

Australia

【Risk Warning】

In 2009, Australia increased the customs clearance fees, and inspection and quarantine related charges, such as air cargo and vessel clearance fees, prior inspection and quarantine license registration charges, etc. The involved Chinese exporters should pay attention to the subsequent risks in quotation in export. In terms of inspection and quarantine, Australia revised *Low Risk Wooden and Related Article Scheme* to strengthen the inspection and quarantine of manufacturing process, and extend the range of products subject to inspection and quarantine. The involved Chinese exporters of wood products should be aware of this amendment, adjust their manufacturing standard and products standard accordingly to meet the exportation requirements in Australia. In 2009, the Australian government issued a series of technical trade measures and sanitary and phytosanitary measures, such as *the Minimum Energy Performance Standards* for air-conditioners, *Toy Safety Standard of AS/NZS ISO 8124.1*, *Review of Inspection Requirements for Coir Fiber Products*, *Food Safety Rules for Imported Beef and Beef Products*. The involved Chinese enterprises should be aware of the Australian technical trade measures, and put emphases on the quality of their products from the beginning in order to meet the importation standards of Australia and ensure successful exportation.

1 An Overview of Bilateral Trade and Investment

According to the China Customs statistics, the volume of bilateral trade between China and Australia in year 2009 reached US\$ 60.08 billion, a 0.7% year-on-year increase, among which, China's export to Australia grew to US\$ 20.65 billion, down 7.2%. China's import from Australia reached US\$ 39.44 billion, up 5.4%. China ran a deficit of US\$ 18.79 billion in trade with Australia. In 2009, China mainly exported to Australia the following products: electrical equipments, machinery equipments, furniture and bedding, knitted or crocheted garments and clothing accessories, non-knitted or non-crocheted garments and clothing accessories, steel and iron and the products thereof, toys, sports equipments, plastic and its products, vehicles, and the textile products. Major imported products of China from Australia included mineral ores, slag and calx, mineral fuel, copper and its product, inorganic chemicals, rare metals, furs, yarn and its machine made fabric, nickel and its products, aluminum and its products, zinc and its products.

According to the statistics offered by China Ministry of Commerce (MOFCOM), the aggregate turnover of engineering contracts completed by Chinese companies in Australia stood at US\$ 1.12 billion, and the volume of completed labor service contracts reached US\$ 21.16 million.

According to MOFCOM, China's direct investment in non-financial sectors in Australia, approved by [or](#) registered with MOFCOM in 2009, totaled US\$ 1.97 billion. Australia invested in 312 projects in China in 2009, with an actual utilization of US\$ 0.39 billion.

2 An Overview of Australia's Trade and Investment Regime

2.1 Trade Administration Regime and Its Development

2.1.1 Tariff Regime

2.1.1.1 Tariff Administration

The Australian Customs Service is responsible for the formulation and implementation of tariff policies. The main statutes for Australia customs include *Customs Act*, *Customs Tariff Act 1995*, *Consumer Tariff Act*, *Excise Tariff Act*, and *New Tax System (Goods and Services Tax) Act*, and other related decrees and regulations. The existing customs taxation law in Australia was revised in 2006, and took effect from January 1, 2007. The law stipulates the tariff classification, the preferential tariff policies, applied tariff rates and applied nations, and introduces the application of the importing tariff regulation.

Australia import tariff rates are listed in *Customs Tariff Act 1995*, and subject to amendments by Australia federal government upon specific situations. Australian import tariff rates include general tariff rates and preferential tariff rates. The preferential tariff rates are applied to island countries of the South Pacific Forum, the least-developed countries, East Timor and developing countries and regions. China enjoys the preferential tariff rate as a developing country. Besides, according to the bilateral or multilateral trade agreements, most commodities produced in New Zealand and Papua New Guinea are exempt from duties; certain commodities made in Canada are granted with preferential tariff rates; the products made in Singapore are exempt from duties; 99% of manufactured and agricultural goods originated in USA are given duty-free treatment. For the goods made in Thailand, 90% of them are given duty-free treatment. General tariff rates are applied to all the other countries and regions. Since 1996, Australia has adopted the system of tariff concession. Under this system, tariff concession is only given to certain imported goods, which are not produced in Australia and pose no competitive threat to the domestic industry nor exerting adverse effect on the industry. In addition, the Australian Customs also grants duty-free treatment to those goods which keep in line with the standards of importing handicrafts, but the imported goods must be identified by Australian Customs officers as "handicrafts". The

identification procedure includes: the production processes of raw materials (whole or significant part of the material are hand-made), the product manufacturing process (made by hand; by hand-held tools; by manually operated tools), as well as having the similar artistic or decorative characteristics of handicrafts of the producing country.

With regard to export, no duties are levied except on coal and uranium. In order to support exports, Australian Government adopts tax rebate policy to re-exportation of imported products through the customs office. According to this policy, manufacturer can require the withdrawal of the import tariff if the imported goods are re-exported without being used, or re-exported after being processed or manufactured into other spare components in Australia.

In July 2009, Australia Quarantine and Inspection Service increased the cargo and vessel clearance fee. The declaration fee of air transport was raised from AUD 10 to AUD 15. The declaration fee of maritime transport was raised from AUD 10 to AUD 14. The registration fee of 12-month Quarantine Approved Premises (QAP) was raised to AUD 1200 from AUD 900, and the registration fee of 6-month QAP was raised from AUD 450 to AUD 600. For the pratique vessels > 25 meters, the first one-hour examination fee is raised from 920 to 1050 AUD, and the fee after the first hour was revised to 45 from 40 AUD. For the pratique vessel <25 meters, the first half hour of the examination fee is raised from 240 to 330 AUD. Other fees such as licensing assessment costs, the examination fee of FCL and LCL also have been increased to varying degrees.

2.1.1.2 Tariff Level and Its Development

In 2008 fiscal year, the simple average rate of Australia MFN Tariff was 3.5%, among which, the simple average rate of the agricultural products was 1.3%, non-agricultural product, 3.9%.

