

National Interest Analysis [2024] ATNIA 23

with attachment on consultation

Comprehensive Economic Partnership Agreement between Australia and the United Arab Emirates

(Canberra, 6 November 2024)

[2024] ATNIF 41

Attachments:

Attachment I – Consultation

Attachment II – Impact Analysis

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

Comprehensive Economic Partnership Agreement between Australia and the United Arab Emirates

(Canberra, 6 November 2024)

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Nature and timing of proposed treaty action

1. The proposed treaty action is entry into force of the *Comprehensive Economic Partnership Agreement between Australia and the United Arab Emirates* (“CEPA”), between Australia and the United Arab Emirates (“UAE”), (collectively “the Parties”), signed at Canberra on 6 November 2024.
2. Article 26(4) provides that CEPA will enter into force 60 days after the date on which the Parties exchange written notifications through diplomatic channels, confirming that they have completed their respective domestic requirements necessary for the entry into force of CEPA, or on such other date as the Parties may agree.
3. We propose that Australia exchange written notification with the UAE as soon as practicable following a recommendation that binding treaty action should be taken by the Joint Standing Committee on Treaties, the passing of any legislative amendments and the enactment of any necessary regulations.

Overview and national interest summary

4. Australia and the UAE announced an intention to pursue a CEPA in a joint Ministerial statement on 17 March 2022. The start of negotiations was officially announced by the Minister for Trade and Tourism on 13 December 2023. Conclusion of the CEPA negotiations was announced by the Minister for Trade and Tourism on 17 September 2024. In addition to the CEPA and its five side letters, a standalone *Agreement between the United Arab Emirates and Australia on the Promotion and Protection of Investments* (Investment Agreement) and five memoranda of understanding relating to investment (Investment MOUs) were also concluded as part of the negotiations (collectively “the CEPA package”).
5. The UAE is a dynamic and globally focused partner and a gateway into the region for Australian exporters. It is Australia’s largest trade and investment partner in the Middle East.

Two-way trade was worth over \$9.94 billion and two-way investment worth \$20.6 billion in 2023.

6. CEPA will be Australia's first free trade agreement with the Middle East and deliver on the Australian Government's commitment to opening new opportunities that will allow us to diversify our trade. Through CEPA, Australian exporters will benefit from elimination of tariffs on over 99 per cent of Australian goods exports to the UAE by value once fully implemented, estimated to increase Australian exports by around \$678 million per year.
7. Exporters will have preferential access to the UAE's growing market, with its connections to the broader region and beyond.
8. Australian service providers will benefit from CEPA commitments that provide greater certainty of access and regulatory conditions for exporters and investors.
9. CEPA will provide Australian suppliers with guaranteed access to the UAE's government procurement market for the first time.
10. Outcomes on digital trade, intellectual property, small and medium enterprises and competition and consumer protections are also aligned to Australia's interests in these areas.
11. As a modern trade agreement, CEPA includes commitments on inclusive and sustainable trade through promoting internationally recognised labour standards; supporting women's access to the full benefits and opportunities that flow from trade and investment; and ensuring high levels of environmental protection.
12. CEPA will also be Australia's first trade agreement with a stand-alone chapter covering First Nations trade and investment. This delivers on the priority the government attaches to including First Nations people in our international trade agenda.
13. UAE entities are already major investors in Australia's renewables, waste-to-energy, health and aged care and resources sectors. Innovative outcomes in the CEPA package will encourage further investment in priority sectors relevant to Australia's clean energy transition and net-zero ambitions, creating jobs and sustainable rural development.

Reasons for Australia to take the proposed treaty action

14. Ratifying CEPA will open valuable opportunities for trade and investment outcomes with a dynamic and growing globally focused strategic partner. Consistent with Australian Government policy, it will diversify trade and investment opportunities and strengthen our strategic engagement with an important partner in the Middle East Region.

Trade in Goods

15. In August 2024, an independent Feasibility Analysis estimated the tariff benefits of CEPA once fully implemented, based on Australia's negotiated tariff outcomes, at \$678 million per year, or equivalent to 16 per cent of the recent level of Australian exports. The analysis concluded that CEPA would provide "potentially healthy gains in Australian exports for particular products and services, providing a welcome extra source of diversification for exporters".
16. CEPA will create new opportunities for Australia to benefit from the UAE's position as a growing global and regional transport and logistics hub. It will enable rules facilitating transshipment, and efficient customs procedures providing value-add and re-export opportunities, opening further diversification of markets for our exporters.
17. Removal of the majority of UAE's import tariffs will create commercially significant benefits for Australian exporters. Australian exporters will benefit across the board, including farmers and food and beverage producers, who stand to gain from preferential access to the UAE's growing market for premium food and agricultural products.
18. Although UAE tariffs are low (generally 5 per cent) their elimination under CEPA will nevertheless benefit Australian exporters. In competitive sectors such as food and resources commodities, even a 5 per cent margin could tilt the balance in favour of Australian suppliers.
19. For example, while Australia is a leading supplier of alumina to the UAE, elimination of the 5 per cent tariff under CEPA will support Australia's price competitiveness against other suppliers to the UAE aluminium smelting industry. This will ensure that Australian raw materials continue to feed into the products the UAE ultimately exports. It will also support the Future Made in Australia agenda, providing better conditions for Australia to export green aluminium and other metals to the UAE.
20. A wide range of other Australian exporters will also benefit from CEPA's tariff outcomes including exporters of automotive parts, red meat, nickel, coal, and pulses. First Nations businesses will benefit from preferential market access open to all Australian exporters in areas of interest such as bush foods, bush skincare and fashion.
21. Stakeholder feedback noted the challenges faced by Australian exporters associated with non-tariff barriers (NTBs) in the UAE market, particularly in agriculture and food trade. CEPA will include the establishment of a mechanism to allow a Party to request technical consultations with the other Party on measures applied with a view to, or with the effect of, creating an unnecessary obstacle to trade and adversely affecting trade between the Parties. This two-way mechanism will enable Australia to engage with the UAE and provide suggested solutions for NTBs after entry into force of the Agreement.
22. Overall, CEPA's goods outcomes will create an environment that encourages increased Australian exports and provides greater certainty to Australian business. These outcomes will provide Australian exporters with an advantage in the UAE market or, at a minimum, ensure Australia is on level terms with our competitors.

