (LCA) to improve movement and recognition of lawyers between our legal systems. Stakeholders, most notably the LCA, are highly supportive of improved access to the Japanese legal services market through the EPA.

#### *Education services*

126. In JAEPA, Japan has committed to market access for Australian adult education providers. Lack of recognition of qualifications outside of the formal education sector is an impediment to Australian university and adult education service providers in Japan. Japan has committed to allow Japanese students to study at all Australian higher education providers, including vocational education providers, such as TAFEs, under Japanese Government scholarships. Formerly, Japanese students could only apply for scholarships to study at Australian universities. Australia and Japan will cooperate bilaterally to promote the recognition of each other’s education qualifications, improve access to graduate studies and strengthen student mobility between the two countries. These commitments meet a number of key requests of Australia’s education industry.

#### *Telecommunications services*

127. JAEPA binds and clarifies WTO-plus outcomes on access to key services (facilities, interconnection, submarine cable systems, leased circuit services, resale services, number portability and dialling parity) necessary to connect to existing Japanese infrastructure and operate effectively in Japan. Japan has committed not to introduce new requirements for investments in telecommunications and internet-based services, insuring more liberal market access in these areas over time. The Telecommunications Chapter also contains improved transparency obligations, including for licensing processes and regulatory decisions, and ensures the availability of dispute resolution procedures and the independence and impartiality of telecommunications regulatory bodies.

#### *Financial services*

128. Japan has one of the largest financial services markets in the world. In particular, it has the second largest pool of pension funds globally, after the United States. Australian firms have a relatively small presence in the Japanese financial services sector, despite Australia’s sophisticated regulatory regime and comprehensive range of products. JAEPA supports Australian firms with a presence in Japan by binding current regulatory arrangements, locking in existing access for Australian services providers and ensuring that barriers cannot be put in place which would impede future opportunities. Japan also has committed to ensure access equivalent to Japanese firms for Australia’s innovative financial sector in emerging financial services.

129. Japan has also made commitments in JAEPA on transparency of financial sector regulation. In preliminary briefings, stakeholders, such as the Financial Services Council, were supportive of the outcomes. Australia has similarly made commitments to Japan, binding our existing regulatory arrangements, while retaining adequate protections for interests such as prudential requirements.

130. The Financial Services Chapter contains additional obligations to the Trade in Services Chapter and the Investment Chapter that reflect the importance of regulation of the financial sector and which ensure the integrity and stability of the financial system. Japan has provided commitments guaranteeing cross-border access for Australian financial services suppliers. Most notably, it has for the first time locked in cross-border access for Australian fund managers to supply portfolio management and advisory services to the Japanese institutional market from their Australian-based operations. Japan has also committed to provide for off-shore processing of financial information and data. The Chapter contains strong disciplines on transparency of licencing and regulatory decision-making.

#### ***Impact on Australian investors in Japan***

131. Australian total investment in Japan was worth \$50.2 billion at the end of 2013, with direct investment accounting for less than one per cent of this amount.

132. The key obligations of the Investment Chapter – which operate on a reciprocal basis – include non-discrimination and most favoured nation treatment. The chapter also includes disciplines on performance requirements and on the regulation of senior management and boards of directors.

133. Under JAEPA, investments of all forms are protected and Australian investors, unless specifically exempted, are to be treated no less favourably than Japanese investors in the establishment, expansion, or acquisition, operation and sale of their investments in Japan. JAEPA also provides enhanced protections for Australian investors in Japan, with measures to ensure transparency, equitable treatment and security for investments. JAEPA protects Australian investors from discriminatory or arbitrary expropriation and nationalisation. These outcomes will improve certainty for investors and have the potential to increase Australian investment in Japan. The extent of any increase is, however, difficult to quantify given the range of economic and commercial factors which influence investment decisions.

#### ***Impact on Japanese investors in Australia***

134. Japan's total investment in Australia was worth \$131.0 billion at the end of 2013. The provisions and protections in the investment chapter (outlined above) apply equally to Japanese investors in Australia.

135. JAEPA will promote an increase in the flow of Japanese investment into Australia and affirm Australia's attractiveness to Japanese investors. Australia will raise the monetary threshold at which private investments from Japan in non-sensitive sectors are considered by the Foreign Investment Review Board from \$248 million to \$1,078 million, consistent with the threshold provided to the US, New Zealand and Korea. This undertaking will facilitate Japanese investment into Australia and create greater certainty for Japanese investors. This has the potential to increase Japanese investment in Australia. The extent of any increase is, however, difficult to quantify given the range of economic and commercial factors which influence investment decisions.