In Australia, ad valorem tax is applied to most of the imported goods. Specific duty are applied to other products like cheese, bio-diesel fuel, fruit juice, beverages, alcohol, tobacco beverages, petroleum and some chemical products. Australia's overall tariff level is relatively low, with the average tariff rate keeping at 0-5%, but the import tariff rates for automobile spare parts, textiles and clothing, and footwares remain high. At present stage, the tariff rate for the motor vehicles and parts stands at 10%, and it will be reduced to 5% by 2010. The present tariff rate for textiles and clothing keeps at 5-17.5%, which will be reduced to 10% by 2010, and to 5% by 2015. The present tariff rate for footwares is 10%, which will also be reduced to 5% by 2010,

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In August 2009, the Australia customs issued a notice to amend the definitions of certain beverages (beer and wine). The new definitions for beer and wine exclude mimic “alcopops” which is mixed with beer and wine, resulting in mimic “alcopops” and “alcopops” or ‘RTD (ready to drink)’ beverages are taxed at the same rate. According to the amended definition of beer, beer is no longer classified in these subheadings of 22030031 and 22030039, but rather, will be classified in new subheadings 22030091 and 22030099. According to the amended definition of wine, wine product will be classified in the following new subheadings: 22060013, 22060014, 22060021, 22060022, 22060023, 22060024.

In April and August 2009, the Australia Customs Service issued two notices to increase the tariff rates of beer, wine, tobacco according to the CPI variation. According to the amendment made in August 2009, for beer whose packaging is under 48 liter, the tariff rate will be AUD 35.24 to AUD 41.06 per liter of alcohol in the beer. For beers whose packaging is above 48 liter, the tariff rate will be from AUD 7.03 to AUD 28.91 per liter of alcohol in the products. The wine with 1.15% to 10% of alcohol will be imposed 5% tariff rate plus AUD 69.57 per litre of alcohol in the wine. Brandy which is made from wine will be imposed at AUD 64.96 per litre of alcohol plus 5% of tariff rate. Cigar and tobacco will be imposed at the rate of AUD 322.93/kg, and for the cigar whose tar content is under 0.8 g per cigarette, the tariff rate is AUD 0.25833 per cigarette.

In October 2008, Australia customs announced to increase import tariffs of imported luxury cars. The Luxury Car Tariff rate is amended to 33% from 25% for cars with a Luxury Car (except ambulance and emergency car) value over the LCT threshold (in 2008-2009, the threshold was AUD 57,180). The fuel efficient luxury cars below certain price (the threshold was AUD 71,500 in 2008-2009) are exempt from the tariff. Certain luxury cars and fuel efficient luxury cars are entitled to exemption from the LCT. The LCT rate of 33% however remains applicable where a fuel efficient luxury car exceeds the fuel efficient luxury car threshold. In September 2009, Australia Customs amended this regulation, and adjusted the taxation threshold of efficient luxury car to AUD 75,000. Importers or manufacturers are entitled to require a refund of the tariff they have over paid due to the amendment of the regulation during the period between October 2008 and September 2009.

2.1.2 Import Administration

Australia’s principal laws concerning export management are *Customs Law*, *Quarantine Act* and *Imported Food Control Act*, *Hazardous Waste (Import and Export Provisions) Act* and related bills and regulations. Australian Department of Foreign Affairs and Trade is responsible for the

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formulation of macro-trade policy, and the Australian Customs Service is responsible for the administration of importation and exportation of commodities, the surveillance of ports, and the investigation and implementation of the trade remedy measures. Imported animal and plant products must undergo strict inspection and quarantine. Imported medicines must obtain prior FDA approval. Imports of machinery and electric products must be pre-certified for safety.

The Australian Government controls the importation of certain goods. The controls either take the form of an absolute prohibition or a restriction. Rough diamond imported from Liberia and suicide devices are prohibited absolutely. Restricted products are as follows: anabolic or androgenic substances and Ketamine, antibiotics, all goods bearing the word “ANZAC”, Australian flag , arms Asbestos, cat and dog fur products, ceramic ware-glazed, cetaceans (whales, dolphins and porpoises), chemical weapons, chewing tobacco and oral snuff, lighters, cosmetics with toxic materials, counterfeit credit cards, crowd control equipments (sprayers and spontoons), cultural and heritage goods from Papua New Guinea, diamonds- Kimberley Process , dog collars - protrusion, dogs of dangerous breeds, human Embryo clones, endangered animal and plant species, erasers of novelty, explosive plastics, firearms and ammunition, fish and toothfish, electronic fly swatters/mosquito bats, growth hormones, hazardous waste, incandescent lamps, chemicals, KAVA, knives and daggers, laser pointers, novel money boxes, ozone depleting substances, pencils and paintbrushes with toxic materials, pesticides and other hazardous chemicals, pornography and other objectionable material, radioactive substances, drugs and narcotics, unmanufactured tobacco leaves, toys with toxic materials, products prohibited by *Trade Practices Act 1974*, arms, woolpacks. Importing of the above-mentioned products has to be permitted by the Department of Environment, Water, Heritage, and the Arts, the Department of Health and Ageing, the Department of Agriculture, Fisheries, and Forestry.

Besides, the Australian Customs Service may adopt some temporary and phasic import restrictions to prevent epidemic, insect pests and plant disease, protect environment and local industry, and implement international agreements, etc.. The importers who violate the relevant provisions of the absolute prohibition and restriction will be severely punished.

In April 2009, the Australia Customs Service issued a notice announcing that as from February 1, 2009, a person seeking to import GLS lamps has to obtain permission from the Minister for Environment, Water, Heritage and the Arts prior to the importation. Permissions will only be granted in a limited number of circumstances. The prohibition covers a range of inefficient GLS filament lamps. The import prohibition does not apply to GLS lamps that are imported as part of other equipment, coloured GLS lamps, silvered GLS lamps, candle lamps; fancy round lamps;

halogen or compact fluorescent lamps (CFL). The maximum penalty for importing these goods without import approval is a fine not exceeding AUD 110,000 or 5 times the value of the goods, whichever is the greater.

In August 2009, the Australia Customs Service amended the regulation on importation of asbestos. The amendment removes the import control that applies to ships and equipments containing *in-situ* amphibole or chrysotile asbestos, provided that the ship or equipment is of at least 150 gross tonnage, and the asbestos was fixed or installed before January 1, 2005, and the asbestos will not be a risk to any person unless it is disturbed. The import prohibition maintains against the importation of the following ships or equipments: the ship or equipment whose construction has not been completed yet by January 1, 2005; the ship or equipment that had been fixed or installed asbestos before January 1, 2005 and fixed or installed other asbestos again after January 1, 2005.