Trade in services

23. CEPA will provide greater certainty for Australian service providers, by locking in access in sectors of key commercial interest. This will not only assist exporters seeking access to, or operating in, the UAE but also provide a foothold for those service suppliers wanting to use the UAE to service the broader region.
24. The UAE has made services market access commitments to Australia in over 120 sectors and subsectors. This includes commitments in line with the UAE's best offer to previous CEPA partners. This also greatly improves upon the UAE's World Trade Organization (WTO) services commitments, which were limited to 35 sectors and subsectors only.
25. Sectors that will benefit from these commitments include professional services (such as legal, medical, management consulting and services incidental to manufacturing), distribution, environmental, education, health and financial services.
26. The UAE has improved its commitments to support investment into the UAE, locking in foreign equity caps between 70-100% in a range of sectors and subsectors and 100% for free zones in committed sectors and subsectors.
27. CEPA will also include a comprehensive set of rules to provide Australian service suppliers with greater certainty and predictability to support their operations in the UAE. These rules will address restrictions and discrimination when accessing the UAE services market, as well as behind-the-border procedural and related domestic regulation barriers that have a negative impact on two-way trade and investment in services.
28. The trade in services chapter in CEPA contains a *Domestic Regulation* article that aims to address behind-the-border measures which can act as a barrier to trade, such as licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services. This includes obligations such as publication of requirements and procedures for authorisation, addressing ease of submitting applications for authorisation, and other such measures. This approach to addressing behind-the-border and domestic regulatory barriers to trade is in line with Australia's general approach to addressing these issues in its other FTAs, and builds on the WTO's Joint Initiative on Services Domestic Regulation.

Investment

29. The CEPA package's investment outcomes are delivered through outcomes in the Investment Facilitation chapter of CEPA, the stand-alone Investment Agreement, and the five Investment MOUs which will facilitate and promote two-way investment in sectors of

national priority including Green and Renewable Energy, Data Centres and Artificial Intelligence Projects, Food and Agriculture, Minerals, and Infrastructure Development.

30. Collectively, these outcomes will facilitate stronger two-way investment, including more UAE investment into Australia in sectors critical to our clean energy transition and net-zero ambitions. The Council on Investment established under the stand-alone Investment Agreement will facilitate continued political level exchanges on the investment relationship. Under the five Investment MOUs, Australia and the UAE will facilitate collaboration between relevant government agencies, sub-national governments, independent regulatory authorities, private sector enterprises, Public – Private Partnership project proponents, including small and medium-sized enterprises (SMEs) and stakeholders across both countries to galvanise and promote two-way investment.

Other Outcomes

31. Through CEPA's digital trade outcomes, Australian businesses, workers and consumers will benefit from a range of digital trade rules, ensuring that we have compatible systems across borders and making cross-border trade less burdensome and costly for our businesses. CEPA seeks to minimise impediments to the cross-border flow of data while retaining the ability of government to regulate for legitimate public policy objectives. CEPA will also help to protect sensitive business information, with rules protecting source code and ICT products using cryptography. CEPA provides for the acceptance of electronic trade documents, e-signatures, e-payments and e-invoicing. It includes provisions governing personal information protection, consumer protection and limiting unsolicited commercial electronic messages (spam).
32. CEPA promotes digital governance and support for communities through commitments on open internet access, open government data, online safety and security and sharing experiences in digital government. It also facilitates cooperation between Australia and the UAE in areas such as the promotion of digital trade standards, digital identities, data innovation, digital inclusion and cyber security to share knowledge and best-practice and support digital trade.
33. The Intellectual Property (IP) outcomes will facilitate trade and investment in IP, provide increased clarity for Australian businesses and innovators and balance the legitimate interests of IP rights holders, IP users and the public interest while protecting the right to regulate in important public policy areas. These outcomes will also protect the integrity of Australia's health and pharmaceuticals systems, including the Pharmaceutical Benefits Scheme, and are consistent with our existing FTA and multilateral obligations that preserve Australia's ability to regulate and pursue its public policy interests. They do not require changes to Australian law.
34. Small and Medium-Sized Enterprises (SMEs) will also benefit from the provisions in CEPA which enhance opportunities for SMEs to take advantage of the agreement.

35. CEPA's outcomes on government procurement will provide Australian suppliers with guaranteed access to the UAE's government procurement market for the first time. Australia has secured access and commitments equivalent to other partners who have secured government procurement market access with the UAE. This will ensure Australian suppliers of goods and services of all sizes – including SMEs and Indigenous-owned businesses – are able to compete in the UAE market. Providing UAE suppliers with guaranteed access to Australia's market will stimulate competition and drive value for money in government procurement.
36. Australia has reciprocated the level of coverage and value offered by the UAE in key sectors of their government procurement market, notably withholding coverage of construction services until such time as the UAE offers this access to Australia. As the UAE grows their network of trade agreements, Australia has secured a commitment to revisit the market access commitments in the future if the UAE offers additional market access or coverage to another trading partner beyond what was offered to Australia.
37. Australia has maintained its standard government procurement exceptions in priority public policy areas, such as SME and Indigenous procurement, the protection of essential security, health and welfare services, and other specific exceptions. These exceptions are consistent with Australia's existing trade agreements, and the commitments made will not require any substantive changes to Australia's existing government procurement policies and systems. Australia has not covered state and territory government procurement, as the UAE was unable to offer coverage of individual Emirati government procurement.