136. The Australian Government has retained the ability to screen at lower levels for sensitive sectors, including media, telecommunications and defence related industries, and has also reserved policy space to introduce its policy on screening proposals for foreign investment in agricultural land at \$15 million and in agribusinesses at \$53 million.

### ***Implications of investor-state dispute settlement provisions***

137. JAEPA does not include an investor-state dispute settlement (ISDS) mechanism. The Investment Chapter contains a commitment to review the Chapter in the fifth year following entry into force of JAEPA, including consideration of the need to establish an ISDS mechanism. Such a review would also be triggered if, after entry into force of JAEPA, Australia entered into any other international agreement that provided ISDS.

### ***Movement of natural persons***

138. The Movement of Natural Persons Chapter provides for coverage of temporary entry of service suppliers and investors. Australia has made a commitment not to apply numerical quotas to the number of visas granted. As this chapter locks in existing arrangements, no significant change is expected in the number of skilled workers entering Australia.

### ***Government procurement***

139. Australian and Japanese procuring entities (at both the central and regional levels of government) are required to afford the suppliers, goods and services of the other country the same treatment that applies to domestic suppliers, goods and services.

140. This non-discrimination obligation secures market access opportunities for Australian companies in Japan's government procurement market. The market access Australia has granted to Japan goes no further than our existing international obligations. The Government Procurement Chapter sets out rules and procedures which are consistent with existing Australian government procurement frameworks, requiring no domestic change.

### ***Intellectual property***

141. JAEPA reinforces Australia and Japan's existing rights and obligations on intellectual property (IP) under the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). The IP Chapter in JAEPA builds on TRIPS with provisions for the protection and enforcement of IP which reflect Australia's already high standards.

142. The IP Chapter contains provisions for streamlining procedural matters, improving the transparency of the intellectual property protection system, and cooperation to enhance the use of the patents system. It also clarifies the scope of Trade Mark protection, addresses the protection of geographical indications, new varieties of plants, copyright and related rights, the protection of undisclosed information, utility models, and internet service providers. In relation to the digital environment the chapter contains measures concerning collective management organisations and the protection of internet service providers where they take action to prevent access to infringing materials.

143. The chapter also contains measures for the enforcement of IP rights, with specific provisions on civil remedies and criminal procedures and penalties. The chapter provides for border measures to ensure Customs or the relevant authorities are able to deal appropriately with suspected infringing goods and can intercept counterfeit and infringing goods at the border either on notice from the right holder or ex officio. Apart from the issue raised in paragraph 179, there is no change to Australian law or to patent or copyright terms. The provisions in the chapter are

consistent with existing Australian policy settings and legislation and would not result in additional compliance costs for business.

### ***Competition policy***

144. JAEPA includes commitments that ensure the trade and investment liberalisation achieved across the FTA is not undermined by anti-competitive practices. Australia and Japan have committed to:

- take measures to promote competition, including by addressing anticompetitive activities under their respective laws and regulations; and
- ensure that measures taken to promote competition are consistent with the principles of transparency, non-discrimination and procedural fairness.

### ***Electronic commerce***

145. The Electronic Commerce Chapter in JAEPA will contribute to a secure and liberalised environment for the growth of electronic commerce between Australia and Japan. This will aid Australian business in harnessing the efficiencies of electronic commerce, while ensuring the protection of online consumers.

146. Australia and Japan have also committed to provide non-discriminatory treatment to digital products of the other Party. These commitments go no further than similar provisions on non-discrimination of digital products in previous agreements, such as that with the United States.

### ***Impacts on small business***

147. The overall impact of JAEPA on Australian small business will be positive. In addition to gaining better access into the lucrative Japanese market, Australian small businesses are also likely to benefit from more competitively priced inputs imported from Japan and would be better placed to source and offer an increased choice of goods resulting from a reduction in trade and investment barriers.

### ***Australian consumers***

148. The elimination of Australian tariffs currently imposed on Japanese imports, particularly on passenger motor vehicles, electronics, white goods and car parts, may have a positive impact on Australian consumers, through lower prices or greater availability of Japanese products, or both. Consumer benefit in particular product categories would depend on suppliers' and importers' commercial decisions to pass on tariff reductions through lower prices or through improvements in quality or product offerings.