In November 2009, Australia Quarantine and Inspection Service made a quarantine alert that, Australia Biological Imports Program (BIP) will adopt ePermit system for a range of low risk products such as biological materials for laboratory use and foods. ePermit system has introduced an online option for submitting import permit applications. The ePermits option offers: applicants the opportunity to receive import permits via email; a potential reduction in the turnaround time of administrative processes for import permit applications; reduction of permit application costs; applicants and permit holders the opportunity to check the status of their import permit; and applicants the ability to apply for multiple 'ePermittable' commodities on the one import permit. The ePermits option has been implemented in addition to the current practices of eLodgement and manually submitting application forms to AQIS. As of November 5, 2009, the following biological commodities have been incorporated into the ePermits system: antibodies, [antiserum](#), sera, blood, fluid or tissue samples, [antibiotic sensitivity discs – all antibiotics](#), [purified toxins or venoms](#), [purified DNA/cDNA or RNA from multicellular organisms](#), purified recombinant bacterial proteins and lipids, [DNA/RNA modifying enzymes, restriction enzymes and polymerases](#), diagnostic kits, reagents and standards testing for human pathogens and diseases, cell lines, animal urine, animal faeces etc.

2.1.3 Export Administration

Australia's major laws concerning export management are *Customs Act, Quarantine Act, Export Control Act, Environmental Protection and Biodiversity Protection Act and regulations, Protection of Movable Cultural Heritage Act and regulations, Hazardous Waste (Import and Export Provisions) Act* and related decrees and regulations.

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The Australian Government controls certain exportation of goods in two forms: absolute prohibition and restriction. The absolute prohibited products are as follows: anhydrous sodium acetate exported to Afghanistan, suicide devices. Restricted products are as follows: arms exported to Afghanistan; asbestos; cat and dog fur products; equipments, facilities, technologies, and materials that may be diverted for use in weapon of mass destruction programs; counterfeited credit cards; cultural and heritage goods; cetaceans; defence and strategic goods such as explosives; military vehicles; sensors and lasers; anesthetics; animal and plant species and all products manufactured from species (including some medicinal products) listed in the appendices to the *Convention on International Trade in Endangered Species (CITES)*; including black coral, orchids and ivory products; commercial export of arms and ammunition; personal firearms and ammunition; waste that is explosive; flammable; poisonous; or toxic substances; human blood and tissue; military arms exported to Liberia; ozone depleting substances; pornography and other objectionable material; precursor substances that have the potential to be abused and are therefore a public health concern. prescription medicines under the Pharmaceutical Benefits Scheme (PBS); radioactive substances; radioactive waste exported to Pacific islands and developing countries; military equipments and paramilitary equipments exported to Rwanda; paramilitary equipments exported to Sierra Leone; Antarctic toothfish and Patagonian toothfish found in sub-Antarctic waters; bulk consignments of spirit, brandy, grape spirit and wine derived products over 100 litres. Exporting of the above-mentioned products requires permits from the Department of Health and Ageing, the Department of the Environment, Water, Heritage, and the Arts, the Department of Industry, Tourism and Resources, the Department of Foreign Affairs and Trade and the Department of Health and Ageing.

Export Market Development Grants (EMDG) scheme is a key Australian Government financial assistance program for current and intended exporters, administered by Austrade. The scheme encourages small and medium sized Australian businesses to develop export markets. Any Australian individual, partnership, company, association, co-operative, statutory corporation or trust that has carried on export promotion activities during the year for which they wish to apply for an export grant, . The applicant must have promoted one of the following: the export of goods and most services; inbound tourism; the export of intellectual property and know-how; conferences and events held in Australia. Since July 2009, EMDG scheme took the following changes:

- increasing the maximum grant from AUD 50,000 to AUD 200,000;
- lifting the maximum turnover limit from AUD 30 million to AUD 50 million;

- reducing the minimum expenditure threshold by AUD 5,000 to AUD 10,000;
- allowing costs of overseas patenting products to be eligible for EMDG support.
- increasing the limit on the number of grants able to be received by a business from 7 to 8.
- making the scheme more accessible to services exporters by replacing the current list of eligible internal and external services with a new ‘non-tourism services’ category which will provide for all services supplied to foreign residents whether delivered inside or outside of Australia to be eligible unless specified in the [EMDG Act Regulations](#).
- allowing State, Territory and regional economic development and industry bodies promoting Australia’s exports to access the scheme.
- introducing an [EMDG performance measure](#) into the scheme for those applicants who have already received two grants. Applicants will need to satisfy the requirements of this measure by taking one of two alternative tests - the [Export Performance Test](#) or the [Australian Net Benefit Requirements](#).

2.1.4 Trade Remedies

The existing anti-dumping law of Australia is mainly included in the *Amendment to Customs Act* and the *Amendment to Tariff Act*. There is no specific countervailing law in Australia. Countervailing elements are included in the relevant anti-dumping laws. In review of anti-dumping complaints, the Australian Customs Service also examines whether there are various forms of government subsidies, such as freight concessions, export incentives and export-related tariff relief, tax deferral, and export credit which is lower than the market interest rates, etc..

The main administrative bodies dealing with anti-dumping affairs are the Australian Customs Services and Department of Justice and Customs, Trade Measure Review Board. Australian Customs Service is not only the anti-dumping investigations section, but also the adjudicating body. The Trade Measures Branch (Branch) subordinated to the Customs Service has the responsibility for anti-dumping and subsidy administration. The Branch provides assistance to companies and other interested parties accessing the system by conducting investigations into the claims made to justify the imposition, varying or continuing measures; by making recommendations to the Minister for Home Affairs for the imposition, variation or continuation of the measures; and, by managing and coordinating the operation of the measures. Also, Customs advises interested parties of their rights and obligations in accessing the system. The ministers of Justice and Customs are responsible to make the anti-dumping policies. Customs is required to make final report and relevant recommendations according to the relevant evidence provided by

the interested parties, and submit them to the Minister of Justice and Customs. Officers for Trade Measure Review board, appointed by the Minister for Justice and Customs dealing with the customs affairs, can make administrative review of decisions of levying the final anti-dumping tax, not filing the case, terminating the investigation upon the application of the interested party.

Australia Customs Service issued two announcements respectively in the end of 2008 and in the beginning of 2009 to seek public opinions of amendment to *Anti-dumping Manuals* and *Countervailing Manuals* and of implementing *Guidelines for Application for Special Market Status*. Considering the guidance and the guidelines mentioned above are closely related to Chinese responses to anti-dumping and countervailing litigations, MOFCOM participated in the survey, and accordingly submitted two pieces of comments to prevent Chinese interests being hurt by the final amendments. In July 2009, Australia Customs Services published the amended *Anti-dumping and Countervailing Investigation Manuals*, and an evaluation report on comments and advices given by the concerned parties in its website. Most of the advice and suggestions given by MOFCOM have been accepted by Australia Customs Service, which provides a good legal foundation for Chinese enterprises to respond to the litigation in the Australian trade remedy cases.