Progressive Trade Outcomes

38. Through references across different chapters of the text, CEPA also provides pathways for promoting shared values on trade and sustainable development, environmental protection, labour standards, human rights, and gender issues in line with Australia's objectives in these areas.
39. CEPA will have a dedicated chapter covering trade and labour, a first for the UAE. Australia and the UAE, as members of the International Labour Organization (ILO), affirm our commitment to respect and advance labour rights, including those stated in the *ILO Declaration on Fundamental Principles and Rights at Work*, within our territories. CEPA will also promote compliance with ILO standards and enforcement of labour laws. It will establish a Dialogue on Labour to advance labour rights in the Parties' trade and investment relationship, including through engaging with stakeholders. In addition, CEPA will promote cooperation on labour matters of mutual interest.
40. CEPA includes a standalone chapter acknowledging the importance of trade, gender balance and women's economic empowerment. The chapter recognises and affirms key international instruments, such as the *Convention on the Elimination of All Forms of Discrimination against Women*, along with a commitment to cooperate on policies and initiatives to advance women's economic empowerment in trade and investment.

41. CEPA will have a dedicated chapter covering environment and the transition to net zero. The chapter recognises that international environmental agreements, including the *Paris Agreement*, play an important role in protecting the environment and that implementation of these agreements is an important and common goal. Australia and the UAE will work together to address a range of trade-related environmental challenges, including addressing climate change, promoting the circular economy, reducing pollution, improving air quality, and preventing overfishing and illegal wildlife trade. As part of the CEPA investment package, an MOU on Green and Renewable Energy will support further UAE investment in this sector in Australia.
42. CEPA includes Australia's first standalone chapter on sustainable agriculture and food systems. The chapter ensures that measures relating to sustainable agriculture and food systems are science and evidence-based, outcomes-focused and do not create unnecessary barriers to trade. The chapter further recognises the role of sustainable agriculture and food systems including in ensuring food security and driving climate resilience, emissions reductions and other environmental outcomes. It recognises that the diversity of agricultural production and methods, climatic conditions, environmental factors, and economic and social conditions between and within Australia and the UAE requires flexibility for each country to tailor its sustainability approaches accordingly, reflecting the principle of 'no-one-size-fits-all'. The role of rules-based and market-oriented agricultural trade in supporting global food security and improved environmental outcomes is also acknowledged.
43. CEPA's economic cooperation chapter includes a commitment that both countries will endeavor to continue to improve their level of animal welfare protection. It provides for cooperation and information exchange on this important topic, including on issues relating to the treatment of farmed animals. Importantly, CEPA includes a mechanism through which either country can initiate a dialogue on any issue related to animal welfare.
44. CEPA contains a dedicated chapter on competition and consumer protections, including provisions relating to state-owned enterprises. The chapter demonstrates a mutual understanding for eliminating anti-competitive practices and for promoting transparency and procedural fairness in our respective competition landscapes, as well as ensuring the protection of consumer rights. It recognises the importance of a level playing field for both government and non-government businesses operating in the market.

First Nations Trade and Investment

45. The inclusion of a chapter in CEPA promoting First Nations trade and investment cooperation is an important outcome for First Nations stakeholders.
46. The chapter is based on cooperation between Australia and the UAE and recognises the important contribution that First Nations people and businesses make to global trade and investment, and the importance of empowering First Nations people and businesses to benefit from the opportunities created.

47. Australia and the UAE will cooperate on First Nations trade and investment, including through appropriate coordination, exchange of information and joint trade and investment promotion activities relevant for First Nations businesses, including businesses that relate to or derive from traditional knowledge and traditional cultural expressions such as arts and crafts, dance and music, tourism, food and agri-business, biological diversity and environmental management, the green economy and resources.
48. CEPA provides for coordination to prevent exports of counterfeit goods purporting to derive from traditional knowledge or traditional cultural expression. It also provides the basis for future discussions on resale royalty rights of artists, including First Nations artists. The cultural significance of genetic resources, traditional knowledge and traditional cultural expressions is acknowledged in the agreement including with respect to the names and uses of plants, traditional foods, language, song, stories, songlines, dance and works of art.
49. The preferential access open to all Australian businesses under CEPA will make First Nations businesses more competitive in targeting exports in areas of interest such as bush foods, bush skincare and fashion.
50. CEPA also encourages investors to undertake and maintain early and meaningful engagement and dialogue with First Nations people and businesses on investment activities, with a view to ensuring they benefit from those activities.

Economic Cooperation and Legal Frameworks

51. In addition to other areas of cooperation identified across chapters, CEPA promotes practical economic cooperation in a range of areas to support the objectives of the CEPA agreement, including closer business to business engagement. Both countries will look at innovative and practical means to implement this cooperation, with a strong focus on supporting private sector led initiatives.
52. CEPA includes cross-cutting provisions that reflect existing Australian laws and practices around transparency in public administration. These provisions will sit alongside Australia's and the UAE's existing obligations under other international agreements, including the *United Nations Convention against Corruption* and the *United Nations Convention against Transnational Organized Crime*.
53. CEPA establishes a legal and institutional framework that ensures its effective and efficient implementation, including through a streamlined committee structure and state-to-state dispute settlement mechanism. CEPA also includes exceptions to ensure both governments can continue to regulate in the public interest, including to protect essential security interests.

Obligations

54. CEPA consists of 26 Chapters with associated Annexes, Appendices and footnotes; and five side letters. The CEPA package also includes a standalone Investment Agreement, as well as five non-binding Investment MOUs.

Initial Provisions and General Definitions

55. The Chapter on **Initial Provisions and General Definitions** (Chapter 1) confirms the Parties affirm their existing rights and obligations with respect to each other under other international agreements to which they are also a party, including the *Agreement Establishing the World Trade Organization* (WTO Agreement). This Chapter also contains common definitions for terms used across CEPA. This Chapter is a standard element of Australia's FTAs.