### ***Impact on government revenue***

149. The removal of tariffs on merchandise imports will lead to reductions in tariff revenue, and thereby affect the government's fiscal position. Treasury estimates that tariff revenue would decline by an additional cumulative amount of \$1,590 million over the forward estimates. This figure does not include the unmodelled, second-round effects on government revenue from increased economic activity, which are expected to be positive.

### ***State and Territory Governments***

150. During negotiations, State and Territory Governments raised issues of interest to industries residing in their respective jurisdictions, their regulatory responsibilities and the administrative implications of JAEPA. There are no additional impacts on

State and Territory Governments beyond those discussed in other sections of this impact statement.

### ***Australian trade regulations***

151. JAEPA maintains the integrity of our system of trade remedies and is consistent with our WTO rights and obligations.

152. The chapters on Sanitary and Phytosanitary Measures and Technical Barriers to Trade reaffirm Australia and Japan's commitment to relevant WTO agreements and improve consultation arrangements. JAEPA does not change Australia's system in this area.

### ***Dispute settlement***

153. JAEPA includes a binding state-to-state dispute settlement mechanism modelled on previous free trade agreements and the WTO system. Most of Australia's substantive obligations in JAEPA will be subject to this mechanism, except those found in the chapters concerning technical regulations, standards and conformity assessment procedures; sanitary and phytosanitary measures; competition policy; and some aspects of movement of natural persons.

## **TRADE IMPACT ASSESSMENT**

154. JAEPA will strengthen and deepen Australia's significant and highly complementary economic relationship with Japan. Improved market access in both Japan and Australia will increase the price competitiveness of each other's products, leading to greater trade. New guarantees on access for Australian service providers will encourage more services exports from Australia, particularly in financial, education, telecommunications and legal services. Enhanced protections and certainty for bilateral investments will attract additional Japanese investment to Australia, as well as Australian investment to Japan, in a more diverse range of sectors.

155. Japan is Australia's second-largest export market and trading partner. Australian and Japanese two-way trade in goods and services was \$69.3 billion in 2012-13, accounting for 11 per cent of Australia's total trade. Australian exports to Japan were valued at \$48.6 billion, or over 16 per cent of all Australian exports. Total goods exports were valued at \$46.5 billion, with liquefied natural gas and coal (both over \$13.0 billion) being the two largest goods export categories. Total services exports were \$2.1 billion, comprising mostly recreational travel services (\$828 million) and transport services (\$596 million).

156. Australia imported \$20.6 billion from Japan in 2012-13. Of this, goods imports accounted for \$18.3 billion and were dominated by imports of passenger motor vehicles (\$6.7 billion), refined petroleum (\$3.4 billion) and goods vehicles (\$1.2 billion). Services imports were valued at \$2.3 billion, including transport services of \$1.0 billion.

157. Japan is Australia's third-largest source of foreign investment, with an investment stock of \$131.0 billion at the end of 2013. Direct investment, mostly in iron ore, coal and motor vehicles, accounts for 48 per cent of Japan's total investment in Australia. At the end of 2013, Australia's stock of investment in Japan was \$50.2 billion. Japan is Australia's sixth-largest destination for foreign investment.

158. Reduced or eliminated tariffs under JAEPA are expected to increase the volume and value of Australia's bilateral trade with Japan, particularly in product

categories that will be most liberalised. Improved market access for Australian agricultural products will likely result in increased Australian exports of these products. Likewise, elimination of Australian tariffs on imported passenger motor vehicles from Japan will increase the competitiveness of Japanese-made vehicles, potentially leading to greater import volumes of these goods from Japan.

159. In addition to the benefits associated with increased bilateral trade, the preferential access for Australian products under JAEPA will give Australian producers a competitive advantage against producers from Japan's other trading partners, particularly in agriculture.

160. The main affected stakeholders in Australia are:

- producers and exporters, particularly in agriculture, whose products will become more competitive in the Japanese market as import restrictions are reduced or eliminated;
- consumers, who will have access to cheaper imports and broader choice of Japanese-made products under JAEPA;
- importers, who will have improved access to cheaper inputs from Japan and will be able to source and offer an increased choice of goods;
- manufacturers, who will face increased competition from Japanese-made goods,
- service providers, who will gain more certain access to the significant and well-developed Japanese market in key areas of commercial interest including financial, education, telecommunications and legal services; and
- the business community, which will benefit from attracting greater Japanese investment for projects and ventures in Australia.