In April 2009, Productivity Commission, the independent research and advisory body of the Australian Government, initiated a review of the current anti-dumping and countervailing system applied in Australia, and submitted the evaluation report to the government. In this report, it recommends the government to loosen the stringency of the trade remedy system by reducing anti-dumping tariff rates, shortening the taxation period, to strengthen the evaluation of the public interests, to increase the transparency of the trade remedy investigation, and to tighten the supervision of Australia Customs Services through trade measures review officers system. It has reflected the Australian government's stance of advocating free trade and fair competition, objecting to exerting too many limits on international trade and to overprotecting the domestic industries,

2.1.5 Restructure of the Relevant Administrative Body

On December 4, 2008, Australia government announced the renaming of Australian Customs Service and enhancement of the agency's capabilities. This adjustment is meant to incorporate Australia Customs Service with all the agencies related to border affairs. Additional capabilities given to Customs and Border Protection Service under the new arrangement include analyzing and

coordinating the gathering of intelligence, coordinating surveillance and on-water response, and engaging internationally to deter maritime smuggling. The transition of capability will involve the transfer of some responsibilities, functions and resources from the Department of Immigration and Citizenship. The agency is a national organization employing more than 5500 people in Australia and overseas, with its Central Office in Canberra. It cooperates closely with other government agencies: including Australia Federal Police Bureau, Quarantine and Inspection Service, Department of Immigration and Citizenship, and Department of Defense.

2.2 Investment Administration and Development

The responsibility of making investment policies rests with the Treasury, Foreign Investment Review Board (FIRB) mainly deals with examination and approval of proposals by foreign interests for acquisition and new investment projects in Australia. *Foreign Acquisition and Takeovers Act 1975 (FATA)*, *Foreign Acquisition and Takeovers Regulations 1989* regulate the threshold of the foreign investment (the provisions of *US-Australian Agreement on Free Trade* is applied to the United States). In the majority of industry sectors, smaller proposals are exempt from the FATA or notification under the policy and larger proposals are approved unless determined to be consistent with the national interest. The screening process undertaken by the Foreign Investment Review Board (FIRB) enables comments to be obtained from relevant parties and other Government agencies in deciding whether larger or more sensitive foreign investment proposals are contrary to the national interest or not. Investment projects of foreign government or agencies, in whatever scale, must be examined by the FIRB. The media and the residential real estate are sensitive sectors for foreign investment.

On August 4, 2009, the Minister of the Australian Treasury made announcement to amend the investment administration system. The revised *Foreign Acquisitions and Takeovers Regulations 1989* officially came into effect since September 22, 2009. It replaces the four lowest thresholds for private business investment with a single threshold of AUD 219 million, that is, foreign investors (US investors excluded) do not have to submit application to the AFIRB. The threshold set for American private investors remains at AUD 935 million. This threshold is subject to the annual adjustment made by the Australian government in accordance with the inflation of the year. New threshold is only applied to the foreign private investors.

2.3 Trade and Investment Related Administration and Its Development

2.3.1 Inspection and Quarantine System

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Australia's current laws governing the inspection and quarantine are *Quarantine Act 1908*, *Export Control Act*, *Imported Food Control Act 1993*, and *Import Risk Analysis Handbook 2003*. The Australian Quarantine and Inspection Service, and Biology Safety Authority, which is subordinated to the the Department of Agriculture, Fisheries and Forestry (DAFF), are in charge of inspection and quarantine of imported products. All imported food products in Australia must comply with the requirements of *Imported Food Control Act 1993*, and meet with the standards set in *Australia New Zealand Food Standards Code*.

The Australian *Low Risk Wooden and Related Article Scheme (LRWRA)* refers to the assessment of the manufacturing processes of imported processed materials such as wood, bamboo, cane, rattan, willow and wicker. If they meet Australia's quarantine requirements, goods manufactured through these processes may be granted a low risk status under the Low Risk Wooden and Related Articles Scheme (LRWRA), with which the products can be exempt from regular quarantine and inspection (including processing requirements, open to inspect) and can be examined with a certain percentage of products at random. LRWRA status is granted for a two-year period. Importers are required to submit a new application for LRWRA status prior to expiry of any LRWRA approval, or previous Low Risk Wooden Article (LRWA) approval they currently hold. LRWRA status is granted to a specific product from a specific manufacturer and is applicable to Full Container Load (FCL), Less Than Container Load (LCL) and airfreight consignments. On April 14, 2009, AQIS made announcement of amendment of LRWRA. According to the new scheme, certain quarantine shall be given to some standard manufacturing processes. The scope of the products is extended, including solid wood, plywood, veneer, highly processed bamboo, willow, wicker, cane and rattan. AQIS has also issued a LRWRA Treatment Standard of low risk wood products. The standard stipulates the minimum standard of processing, quality control, storage and shipping for a range of veneered products. The revised LRWRA Scheme became effective on May 4, 2009. All current LRWRA approvals will remain valid until their current expiry dates specified in their approvals. However, consignments with current LRWRA approval will now be subject to a random 5% inspection.

The Australian Quarantine and Inspection Service made a series of adjustments in the quarantine and inspection fees. On July 17, 2009, AQIS made announcement of amendment of cargo and vessel clearance fees: The proposed changes will increase the fees for lodgment and assessment of entries and applications, inspections of full container load (FCL) and less than container load (LCL), services performed during and outside ordinary hours of duty, documentary clearance for vessels, fee-for-service (FFS), etc.

On September 30, 2009, AQIS made announcement to amend the *Quarantine Service Fees Determination 2005* and *Imported Food Control Regulations 1993*, and apply the new standards to charge the imported food service fee. The fee for the initial assessment period is AUD 40.00; after the initial assessment period AUD 40.00 will be charge for every 15 minutes or 7.5 minutes; if more information is required by the quarantine and inspection officer in the initial entry, AUD 40.00 will be charged.

2.3.2 Intellectual Property Rights.

Australia's laws concerning Intellectual Property Right are as follows: *Copyright Act 1990*, *Patents Regulations 1991*, *Trademark Law 1995*, *Trademark Regulations 1995*, *Plant's Breeders Act 1994*, *Plant breeders Regulations 1994*, *Designs Act 2003*, *Designs Regulations 2003*. The responsibility of dealing with Intellectual Property Rights affairs rests with Australia's Intellectual Property Bureau.

