

Joint Standing Committee on Treaties
Inquiry hearing into RCEP Agreement

QUESTION ON NOTICE / Spoken

QoN 006 10 May 2021

Topic: JSCOT inquiry hearing into RCEP Agreement

Mr Dave Sharma MP

Question

What new commitments are there in RCEP to protect Australian foreign investment in China?

Answer

Under RCEP, China has committed to the investment protection and liberalisation provisions found in Australia's most ambitious FTAs. These include key elements which were to have been added to the existing short-form investment chapter of the China-Australia Free Trade Agreement (ChAFTA) through a work program.

Notable elements include non-discrimination commitments for investment in non-services sectors like manufacturing, mining and agriculture, both before and after an investment is established. These were made on a negative list basis, reflecting the increased openness of China's investment regime in many areas since ChAFTA was signed and capturing future liberalisation outside specified sensitive sectors or activities.

China also made additional commitments to investors in the supply of services in China. These include sectors of commercial interest to Australia, such as a commitment that wholly foreign owned enterprises are permitted and will be accorded national treatment in architectural, engineering and urban planning services, or that majority Australian-owned hospitals may be established, as well as commitments on legal and construction services. These commitments will capture any future liberalisation in these sectors.

China has also committed to offer investments the standard of treatment and protection expected under customary international law and to offer prompt and adequate compensation for any expropriation for a public purpose, and to permit the free transfer of funds, subject to the good faith implementation of laws in specific areas. There are also disciplines imposed on requirements for the nationality or residency of senior personnel, and a commitment not to impose or enforce certain performance requirements.