161. JAEPA is consistent with Australia's trade policy objectives as it is a high-quality trade agreement that substantially liberalises Australia's trade with a major economy and it complements multilateral and regional trade liberalisation. JAEPA is consistent with Australia's existing international commitments, including those under the WTO Agreement.

## **CONSULTATION**

### ***Business, industry and civil society***

162. Stakeholder views were actively sought and considered throughout negotiations for JAEPA. The Department of Foreign Affairs and Trade (DFAT) commenced stakeholder consultations in December 2006, with a call for public submissions as part of a feasibility study into the benefits and disadvantages of a bilateral trade agreement between Australia and Japan. DFAT made another call for submissions following the launch of negotiations in April 2007. DFAT encouraged and considered submissions from individuals and stakeholder groups throughout negotiations.

163. In addition to seeking submissions from interested parties, DFAT, in conjunction with relevant Commonwealth agencies, conducted an extensive program of direct consultations and discussions with over 450 stakeholders to ensure their views informed the Government's negotiating strategy. Consultation with industry was substantial and ongoing, with officials holding individual meetings with businesses and industry groups, with the addition of industry roundtable meetings

with peak organisations, professional bodies and other interested groups. These consultations helped identify commercially significant opportunities for closer economic engagement, as well as the impediments to increasing Australia's exports to, and investment in, Japan.

164. Consultations revealed broad support for a bilateral trade agreement with Japan. Most businesses and industry groups, as well as State and Territory governments, argued a trade agreement would help achieve better access to the Japanese market for Australia. Some industries, particularly in agriculture and finance and investment, viewed a trade agreement as an important element in securing Australia's competitiveness in the Japanese market. They expressed a strong desire that a bilateral trade agreement create new export opportunities and enhance existing trade. Some stakeholder groups identified defensive interests, most notably the automotive sector and those with an interest in ISDS and labour and environment provisions.

165. Australian agricultural stakeholders were consulted extensively throughout the course of the negotiations, including close communication with peak industry bodies particularly in the closing stages of the negotiations. Agricultural stakeholders reinforced the need for an agreement that would enable them to take full advantage of the substantial Japanese market. Australian Government officials engaged frequently with, among others, the National Farmers' Federation, Meat and Livestock Australia, the Office of Horticultural Market Access, Dairy Australia, Citrus Australia, the Grains Market Access Committee, Grain Growers, Australian Sugar Industry Alliance, Ricegrowers' Association of Australia, Canegrowers, Australian Pork Limited, the Nut Industry Council, Australian Horticulture Exporters Association, the Australian Wine and Brandy Association, the Australian Food and Grocery Council, as well as individual producers. Many exporters have expressed their support for JAEPA, including Meat and Livestock Australia, the Horticultural Market Access Committee, the Nut Industry Council, Citrus Australia, AUSVEG and Wine Australia.

166. Some industry bodies and companies have expressed disappointment with the outcome, particularly where their products have been excluded or the concessions in tariff reductions and quotas have been less than they were seeking, particularly on rice (Ricegrowers' Association of Australia), sugar (Canegrowers and Australian Sugar Industry Alliance) and dairy products (Australian Dairy Industry Council and United Dairyfarmers). Criticisms have pointed to the high levels of Japan's trade protection on those items and the difficulty in persuading Japan to remove its protection for local industries. While Australia negotiated on every product, Japan did not agree to all Australia's negotiating requests to open these markets further.

167. The resources sector expressed strong support for an EPA with Japan. The Minerals Council of Australia and the NSW Minerals Council considered that an EPA would strengthen economic ties by adding a new and formal dimension to the bilateral and strategic relationship and provide greater certainty of security of supply and market access.

168. Prior to the announcement by Toyota, Ford and Holden to end manufacturing in Australia, automotive companies were mainly concerned that the EPA not undermine the ongoing viability of the Australian passenger motor vehicle industry. JAEPA addresses these concerns by providing for staged elimination of Australia's tariffs on certain motor vehicles and automotive parts over three to five years. Significantly, concerns relating to the importation of used Japanese motor vehicles

have been addressed by retaining the specific duty of \$12,000 per vehicle. This outcome was broadly welcomed by the Australian automotive sector.

169. The Federation of Automotive Products Manufacturers said the EPA with Japan would offer greater opportunities to auto component importers and manufacturers of high-value components, but that the mature Japanese market would make entry by Australian commodity level components difficult.