From January 1, 2009, Australian exporters may be able to partially recover the cost of IP protection under the *Export Market Development Grants* (EMDG) scheme. Applicants may apply to recover the costs stipulated by foreign laws, including the costs of granting, registering or extending rights, as well as the cost of obtaining insurance to protect these rights. Up to 50% of eligible export promotion expenses above \$10,000 may be reimbursed under the scheme.

On April 2, 2009, IP Australia opened a new patent examination centre in Melbourne, to meet the future needs of Australia's innovators. The Melbourne Patent Examination Centre is the first centre established by IP Australia. It is responsible for examining patent applications in the fields of chemical engineering, mechanical engineering, chemistry and electronics. The Melbourne Patent Examination Centre will help IP Australia to provide patents service in a timely manner to Australian innovators

On September 15, 2009, Parliamentary Secretary for Innovation and Industry said Australia is helping green innovators find a fast track to the marketplace by accelerating the examination process in which the waiting time for applications is reduced to 4-8 weeks. The request for accelerating the examination process can be submitted after handing in the application. The applicant is required to hand in application in written form and provide reasons for accelerating. Specific conditions will be considered to decide whether the application is qualified for the fast-tracking, but the application has to be related to green technologies. The applicants need not pay additional fees for fast-tracking application.

2.3. 3 Australia Cut Sharply the Number of Foreign Labor Force in the Fiscal of 2008/2009

In March 2009, the Department of Immigration and Citizenship of Australia Federal Government announced the governmental decision to cut quota of technical immigration in the fiscal year of 2008-2009 from 135 thousands to 115 thousands due to deteriorating economy and increasing local unemployment. At the same time, the Australian government decide to remove the skilled workers in field of construction and manufacture from the much-needed labor force list.

2.4 Technical Trade Measures in 2009

2.4.1 Technical Regulations

2.4.1.1 Australia Increase the Energy Efficient Ratio for Air-conditioner in Advance

In April 2009, Australia issued an additional consulatory draft to advance the implementation date of the minimum energy efficiency standards for air-conditioning from the scheduled April 1, 2010 to October 1, 2009. Air conditioners which do not meet the Australian standards will not be permitted to be imported into Australia. In addition to bringing forward the date of implementation of the efficient standards, the Australian Government may carry out more stringent minimum energy performance standards (energy efficiency ratio will be increased by 10% at that time). On November 10, 2009, the relevant Australia departments released to concerned parties a letter with the title of *New Requirements for Air-conditioning* as to inform air-conditioner manufacturers and importers of the Minimum Energy Performance Standards (MEPS) for the air conditioner whose rated cooling capacity does not exceed 65kW. The letter is specifically concerning the newly proposed MEPS, the new energy label requirements which will be implemented as from April 2010, and the declaration approved by Council of Australian Government (COAG) to increase MEPS as from October 2011. The proposed new requirements for air-conditioning will come into effect after April 1, 2010, including a new method of calculating the energy efficiency, a new label design, the more stringent minimum energy efficiency standards of cooling mode of most products, introduction for the first time of the minimum energy efficiency of the heating mode to the product with heating function; the introduction of the requirements to reduce standby power consumption, and the crankcase heater power consumption, and performance display on demand. As from April 2011, the minimum energy efficient standard for standby power consumption and other non-commercial energy sources consumption of refrigeration and heating equipments, and the mandatory requirements of power factor will be put into force.

2.4.1.2 Australia and New Zealand Revised the Safety Standards of Hazardous Toys

In April 2009, Australia and New Zealand amended the Toy Safety Standard of AS/NZS ISO 8124.1. They are intended as an interim measure to prevent the hurt caused by the accident ingestion of magnet of the toys used by all age groups that contain a hazardous magnet or hazardous magnetic component. Additional requirements may be proposed after the testing procedures for normal use and reasonably predictable abuse have been laid down.

A magnet with a flux index $>50 \text{ kg}^2\text{mm}^2$ and in any of the following shapes and sizes is defined as hazardous magnet: a cylinder which is not more than 32 mm in length and not more than 11 mm in diameter; a disk which is not more than 26 mm in diameter and not more than 5 mm in thickness; a sphere which is not more than 22mm in diameter; any solid that will fit entirely within the above defined shapes.

The packaging and instructions of toys which contain separate hazardous magnets or separate hazardous magnetic components should include a statement similar to the following: "Warning! The product contains small magnet(s). Swallowed magnets can stick together across intestines causing serious infections and death. Seek immediate medical attention if magnet(s) are swallowed or inhaled." Toys shall not release any hazardous magnet or hazardous magnetic component after being tested for normal use and reasonably foreseeable abuse. But these requirements do not apply to magnets used in motors, relays, speakers, electrical components, and similar devices where the magnetic properties are not part of the play pattern of the toy.

2.4.1.3 Australia Revised Safety Standards for Flotation Toys & Swimming Aids

In April 2009, Australia revised two safety standards for consumer products: the one pertaining to swimming and flotation aids for water familiarization and swimming learning; the other to flotation toys and aquatic toys.

According to *Consumer Product Notice No.2 of 2009 - Flotation Toys and Aquatic Toys*, flotation toys and aquatic toys include the following toys: the toys designed or clearly intended for use in play by children under 14 years of age, the inflatable or not inflatable toys intended to bear the weight of a child in water, the inflatable things in novel shapes, inflatable toy boats which by virtue of their size and design are intended for use in shallow water, unattached rings or partial rings. flotation toys and aquatic toys do not include beach balls, surfboards, body/boogie boards, inflatable air beds, kickboards, and inflatable boats which by virtue of their size and design are intended for use in deep waters. The official testing should be carried out on the basis of the first part of Australian and New Zealand standard AS/NZS ISO 8124.1:2002 Safety of Toys: Safety of

Mechanical and Physical Properties (ISO 8124-1:2000, MOD) and its amendments. However, the current Australian Standard AS1900-1991 for flotation toys and swimming aids for children will be valid until March 31, 2010. Either of the two current standards is effective.