Goods

56. The provisions contained in CEPA's goods-related chapters (Chapter 2 – 8) reaffirm existing rights and obligations under the relevant WTO covered agreements.
57. The Chapter on **Trade in Goods** (Chapter 2) establishes the basic rules governing trade in goods between the Parties. The Chapter contains provisions covering the Parties' tariff commitments and on non-tariff measures, pursuant to the agreement's objective to liberalise and facilitate bilateral trade in goods. This includes a side letter on tariffs related to bottled wine and sparkling wine.
58. These rules are consistent with Australia's obligations under the *General Agreement on Tariffs and Trade 1994* and other Multilateral Agreements on Trade in Goods in Annex 1A of the WTO Agreement. Tariff commitments reduce or eliminate preferential tariffs on originating goods, without affecting excise equivalent duties. This Chapter is a common element of Australia's FTAs.
59. The Chapter on **Rules of Origin** (Chapter 3) provides the criteria for determining whether goods traded between the Parties would be eligible for preferential treatment. This covers goods imported into Australia from the UAE and goods exported from Australia to the UAE. The Chapter also includes the procedures for claiming preferential tariff treatment under the Agreement and the processes available to UAE and Australian customs authorities to verify these claims. This Chapter is a common element of Australia's FTAs.
60. The Chapter on **Customs Procedures and Trade Facilitation** (Chapter 4) builds on the commitments under the *WTO Agreement on Trade Facilitation* which enhance the transparency, efficiency, predictability and timeliness of customs procedures to facilitate trade, provide certainty through the supply chain and reduce costs. The Chapter allows the Parties to minimise the administrative burdens of customs processes, including by requiring Parties to adopt or maintain a risk management system to facilitate expedited release of low-risk goods, and encouraging the Parties to further simplify their customs procedures and provide for the use of electronic systems. It encourages cooperation

between customs authorities, promoting efficient customs procedures and providing greater transparency and fairness to traders, while also preserving each Party's ability to maintain effective customs control of imports and exports.

61. The Chapter also provides for the Parties' customs authorities to further strengthen their cooperation through bilaterally agreed initiatives or arrangements. This Chapter is a common element of Australia's FTAs.
62. The Chapter on **Trade Remedies** (Chapter 5) affirms Australia's rights and obligations under the WTO Agreement. Additionally, it requires notification of anti-dumping investigations and safeguard investigations. Neither of these commitments requires legislative change. This Chapter is a common element of Australia's FTAs.
63. The Chapter on **Sanitary and Phytosanitary Measures** (Chapter 6) affirms the Parties' rights and obligations under the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement). It preserves each Parties' independent SPS regimes, while providing for acceptance of equivalence and recognition of regional conditions, where appropriate. It also incorporates trade facilitative provisions which strengthen transparency and cooperation between the Parties. Its implementation will not require any changes to Australian regulations nor impose any regulatory burden on Australian businesses. This Chapter is a common element of Australia's FTAs.
64. The Chapter on **Sustainable Agriculture and Food Systems** (Chapter 7) commits the Parties to promote sustainable agriculture and food systems, consistent with a set of explicit principles. The Parties recognise that sustainability approaches must be tailored according to each Party's circumstances, the role of rules-based and market-oriented trade in supporting global food security, and the importance of science-and evidence-based metrics. It also facilitates cooperation between the Parties on sustainability-related issues. Its implementation will not require any changes to Australian regulations nor impose any regulatory burden on Australian businesses. This is the first time this Chapter has been included in an Australian FTA.
65. The Chapter on **Technical Barriers to Trade** (Chapter 8) builds upon the Parties' rights and obligations under the *WTO Agreement on Technical Barriers to Trade*, ensuring technical barriers to trade are non-discriminatory and do not create unnecessary obstacles to bilateral trade, while preserving both Parties' ability to take measures to fulfil legitimate objectives. It includes strengthened transparency, information exchange and cooperation provisions. Its implementation will not require any changes to Australian regulations nor impose any regulatory burden on Australian businesses. This Chapter is a common element of Australia's FTAs.

Services (including Entry and Temporary Stay for Business Persons)

66. The Chapter on **Trade in Services** (Chapter 9) establishes rules for the supply of services between the Parties, including obligations to provide access to foreign service suppliers

(Market Access), to treat local and foreign suppliers equally (National Treatment) and to treat foreign suppliers at least as well as suppliers of any non-Party to the Agreement (Most-Favoured-Nation Treatment (MFN)). The UAE has made these commitments in specific sectors (“positive list”) whereas Australia has made these commitments in all sectors except where reservations and non-conforming measures are included in its schedule (“negative list”). This is similar to the approach taken by Parties to the ASEAN-Australia-New Zealand FTA upgrade, the Regional Comprehensive Economic Partnership Agreement and the Australia-India Economic Cooperation and Trade Agreement. There is a side letter on Australia’s commitments related to MFN on aviation and maritime services and Australia’s commitments at the regional level.