170. Submissions were received from a range of services industry bodies, including the Australian Nursing Federation, Architects Accreditation Council of Australia, The Royal Australian Institute of Architects, Law Council of Australia, Association of Consulting Engineers of Australia, Australian Nursing and Midwifery Council Inc., Australian Vice Chancellors' Committee, Law Institute of Victoria, Engineers Australia, Services industries were supportive of an EPA. A number of Australian peak professional services bodies (accountants, architects, engineers, lawyers, information technology workers) expressed interest in facilitating recognition of professional services qualifications. Educational providers, including Australia's largest university, Monash University, said they believed the EPA would improve Japanese student mobility to study in Australia. Some submissions warned that an EPA should not undermine the ability of the Australian Government to regulate on public health and welfare issues.

#### ***State and Territory governments***

171. State and Territory governments were consulted through the Ministerial Council on International Trade and Commonwealth-States Standing Committee on Treaties meetings and visits by JAEPA negotiators to State and Territory capitals. The governments of Victoria, South Australia and Queensland lodged submissions, all of which were supportive of a bilateral trade agreement with Japan.

#### ***Commonwealth Government agencies***

172. In accordance with a whole-of-government approach, DFAT ensured relevant Commonwealth Government agencies were regularly and extensively consulted throughout JAEPA negotiations. Agencies were consulted through regular inter-departmental committee meetings and through participation by relevant agencies in the Australian delegation to negotiating sessions. DFAT's website was also regularly updated after JAEPA negotiating sessions, facilitating wide dissemination of information to government stakeholders.

## **CONCLUSION**

173. It is in Australia's interests to enter into an EPA with Japan, given JAEPA is expected to:

- . deliver commercially meaningful market access gains that will benefit Australian agricultural producers, as well as energy and mineral resources exporters, service providers, consumers and investors;
- . secure a competitive advantage for Australian exporters in the Japanese market against producers from Japan's other trading partners, particularly in agriculture, and ahead of possible other trade deals Japan is seeking to conclude with Australia's competitors;
- . deliver faster and deeper market access gains than those possible through multilateral WTO or regional negotiations;

- be consistent with WTO requirements for free trade agreements; and
- complement Australia's efforts to seek additional trade liberalisation from Japan through the WTO and regional mechanisms.

It should be noted that:

- the removal of tariffs on merchandise imports will lead to reductions in tariff revenue although this would be offset over time by the second-round effects of increased economic activity; and
- Japan will maintain protection on a small number of sensitive sectors including rice, fresh milk and milk powders and certain furskin products. However, these products represent about 2.5 per cent of Australian exports to Japan and Australia would not be disadvantaged in relation to trade competitors from other countries in the Japanese market for these goods.

## **IMPLEMENTATION AND REVIEW**

174. Following the conclusion of negotiations in April 2014, the text of JAEPA will be translated and undergo legal verification before it is signed. Both English and Japanese versions will be official versions of the agreement. Following Cabinet and Executive Council approval, the finalised EPA text will be signed by representatives of the Australian and Japanese governments. The full text of the EPA will be released publicly once the agreement is signed. Following signature, the text will also be tabled in Parliament and examined by the Joint Standing Committee on Treaties.

175. Implementation of JAEPA will require changes to: the *Customs Act 1901*; the *Customs Tariff Act 1995* and associated regulations; the *Foreign Acquisitions and Takeovers Regulations 1989*; and the *Life Insurance Regulations 1995*.

176. Once domestic processes are completed, including amendments to relevant legislation and regulatory changes, Australia and Japan will exchange diplomatic notes advising that the ratification process has been completed by both Parties. Both Parties are aiming for entry into force in the first half of 2015.

177. The provisions of JAEPA set a range of reviews, including on specific market access issues. These reviews occur at set time frames (for example after five years for the treatment of beef, sugar, wheat and dairy, and after ten years for beef safeguard levels) and have additional triggers, such as if another country receives better treatment than Australia. The Investment Chapter in JAEPA includes a review clause which provides for future consideration of an ISDS mechanism. There is also a general review of JAEPA set for the sixth year after entry into force. JAEPA provides mechanisms for unilateral termination by either Party and review through the joint EPA institutional provisions.