According to *Consumer Product Notice No.3 of 2009–Swimming and Flotation Aids*, swimming aids and flotation aids refer to the things which are designed for children under 14 years of age worn on or attached to the body or in which the user sits for the purpose of either enabling him or her to gain confidence through water familiarization, or to assist him or her in acquiring unaided buoyancy through swimming tuition; including but not limited to arm bands, attached rings and swimming aid vests. But inflatable articles in novel shapes; unattached complete or partial rings; kickboards; articles designed for therapeutic use by disabled persons; as from the date of this notice (April 8, 2009) , articles, including life jackets or other personal flotation devices, which are within the scope of AS 4758 Personal flotation devices are not included. The official testing should be carried out on the basis of the first part of Australian Standard AS 1900-2002 for flotation aids for water familiarization and swimming tuition. However, the current Australian Standard AS1900-1991 for flotation toys and swimming aids for children will be valid until March 31, 2010. Either of the two current standards is effective.

2.1.4.4 Voluntary Labeling Program for Swimming Pool Pump

In September 2009, Australia planned to carry out Voluntary Labeling Program for Swimming Pool Pump. The eligible products must meet the requirements of the Draft Australian Standard 5102.1. If the products meet the above-mentioned compliance standards and energy efficiency requirements, then the suppliers of the swimming pool pumps will be granted to have energy-efficiency labels on their products to display the performances of the products. The product energy-efficiency labeling is required to adopt the star rating system. As to the size of the label, it should be not less than 70 mm in width, and not less than 105 mm in length. Labels must be clearly affixed on the products. If the energy efficiency labels are not affixed directly on the products, it can be marked on the packaging of the products.

2.4.2 Sanitary and Phytosanitary Measures

2.4.2.1 Australia Required Import Permit for Importation of Mayonnaise

On April 19, 2009, AQIS made an announcement to notify all importer/brokers that mayonnaise with more than 10% egg content (by dry wt basis) requires a valid AQIS import permit. Importers

must apply for a permit prior to importing such products. The imported mayonnaise products which do not meet AQIS import requirements will need to be re-exported or destroyed at the owner's expense. Products containing less than 10% egg ingredients by dry weight and containing no discernible pieces of egg do not need an import permit but must be accompanied by a valid manufacturer's declaration indicating that the product contains less than 10% egg ingredients (by dry wt basis) and contains no discernible pieces of egg.

2.4.2.2 Australia Revised the Documentation Attached to the Phytosanitary Packaging of Goods Imported into Australia

On May 9, 2009, AQIS made partial adjustments to the requirements of documentation attached to the phytosanitary packaging of goods imported into Australia. The new policy began to come into effect since August 1, 2009. The new policy mainly includes the following requirements: timber packaging is required to be in compliance with ISPM15 and labeled with IPPC (International Plant Protection Convention); treatment certificates for ISPM 15 treatments will no longer be accepted by AQIS; APD (Annual Packing Declaration) is provided by the packaging enterprise, which provides similar kinds of package in a long term (more than 12 months) to specific exporters and importers, and the packaging enterprise need not issue a new consignment specific Packing Declaration for each consignment; all treatment certificates attached to the imported goods treated by fumigations must meet the provisions of Appendix 5 of the AQIS Methyl Bromide Fumigation Standard, or announce one of the following declarations: "Plastic wrapping has not been used in this consignment", or "This consignment has been fumigated before using plastic wrapping", or "Plastic wrapping used in this consignment conforms to the AQIS wrapping and perforation standard as found in the AQIS Methyl Bromide Fumigation Standard".

2.4.2.3 Australia Revised the Quarantine Requirements for Ethylene Oxide Fumigation Treatment

On June 17, 2009, AQIS made an announcement to change the quarantine requirements for ethylene oxide fumigation treatment. The revised requirement for the ethylene oxide treatment code (T9020) will be 1200g/m³ for 5 hours at 50°C. This new requirement replaces the current treatment of 1500g/m³ for 4 hours at 50 °C. This new requirement has been implemented since September 1,2009. All the relevant imported products have to be in compliance with the new standard.

2.4.2.4 Australia Adopted the Mandatory Measure of Folic Acid Fortification

On September 11, 2009, FSANZ made announcement to adopt the mandatory measure of folic acid fortification which requires Australian millers to add folic acid to wheat flour for bread-making purposes. This change is aimed to reduce the risks of neural tube defects of infants. The flours and bread with Organic Labels are not required to contain folic acid. Before that, Australia permitted food industry to fortify foods with folic acid, including bread, breakfast cereal, yeast extract and fruit juice (voluntary fortification) for disease prevention.

2.4.2.5 Australia Revised the Quarantine Requirements for Coir Fiber Products

On September 11, AQIS issued a quarantine alert to revise the quarantine requirements for coir fiber products. According to new regulations, coir fiber products for environmental, agricultural and horticultural uses (e.g. erosion-proof mats, weed suppression mats, geo-blankets, coir fibre baskets) will be subject to a full unpack inspection provided the quarantine has been pre-permitted. Consignments will be inspected for the presence of live insects, weed seeds, soil and other quarantine risk materials. For coir fiber products that are not for environmental, agricultural and horticultural use (e.g. doormats, bags, brushes), the quarantine requirements will remain unchanged. Full container loads will still have the option for tailgate inspection provided samples can be provided to AQIS for verification. The new quarantine requirements became effective in November 2009.

2.4.2.6 Australia Strengthened the Inspection and Quarantine for Highly Processed Wet and Dry Marinated Prawn Products

On September 22, 2009, AQIS issued an alert to announce that AQIS will shortly introduce a mandatory inspection scheme for highly processed wet and dry marinated prawn products. According to the scheme, 25 percent of consignments is required to be inspected. The scheme will be applied to all consignments for which the license application has been submitted, and to the period of application. If a consignment is targeted for inspection, the importer or agent will be required to present documents to AQIS and the consignment will be directed to Quarantine Approved Premise for an unpack inspection. The targeted consignment may be deconsolidated at the Quarantine Approved Premise before inspection by the AQIS officer. Consignments that do not meet the requirements will be destroyed, re-exported or tested to see whether there are WSSV and (YHV). The consignments free of WSSV and YHV will be released. Consignments with WSSV and YHV will be required to be either re-exported or destroyed.

2.4.2.7 Australia Worked Out Its Food Safety Requirements for Imported Beef and Beef Products

On October 26, 2009, Australia Government issued a notice to announce that Australia and New Zealand Food Standards Bureau, Department of Agriculture, Fisheries and Forestry plan to rule out the importation standards regarding bovine spongiform encephalopathy (BSE) for beef and beef products. Australia Government plans to specify the regulations regarding safety standards of imported beef and beef products, and adjust its imported food policy made in 2001 regarding BSE and imported food, to make Australia and New Zealand Food Standards Bureau begin the risk assessment for the imported beef and beef products to Australia. The new policy comes into effect on March 1, 2010.