67. This Chapter also includes local presence, domestic regulation, denial of benefits, payments and transfers, recognition, transparency, monopolies and exclusive service suppliers, business practices and safeguard provisions broadly in line with our existing FTAs. The Chapter includes annexes on financial services, and telecommunication services, that are a common element of FTAs. CEPA’s provisions on trade in services are subject to state-to-state dispute settlement, except for any measures, decisions or requirements under Australia’s Foreign Investment Framework.
68. The **Financial Services Annex** contains standard provisions broadly in line with Australia’s existing FTAs that relate to financial services exemptions, prudential measures, payment and clearing systems, new financial services, and self-regulatory organisations. It also includes provisions on Shariah-compliant financial services and sustainable finance.
69. The **Telecommunications Services Annex** contains standard provisions that provide rules around the access to and use of public telecommunications networks and services, interconnection, number portability, resale of telecommunications services, international mobile roaming, submarine cables, and other articles that are common across Australia’s Telecommunication Services Annexes or Chapters in other FTAs.
70. The Chapter on **Entry and Temporary Stay for Business Persons** (Chapter 10) includes commitments on processing visa applications expeditiously, ensuring visa fees are reasonable, and that visa application processes are transparent.
71. The chapter does not apply to measures affecting natural persons seeking access to the employment market nor measures in relation to citizenship, nationality, residence or employment on a permanent basis.
72. Australia’s specific commitments are to provide access to UAE citizens in the following categories:
 - business visitors for up to three months, or six to 12 months for service sellers;
 - installers and servicers for up to three months;
 - intra-corporate transferees, including executives or senior managers, and specialists for temporary stay up to four years, with the possibility of further stay;

- independent executives for up to two years; and
 - contractual service suppliers for up to 12 months.
73. Australia also will provide right of entry and stay and work for spouses and dependants of intra-corporate transferees, independent executives and contractual service suppliers who have been granted entry for periods of 12 months or longer.
74. While not an obligation on Australia, Australian skilled service providers, investors and business visitors will benefit from greater certainty of access into the UAE. Key outcomes for skilled service providers, investors and business visitors include:
- business visitors responsible for setting up an enterprise in the UAE, undertaking meetings, consultations, and negotiations for the sale of services and other similar activities, will be able to visit for 3-months in any 12-month period.
 - guaranteed access for managers and specialists across all sectors to undertake 3-year intra-corporate transfers to the UAE.
 - Australians entering the UAE as Contractual Service Suppliers will be able to undertake temporary work for up to 3-months, providing new opportunities for our service suppliers to work in the UAE.
75. CEPA does not create any new requirements to waive labour market testing for UAE business persons as Australia has already committed not to apply labour market testing for UAE intra-corporate transferees and independent executives through our WTO commitments. Nevertheless, the *Migration (International trade obligations relating to labour market testing) Determination (LIN 21/075) 2021* made under the Migration Act 1958 will need to be amended to give effect to Australia's obligations under the Agreement.

Investment Facilitation

76. The Chapter on **Investment Facilitation** (Chapter 11) includes provisions that promote cooperation between the Parties to facilitate greater two-way investment flows. It includes provisions on investment facilitation and promotion in priority sectors of mutual interest, including the transition to net-zero, and includes provisions that recognise the importance of encouraging investors to engage with First Nations people. The chapter also acknowledges the Parties have agreed a separate but related Investment Agreement.

Digital Trade

77. The Chapter on **Digital Trade** (Chapter 12) is consistent with Australia's existing FTA commitments and includes obligations which seek to minimise impediments to the cross-border flow of data while retaining the ability of government to regulate for legitimate public policy objectives. The chapter will also help to protect sensitive business information, with rules protecting source code and ICT products using cryptography. The chapter provides for the acceptance of electronic trade documents, e-signatures, e-payments and e-invoicing. The chapter includes provisions governing personal

information protection, consumer protection and limiting unsolicited commercial electronic messages (spam). The chapter promotes digital governance and support for communities through commitments on open internet access, open government data, online safety and security and sharing experiences in digital government. The chapter facilitates cooperation between Australia and the UAE in areas such as the promotion of digital trade standards, digital identities, data innovation, digital inclusion and cyber security to share knowledge and best-practice and support digital trade.

Competition and Consumer Protection

78. The Chapter on **Competition and Consumer Protection** (Chapter 13) requires the Parties to maintain competition laws and regulations which proscribe anti-competitive restrictive agreements and abuse of a dominant position, and address mergers with substantial anti-competitive effects. The Parties also commit to maintain consumer protection laws and regulations that prohibit false, misleading and deceptive practices. The chapter includes commitments on transparency, procedural fairness and non-discrimination in our respective competition landscapes, as well as protecting the rights of consumers. It promotes the importance of maintaining a level playing field for both government and non-government businesses operating in the market.

Intellectual Property

79. The Chapter on **Intellectual Property** (Chapter 14) affirms the rights and obligations set out in the *WTO Agreement on Trade-Related Aspects of Intellectual Property* and other multilateral agreements regarding intellectual property. The chapter promotes adequate, effective and balanced protection and enforcement of intellectual property rights and also encourages innovation and creativity. The Chapter protects the integrity of Australia's health and pharmaceuticals systems, including the Pharmaceutical Benefits Scheme, and is consistent with our existing FTA and multilateral obligations that preserve Australia's ability to regulate and pursue its public policy interests.

Government Procurement

80. The Chapter on **Government Procurement** (Chapter 15) contains provisions which are in line with our existing *WTO Agreement on Government Procurement* obligations.

Small and Medium Enterprises

81. The Chapter on **Small and Medium-sized Enterprises** (Chapter 16) facilitates cooperation between the Parties on issues affecting SMEs. This chapter includes provisions on information sharing and cooperation.

Indigenous Peoples Trade and Investment Economic Cooperation

82. The Chapter on **Indigenous Peoples Trade and Investment Economic Cooperation** (Chapter 17) contains provisions relating to bilateral cooperation and joint activities, including exchange of information on best practices, capacity building and acknowledging areas of interest for First Nations or Indigenous businesses and peoples. This is the first time this chapter has been included in an Australian FTA.

Environment and the Transition to Net-Zero

83. The Chapter on **Environment and the Transition to Net-Zero** (Chapter 18) recognises the importance of international environmental agreements such as the *Paris Agreement*, in protecting the environment, and includes a commitment to work together to address a range of trade-related environmental challenges, including climate change, promoting the circular economy, reducing pollution, improving air quality, and preventing overfishing and illegal wildlife trade.