## **ATTACHMENT: REGULATORY BURDEN AND COST OFFSET ESTIMATE**

1. The entry into force of JAEPA is expected to result in a small reduction in ongoing business compliance costs for Australian exporters to Japan. The reduction arises from the possibility that some businesses that previously sought and obtained non-preferential certificates of origin (COOs) may now be able to self-certify the origin of their goods.
2. In 2013 there were 64,447 Australian export declarations for goods destined for Japan which were indicated to be of Australian origin. However, origin requirements for non-preferential purposes differ to origin requirements under preferential trade agreements. Therefore, the estimates of the compliance costs under the status quo – as well as the likely incremental changes – are largely assumption driven and should be interpreted as such. However, based on the available data, it is possible to gain an appreciation of the order of magnitude of these changes.

### ***Certificates of Origin***

3. COOs are issued by industry groups such as the Australian Chamber of Commerce and Industry and the Australian Industry Group.
4. Preferential certificates account for around 10 per cent of all certificates issued. Preferential certificates are generally issued in respect of countries with which Australia has an EPA, but which do not allow for self-declaration.
5. Japan is Australia's second largest export destination, with 18 per cent of Australian merchandise exports going to Japan in 2013.

### ***Direct Costs***

7. Where businesses seek third-party certification from industry groups, the cost of each certificate varies from between \$20-70 at an average of \$33. The cost of a certificate depends on a range of factors, such as whether an applicant is a member of the issuing body.

### ***Administrative costs***

8. The ongoing administrative costs incurred by a business in preparing the documentation to obtain a COO are likely to be relatively low. The bulk of Australian exports to Japan are 'wholly obtained' goods such as agriculture and resource commodities, which, unlike more complex manufactured products such as motor vehicles, require relatively minimal administration to ensure compliance with origin requirements. Further, while new businesses may expend considerable time applying for certification for their initial consignment, as a matter of practice this information is re-submitted for subsequent certifications. In addition, much of the information required would be collected for other purposes. The administrative time burden for each application is therefore estimated to be modest.
9. Similarly, the records related to certificate of origin are required to be kept for five years for most foreign customs agencies. However, businesses are required under Australian Tax Law to retain these records for seven years. The incremental compliance burden associated with record keeping for COOs is therefore assessed as nil.

### ***Incremental reduction in number of certificates under JAEPA***

10. Non-preferential COOs are obtained by Australian exporters for goods destined to such places as Japan for a range of reasons. For example, importers may insist on the provision of a non-preferential COO because of a business practice, or overseas customs agencies may require COOs for the purpose of administering import tariff quotas.
11. Therefore, it is possible that of the total number of Australian COOs currently issued in respect of Japan, some will no longer be required as a result of the JAEPA because of the self-declaration option. However, each business will have to consider for themselves as a

commercial decision whether the benefits of obtaining a COO is outweighed by the costs (administrative and otherwise).

12. It is therefore assumed that there will be a modest reduction in the number of COOs issued in respect of Australian exports to Japan as a result of the JAEPA. To the extent that this reduction occurs, businesses will save the direct costs of certification by industry bodies, together with the administrative costs.

**Regulatory Burden and Cost Offset (RBCO) Estimate Table**

| <b>Average annual compliance costs (from business as usual)</b>   |                    |                                |                    |                        |
|---|--------------------|--------------------------------|--------------------|------------------------|
| <b>Costs (\$m)</b>  | <b>Business</b>    | <b>Community organisations</b> | <b>Individuals</b> | <b>Total cost</b>      |
| <b>Total by sector</b>  | (\$32,120.64)      | \$                             | \$                 | (\$32,120.64)          |
| <b>Cost offset (\$m)</b>  | <b>Business</b>    | <b>Community organisations</b> | <b>Individuals</b> | <b>Total by source</b> |
| <b>Agency</b>   | \$                 | \$                             | \$                 | \$                     |
| <b>Within portfolio</b>   | \$                 | \$                             | \$                 | \$                     |
| <b>Outside portfolio</b>  | \$                 | \$                             | \$                 | \$                     |
| <b>Total by sector</b>  | \$                 | \$                             | \$                 | \$                     |
| <b>Proposal is cost neutral?    <input checked="" type="checkbox"/> yes   <input type="checkbox"/> no</b> |                    |                                |                    |                        |
| <b>Proposal is deregulatory    <input checked="" type="checkbox"/> yes   <input type="checkbox"/> no</b>  |                    |                                |                    |                        |
| <b>Balance of cost offsets</b>  | <b>\$32,120.64</b> |                                |                    |                        |