2.4.2.8 Australia and New Zealand Food Standards Bureau Revised Maximum Residue Limits (MRLs).

On November 5, 2009, Australia and New Zealand Food Standards Bureau issued a notice to confirm the Report on Proposal M1003 (May 2009) regarding MRLs. The purpose of this Proposal is to amend the *Australia New Zealand Food Standards Code* (the Code) to adjust MRLs of various agricultural and veterinary chemicals that may legitimately occur in food, and make their MRL standards be in line with the related regulations of other countries, and with related international standards. The notice announced that Australia and New Zealand Food Standards Bureau had revised Proposal M1003 in accordance with the public review and assessment to include etoxazole MRLs of 1 mg/kg for cherries and 1.5 mg/kg for dried grape.

3 Trade Barriers

3.1 Tariff and Tariff Administrative Measures

Although the overall tariff level in Australia is fairly low, the tariff rate applied to such products as automobiles, textiles, clothing and footwear remain on high side, ranging from 10%-25%. Australia's tariff peak have affected the relevant Chinese commodities, especially the textile products.

Australia have imposed high tariff rates on tobacco and alcohol beverages, and frequently adjusted the rates according to the changing consumer index. In April and August 2009, the tariff rates of bear, wine and tobacco were twice raised by Australia Customs Service. The highest tariff rate applied to bear can be AUD 41.06 per liter of alcohol; the highest tariff rate to wine can be AUD

69.57 per liter of alcohol plus 5% tariff; the highest tariff rate to cigar and tobacco reached AUD 322.93 per kilogram. The continuously raised tariffs have increased the export costs of the exporters and manufacturers of those products, and weakened the competitiveness of the foreign exporters and the domestic manufacturers of the similar products

3.2 Technical Barrier to Trade

The differences between the federal laws and regulations and the local laws and regulations have made it more difficult to import products into Australia market. Australia Federal government is in charge of ruling out technical regulations and mandatory standards. The Federal administration bodies include Australia Quarantine and Inspection Service, Australia Pesticides Veterinary Registration Board, Australia National Standard Committee, Australia Pharmacy Council, Australia and New Zealand Food Standards Bureau, National Occupational Health and Safety Commission. National Standard Committee is responsible for the affairs of system of weights and measures in Australia. The Australian Standards are classified into two kinds: mandatory standard and non-mandatory standard. At present, China's machinery exportation is limited by the safety certification. According to Australia's rules, 63 machinery products have to undertake safety authentication before getting into the Australian market. It will take 2-3 months for a certain type of machine made in China to receive all kinds of inspections and meet every quality index at one time. If the machine fails to meet some indexes, it has to be modified and receive the inspection again, which will take more time. In general, long certification period and expensive certification fee have exerted extra unreasonable burden to Chinese exporters of electrical machineries.

Australia government applies a strict examining, certificating, and after-sales monitoring system toward imported vehicles. The Department of Infrastructure, Transport, Regional Development and Local Government is in charge of Australia's transportation. It is responsible to execute and rule out the supervising regulations of vehicle importation. The operative provisions related to motor vehicles are *Motor Vehicle Standards Act 1989*. The *Australian Design Rule* (ADR) based on this provision is the national standard. The Act requires all road vehicles must comply with the relevant ADRs. Before shipping vehicles to Australia, the importers should contact Transport Security Office of the Department of Infrastructure, Transport, Regional Development and Local Government. Office of Transport Security is the only government department in Australia that gives importation license of vehicles. RVCS is the online system of the Department of Infrastructure, Transport, Regional Development and Local Government. RVCS allows vehicle manufacturers to electronically [certify](#) that the vehicles that they supply to the Australian market meet prescribed safety standards specified in the Australian Design Rules (ADR). ADR adopts

electronic registration (registration in written form is unacceptable) for the record to the Australia government. The system is so complicate that manufacturers and sales persons have to find some agents designated by the government to register in that system. Besides, manufacturers have to register their manufacturing devices and designing devices. Moreover, it is strongly recommended for the manufacturers to get Vehicle Import Approval before shipping vehicles to Australia. Otherwise, the products have to be re-exported to other countries, or destroyed at the supervision of the Australia Customs Service at the manufacturer's own expense.

3.3 Sanitary and Phytosanitary Measures

Biosecurity Australia, subordinated to the Department of Agriculture, Fisheries and Forestry (DAFF) stipulates that import application should be made before any foreign product of animal and plant hits Australia market. Biosecurity Australia will make quick assessment or import risk analysis. Only those products whose risk level of importation are regarded acceptable upon the implementation of risk management measures are allowed to be imported. When the animal and plant product lacks importation application, or its risk has not been analyzed, or the analysis has not been finished, or the risk level is evaluated as unacceptable, the product is not allowed to be imported into Australia. The import risk analysis procedure is lengthy, and the technical stipulations are ambiguous. China's exportation of fruits, vegetables, and certain industrial crops have been strongly affected.

In 2001, the General Administration of Quality Supervision submitted a market access request of China's apple to Australia. On March 17, 2008, Biosecurity Australia officially announced the commencement of an expanded, regulated import risk analysis (IRA). which will be completed within 30 months. On January 2009, Biosecurity Australia released of the *Draft Report on the Import Risk Analysis for Fresh Apples from the People's Republic of China*. Chinese side considered the report over-evaluated the risk level of Chinese apples by accounting in many pests unreasonably. After Chinese side negotiated on this matter with Australian side, Australia government has agreed to complete the access procedures for the importation of Chinese apples. Chinese side shows concerns about this matter.

In 1998, Biosecurity Australia began import risk analysis of imported chicken meat. It has taken more than 10 years to finish the analysis. On March 3, 2009, Biosecurity Australia issued the report to announce that chicken meat can be imported, provided that the diseases such as notifiable avian influenza, Newcastle disease and infectious bursal disease have been quarantined; the chicken meat from the epidemic areas has been heat processed off-shore or on-shore, under

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quarantine control. Australia would consider equivalent measures, such as flock verification or compartmentalization to reduce risk to an acceptably low level, which would require more rigorous examination. The IRA also recommended to cook chicken meat for 125 minutes at 80°C to inactivate the virus. But actually, the chicken meat processed in this way can not be served for human consumption, but for pets.