Trade, Gender Balance and Women's Economic Empowerment

84. The Chapter on **Trade, Gender Balance and Women's Economic Empowerment** (Chapter 19) recognises and affirms key international instruments, such as the *Convention on the Elimination of All Forms of Discrimination against Women*, and provides a commitment to cooperate on policies and initiatives to advance women's economic empowerment in trade and investment.

Trade and Labour

85. The Chapter on **Trade and Labour** (Chapter 20) affirms Australia and the UAE's commitment, as members of the ILO, to respect and advance labour rights, including those stated in the *ILO Declaration on Fundamental Principles and Rights at Work*, within their territories. The chapter establishes a Dialogue on Labour to advance labour rights in the Parties' trade and investment relationship, including through engaging with stakeholders, and promotes cooperation on labour matters of mutual interest.

Economic Cooperation

86. The Chapter on **Economic Cooperation** (Chapter 21) contains provisions similar to the Cooperation Chapter in Australia-United Kingdom Free Trade Agreement (AUKFTA) and supports the effective implementation and utilisation of the Agreement. It highlights areas which cooperation may initially focus on, supports voluntary engagement between private sector bodies, and states shared high-level understandings on cooperation in areas such as global value chains and animal welfare.

Transparency and Anti-corruption

87. The Chapter on **Transparency and Anti-Corruption** (Chapter 22) commits Australia and the UAE to minimum standards of transparency, including provisions to promote greater transparency in government decision-making and in the publication of each

Party's laws and regulations. The chapter also contains an article that affirms the Parties' shared commitment to prevent and combat corruption including bribery in matters affecting international trade or investment and requires the Parties to adopt or maintain, and enforce, appropriate measures to prevent and combat corruption including bribery in line with their domestic legal system.

General Provisions and Exceptions

88. The Chapter on **General Provisions and Exceptions** (Chapter 24) establishes exceptions relating to matters such as essential security, taxation measures and balance of payments. In particular, Australia is not prevented from taking action necessary to protect its essential security interests in a range of circumstances. The chapter also includes obligations regarding the maintenance of confidential information and the disclosure of information. The chapter contains standard provisions that are similar to our previous FTAs.

Dispute Settlement

89. The Chapter on **Dispute Settlement** (Chapter 25) contains rules and procedures to resolve disputes that may arise between the Parties in relation to their commitments under CEPA. This Chapter is a common element of Australia's FTAs and is based on the rules and procedures for dispute resolution under the WTO. Obligations in CEPA will be subject to this mechanism, except those contained in the following chapters:

- Trade and Labour
- Environment and the Transition to Net Zero
- Trade, Gender Balance and Women's Economic Empowerment
- Competition and Consumer Protection
- Small and Medium-Sized Enterprises
- Economic Cooperation;
- Sanitary and Phytosanitary Measures
- Trade Remedies
- Sustainable Agriculture and Food Systems
- Investment
- Indigenous Peoples Trade and Investment Economic Cooperation
- Rules of Origin
- Custom Procedures and Trade Facilitation;
- Anti-Corruption (Article 22.4).

90. The chapter includes two annexes that establish rules of procedure that will govern the dispute settlement process, and code of conduct duties that will apply to panellists and others engaged in any dispute settlement proceedings under CEPA.

Final Provisions

91. This Chapter on **Final Provisions** (Chapter 26) contains provisions governing the administration of the Agreement. This includes the conditions for CEPA to enter into force as well as the process for general review of CEPA by the Parties. The chapter also establishes processes for the amendment, and if required termination, of CEPA by the Parties.

Additional Side-Letter

92. CEPA also includes a side letter that confirms sub-national Emirates ownership rights over UAE hydrocarbon energy resources, broadly consistent with what the UAE has included in its CEPAs with other countries.

Implementation

93. To give effect to commitments in CEPA, Australia will need to amend the *Customs Tariff Act 1995* to incorporate preferential rates of customs duty that will apply to goods imported from UAE under the proposed CEPA and the *Customs (International Obligations) Regulation 2015* to allow for refunds of excess customs duty paid.
94. Australia will also need to amend the *Customs Act 1901* and create a *Customs (UAE Rules of Origin) Regulation* to establish the rules for determining the originating status of goods imported from UAE for the purpose of determining eligibility for preferential rates of customs duty.
95. Australia will also need to amend the *Foreign Acquisitions and Takeovers Regulations 2015* to incorporate Australia's commitments made in accordance with Chapter 9 (Trade in Services) regarding the approval threshold for a UAE investment of five per cent or more in the Australian media sector, regardless of the value of the investment.
96. CEPA does not create any new requirements to waive labour market testing for UAE business persons as Australia has already committed not to apply labour market testing for UAE intra-corporate transferees and independent executives through our WTO commitments. Nevertheless, the *Migration (International trade obligations relating to labour market testing) Determination (LIN 21/075) 2021* made under the *Migration Act 1958* will need to be amended to give effect to Australia's obligations under the Agreement.
97. No new measures or legislative changes will need to be taken by States or Territories to implement CEPA.
98. Under Article 26(4), entry into force of CEPA will occur 60 days after the date on which the Parties exchange written notification through diplomatic channels, confirming that they have completed their respective domestic requirements necessary for the entry into force of CEPA, or on such other date as they agree.

99. Under Article 26(5), in the fifth year after entry into force, or at such times as may be agreed, the Parties will undertake a general review of CEPA.

Costs

100. The main cost associated with the CEPA is expected to be a reduction in tariff revenue from UAE imports, estimated to be \$16 million in 2025-26 and increasing to \$23 million per year by 2029-30, when all tariff reductions are fully implemented. The broader economy-wide benefits of CEPA will far exceed this revenue cost.
101. CEPA will not impose any regulatory burden on businesses, communities, or individuals.
102. New funding is not required to implement CEPA.