3.4 Trade Relief Measures.

3.4.1 Case Survey

By the end of 2009, Australia has initiated 52 anti-dumping investigations against China's product. In 2009, Australia initiated 1 anti-dumping and countervailing investigation against China's product, one anti-dumping investigation, without making any final determination.

Table 1: The Australian Anti-dumping Investigations against Chinese Products in 2009

No.	Registration Date	Products Involved	Customs Code of Products Involved	Process
1	June 24	Aluminum Extrusions	76041000 76042100 76042900 76081000 76082000 76101000 76109000	On November 3, 2009, Initial Decision was made to levy 16% temporary anti-dumping duty.
2	December 3	Plywood	44123100 44123200 44123900	In process

Table 2: The Australian Countervailing Investigations against Chinese Products in 2009

No.	Registration Date	Products Involved	Customs Code of Products Involved	Process
1	June 24	Aluminum Extrusion	7604100 76042100 76042900 76081000 76082000 76101000	In process

			76109000	
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3.4.2 Problems in Australia's Anti-dumping Policy

The Australia Customs Service is both the investigating body and decision making body of anti-dumping and countervailing affairs. Therefore, Australia Customs enjoys big discretionary power without any binding force in the anti-dumping and countervailing cases, thus affecting the transparency and fairness in these cases. According to Australian *Anti-dumping Law*, "if there is an important process occurring within Australia's boundary", it will be regarded as "domestic industry". This definition is wider than that in most countries. In addition, the Australian *Anti-dumping Law* also rules out a short duration of anti-dumping investigation, which tends to grant Australia's domestic industries greater protection.

3.5 Trade Relief Measures

For foreign investment, the Australian government have adopted case-by-case examination system in the sectors such as banking and aviation, and implemented some restrictive measures to these sectors.

3.5.1 Banking

Foreign investment in the banking sector needs to be consistent with the *Banking Act 1959*, the *Financial Sector (Shareholdings) Act 1998* (FSSA) and the related banking policies, including prudential requirements. Any proposed foreign takeover or acquisition of an Australian bank will be examined and approved on a case-by-case basis, and a bit subjectively. The license will be given to a foreign bank provided both the foreign bank and its parent bank have good financial record, and have agreed to be consistent with Australian Prudential Regulation Authority.

3.5.2 Aviation

For domestic services, foreign investors can generally hold 100 per cent of the equity in an Australian domestic airline (except Qantas), provided this is not contrary to the national interest. While for international services, foreign investors can hold no more than 49 per cent of the equity in an Australian international carrier (except Qantas) provided the proposal is not contrary to the national interest. In the case of Qantas, total foreign ownership is restricted to a maximum of 49 per cent in aggregate, with individual holdings limited to 25 per cent and aggregate ownership by foreign airlines limited to 35 per cent. In addition, a number of national interest criteria must be satisfied, relating to the nationality of flight crew and operational location of the enterprise.

3.5.3 Airports

Foreign investment proposals for acquisitions of interests in Australian airports are subject to case-by-case examination. The *Airports Act 1996* stipulates a 49 per cent foreign ownership limit in aggregate in a single airport. An individual foreign airline can hold no more than 5 per cent of the equity. The foreign airlines are prohibited to hold the cross ownership between Sydney Airport (together with Sydney West) and Melbourne Airport, Brisbane Airport and Perth Airports.

3.5.4 Shipping

The *Shipping Registration Act 1981* requires that, for a ship to be registered in Australia, an Australian citizen or Australian company must hold majority of equity, unless the ship is chartered by an Australian operator.

3.5.5 Media

All foreign investments to the media sector irrespective of size are subject to prior approval. Proposals involving portfolio investment of 5 per cent or more must be submitted for examination.

3.5.6 Telecommunications

Around 83 per cent of Telstra Corporation Limited (Telstra) is owned by institutional and individual investors, with the remaining approximately 17 per cent to be transferred by the Government to the Future Fund, a fund established by the Government to fund its public service and superannuation liabilities. Shares transferred to the Future Fund will be held in escrow for a two year period. Aggregate foreign ownership of Telstra is restricted to 35 per cent of the privatized equity (including installment receipts) and individual foreign investors are only allowed to acquire a holding of no more than 5 per cent of the privatized equity.

Enterprises is usually required to complete a specific transaction in a timely manner. If an approved transaction does not proceed at that time and/or the parties enter into new agreements at a later date, or if a transaction is not completed within 12 months, further approval must be sought for the transaction. Approvals for share acquisitions involving a full or partial bid under the *Corporations Act 2001* only apply to the shares acquired during the bid period. For example, if an approval is given for a full bid and the bidder only acquires 60 per cent of the shares, but wishes to acquire more shares on market through the 'creep provisions' of the *Corporations Act 2001*, further prior approval must be sought.

4 Investment Barrier

4.1 Investment Access Barrier

The Australian government encourages foreign investment, but remains its foreign capital review system, whose core is the so-called “Australian National Interest”. On February 17, 2008, the Australian Government issued *Guidelines on Consideration of Foreign Related Investment in Australia*. According to the guidelines, on the basis of the existing foreign investment review procedures, the Government will typically consider six issues in the examination of proposed investment by foreign governments and their agencies to ensure that the investment are consistent with Australia’s national interest. The guidelines have increased the discretionary power of Australia Federal Government, imposed a heavy burden on Chinese enterprises, and increased the risk for Chinese enterprise to invest in Australia.

In 2009, many Chinese enterprises in chemical and energy sectors made purchasing applications to Australia Foreign Investment Review Board, but the approvals have been delayed by Australia Foreign Investment Review Board for several times. Some enterprises had to make new applications again, and some had to give up after being rejected for several times. According to Australia’s law, Australia Foreign Investment Review Board is required to reply the application within 30 days. If it failed to make any reply within 30 days, it can require the applicant to revoke the application and start a new round of 30-day approval period, or the approval period can be extended to 90 days. In the latter circumstance, Australia Foreign Investment Review Board will make the purchasing case known to the public in the governmental notification. Therefore, many enterprises will choose to make new applications again as to circumvent the 90-day extended examination-period. Usually, after the extended approval period, Australia Foreign Investment Review Board often raises up unacceptably stringent terms for Chinese enterprises which usually leads to their failure in this case. After Australia Foreign Review Board received the application of Merge and Acquisition, It will consult the interests-related parties to make sure whether the M&A is contrary to Australia’s national interest. This multi-side participation veto system often delays the approval.