Impact Analysis

103. An Impact Analysis for the CEPA package consistent with the Australian Government Guide to Policy Impact Analysis has been certified by the Office of Impact Analysis and is attached.

Future treaty action

104. Article 26(3) provides that CEPA may be amended by the written agreement of the Parties. Amendments shall enter into force 60 days after the date on which the Parties exchange written notifications confirming that they have completed their respective domestic requirements necessary for the entry into force of the amendments, or on such other date as the Parties may agree.
105. Any future treaty action, such as an amendment of CEPA, would be subject to Australia's domestic treaty-making processes.

Termination

106. Article 26(6) provides that CEPA shall remain in force unless terminated by one Party giving the other Party notice in writing through diplomatic channels. Termination will take effect six months after the date of notification, or on such date as the Parties may agree.

Contact details

FTA Coordination Section
Free Trade Agreements and Stakeholder Division
Department of Foreign Affairs and Trade

ATTACHMENT I - CONSULTATION

Comprehensive Economic Partnership Agreement between Australia and the United Arab Emirates

(Canberra, 6 November 2024)

[2024] ATNIA 23

[2024] ATNIF 41

CONSULTATION

In negotiating the Australia-UAE Comprehensive Economic Partnership Agreement (CEPA), DFAT has consulted extensively across business, civil society, industry and worker organisations, meeting separately with over 97 public, private and civil society stakeholders (Appendix A).

Whole-of-Government Engagement

Given CEPA's coverage of policy areas across government and noting that policy leads and experts on a range of topics covered in the agreement are situated within different agencies, DFAT consulted across government throughout the negotiations including with Treasury, Department of Agriculture, Forestry and Fisheries, Department of Finance, Attorney General's Department, IP Australia, Department of Health, Department of Industry Science and Resources, Austrade and Department of Home Affairs as well as others.

These consultations ensured policy experts from agencies on the relevant subject matter areas were involved from the beginning as part of the negotiation process.

The Chief Negotiator also gave a series of formal updates after each negotiation round to State and Territory governments, meeting three times in the period January to August 2024. DFAT officials also discussed CEPA separately with different State and Territory officials during ad-hoc engagements over the course of the year.

Public Submissions

Prior to the commencement of CEPA negotiations in December 2023, DFAT started stakeholder consultations in Australia from March 2022 inviting both individuals and groups to consider and comment on the commercial, economic, regional, and other opportunities and impacts that could be expected to arise from a future Australia-UAE CEPA.

This resulted in 45 formal written submissions – 31 of which were public submissions and have been published on the DFAT website¹. Fourteen submissions were commercial-in-confidence, with only the name of the organisation published.

While details of submissions varied and some requests were commercial-in-confidence, some common themes came through across the submissions. Several stakeholders from the agricultural industry expressed their desire to achieve elimination of UAE tariffs on their exported products through CEPA, while industrial exporters expressed similar views. Several service providers, including in education and financial services, welcomed CEPA outcomes which would enhance recognition of Australian degrees taught in the UAE and support the expansion of current operations in the UAE. Other stakeholders expressed their desire for CEPA to support further investment from the UAE into Australia, including in the field of renewable energy.

Various groups expressed views on the importance of including inclusive trade outcomes in CEPA, such as provisions on animal welfare, environment, labour rights, First Nations trade and gender equality. The ACTU in its submission indicated it did not support moving forward with CEPA unless the UAE demonstrated certain preconditions to safeguard workers' and human rights. AFTINET also had a clear view that CEPA should address human and labour rights, and not include Investor State Dispute Settlement (ISDS).

DFAT continued to provide stakeholders with the opportunity to provide written submissions on the CEPA via the DFAT website throughout the negotiations.

Peak Bodies stakeholder engagement

Throughout the negotiations, DFAT's Chief Negotiator held regular open forums to provide updates for all interested stakeholders on the status of negotiations. These consultations a range of channels including virtual and in-person meetings.

DFAT held virtual consultations with Peak Bodies on CEPA in January 2024 and engaged regularly with Peak Bodies during the negotiations.

Key stakeholders, individuals and organisations, including those who had made submissions and others DFAT had identified as having an interest in CEPA were invited to consultations with DFAT's Chief Negotiator in June and August 2024. Over 100 attendees representing 63 organisations from business civil society, industry and worker organisations, attended these meeting.

Except for some concerns expressed regarding labour and human rights related issues, consistent feedback from most stakeholders during these consultations showed broad support for CEPA. Stakeholders indicated their desire for CEPA to secure outcomes which would enhance market access for exports to the UAE, further UAE investment into Australia and support inclusive trade areas (environment, labour, animal welfare, First Nations and gender equality).

¹Link to public submissions [Australia-UAE Comprehensive Economic Partnership Agreement \(CEPA\) | Australian Government Department of Foreign Affairs and Trade \(dfat.gov.au\)](https://www.dfat.gov.au/cepa)

There were six consultations with the National Farmers Federation held both virtually and in-person, discussing market access interests, progressive trade issues, and non-tariff barriers. These discussions included agricultural trade with the UAE and the sensitivities around market access for wine and pork.

Peak bodies for wine and spirits were consulted several times to discuss technical barriers to trade for wine, wine tariffs, excise taxes and labelling. The Chief Negotiator also held further in-person meetings in Adelaide (June 2024) with Wine Australia and Australian Grape and Wine.

The consistent feedback from these talks was the importance for Australian farmers and premium food and beverage exporters in receiving enhanced market access to the UAE for their products through CEPA. This would result in substantial commercial opportunities in a growing market.

DFAT met with and briefed trade unions both prior to and immediately after the January 2024 negotiation round. Further consultations and briefings were held with trade unions in May, June and September 2024. The June and August 2024 Chief Negotiator stakeholder meetings were also attended by trade unions. Trade unions continued to oppose CEPA, reiterating the points outlined in the ACTU submission provided to DFAT².

Consultations with trade unions showed strong opposition to CEPA, raising the UAE's issues with human and labour rights and concerns around environment, gender equality and LGBTQI+ rights. Continuing engagement with trade unions has not reduced concerns, though efforts to engage with them have been appreciated. Trade unions have reiterated they would not support a CEPA with the UAE unless some fundamental changes are made to UAE labour rights³.

While not all these concerns could be addressed through CEPA, these stakeholder views were taken into account by negotiators in pursuing the best possible outcomes for Australia in this area. As a result, CEPA will have a dedicated chapter covering trade and labour, a first for the UAE. Under this chapter, Australia and the UAE will affirm our obligations as members of the ILO and our commitments under the ILO *Declaration on Fundamental Principles and Rights at Work*. CEPA will also promote compliance with ILO standards and enforcement of labour laws and establish a Dialogue on Labour to advance Labour Rights, including through engaging with stakeholders. In addition, it will promote cooperation on labour matters of mutual interest.

First Nations stakeholder engagement

First Nations stakeholders were primarily engaged via DFAT's First Nations Trade and Investment Reference Group (which comprises 113 members), with representation from First Nations' peak bodies, First Nations chambers of commerce, and First Nations businesses from across States and Territories to discuss trade negotiations. We invited members of the Reference Group to a virtual

² [Australian Council of Trade Unions \(ACTU\) submission to Australia-UAE Comprehensive Economic Partnership Agreement \(CEPA\) \(dfat.gov.au\)](https://dfat.gov.au)

³ [Australian Council of Trade Unions \(ACTU\) submission to Australia-UAE Comprehensive Economic Partnership Agreement \(CEPA\) \(dfat.gov.au\)](https://dfat.gov.au)

briefing on 26 June 2024 and held an in-person briefing in Perth on 6 September 2024 to engage with interested First Nations stakeholders.

We also published updates and calls for submissions in the First Nations Trade and Investment monthly bulletin which is distributed to the First Nations Trade and Investment Reference Group.

First Nations business peak bodies were also invited to the Department's regular Peak Bodies briefings (virtual and annually in-person) on Australia's trade policy and negotiating agenda.

Direct business engagement

In addition to the above consultations, DFAT (including in consultation with Austrade) regularly engaged interested Australian businesses directly, both through formal and informal interaction in Australia and in the UAE. The businesses covered by these interactions are in Appendix A.

Similar to views expressed by Peak Bodies during the negotiations, businesses highlighted the value for they saw in CEPA achieving enhanced market access to the UAE market for goods and services, as well as the potential for CEPA to promote significant UAE investment that would help them further develop major projects, including in areas relevant to Australia's energy transition.

Likewise, many stakeholders welcomed the progress being made on inclusive trade outcomes in CEPA, especially the first stand-alone chapter in an Australian FTA covering First Nations Trade and Investment.

Appendix A

List of stakeholders consulted through CEPA negotiations

Stakeholders	
1	ABAC Australia Secretariat, Australian APEC Study Centre
2	Aboriginal Carbon Foundation
3	Accolade Wines
4	AFTINET
5	AI Group
6	Alliance for Animals
7	AMP Energy
8	Animal Medicines Australia
9	Animals Australia
10	ANZ
11	Aspen Medical
12	Atlas Wealth Management
13	Australia Sugar Milling Council
14	Australia UAE Business Council
15	Australian Aluminium Council
16	Australian Automotive Aftermarket Association
17	Australian Chamber of Commerce and Industry
18	Australian Council of Trade Unions
19	Australian Fair Trade and Investment Network
20	Australian Fresh Produce Alliance
21	Australian Grape & Wine
22	Australian Information Industry Association
23	Australian Manufacturing Workers' Union
24	Australian Marine Export Industry
25	Australian Nut Industry Council
26	Australian Organic Limited
27	Australian Pork Limited
28	Australian Seafood Industry
29	Australian Services Roundtable
30	Australian Space Agency
31	Australian Steel Institute
32	Australian Sugar Milling Council
33	Australian Superyachts
34	Australian Technology Network of Universities
35	Australian Wine Research Institute
36	Australian Wool Innovation
37	Australian Workers Union
38	Australia-UAE Business Council

39	Bank of Sydney
40	BEGA
41	Binah Group
42	BlueScope
43	BSA - The Software Alliance
44	Business Council of Australia
45	Canegrowers Ltd
46	Capral Aluminium
47	Curtin University
48	Dairy Australia
49	Electrical Trade Union
50	Emirates Airline - UAE Embassy Business Roundtable
51	EOS - UAE Embassy Business Roundtable
52	Export Council of Australia
53	Federation Asset Management
54	Fonterra Australia
55	Food and Grocery Council
56	Frosty Boy
57	Go8
58	Grain Trade Australia
59	Gravity iLabs
60	Infant Nutrition Council
61	Infrabuild
62	Jala Jala Treats
63	King & Wood Mallesons
64	Macquarie Group
65	MASDAR Tribe
66	Matific
67	Meat and Livestock Australia
68	Minerals Council of Australia
69	Murdoch University
70	National Association for Sustainable Agriculture Australia
71	National Farmers Federation
72	NSW Government - DPC and Investment NSW
73	NSW Nurses & Midwives Union
74	OBE Organic
75	Office of the Arts, Screen Australia
76	Organic Industries
77	OzDocs Australia
78	Pacific Road
79	Pegasus International Australia (Flying Cars)
80	Pernod Ricard
81	Plenary

82	Rio Tinto
83	RSPCA
84	Santos
85	Seafood Industry Australia
86	Spirits and Cocktails Australia
87	Synapse Medical
88	TAFE NSW (International)
89	Tech Council
90	Telstra
91	Trade Window Origin
92	Universities Australia
93	University of Adelaide
94	Varley Group
95	Wine Australia
96	Woods Bagot
97	Woolworths International