

**Submission to the China Task Force on the feasibility study regarding  
a China Australia Free Trade Agreement**

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**Australian Fair Trade and Investment Network (AFTINET)**

Written by Dr. Patricia Ranald and Louise Southalan

AFTINET

Level 1, 46-48 York Street

Sydney NSW 2000

Phone: (02) 9299 7833

Fax: (02) 9299 7855

[lsouthalan@piac.asn.au](mailto:lsouthalan@piac.asn.au)

## **Summary**

The Australian Fair Trade and Investment Network (AFTINET) is a national network of 87 organisations supporting fair regulation of trade consistent with human rights and environmental protection. AFTINET welcomes this opportunity to make a submission to the China FTA Study Taskforce regarding a feasibility study on a China Australia Free Trade Agreement.

AFTINET supports fair trading relationships and fair regulation of trade. We also believe governments should adhere to international human rights, labour and environmental standards as established by the United Nations and the International Labour Organisation.

We believe that the following principles should underpin trading relations, and should guide this feasibility study:

- Trade agreements should not undermine human rights and environmental protection, based on UN and ILO standards,
- Trade agreements should not undermine the ability of governments to regulate in the public interest,
- Trade agreements should allow developing countries the flexibility to make laws and policies which will allow them to direct their own development,
- Trade negotiations should be undertaken through an open, democratic and transparent process which allows effective public consultation to take place,
- Before trade negotiations begin, comprehensive studies of the likely impacts should be undertaken and made public for debate and consultation. The issues studied should include the impacts on:
  - human rights and labour conditions
  - environment
  - particular demographic groups, particular regions and particular industries
  - the ability of governments to regulate in the public interest
  - the ability of developing countries to direct their development.

This submission essentially raises a number of questions which we consider must be addressed by the feasibility study. They arise from a recognition that the above principles should guide these trade negotiations.

### **Study's terms of reference:**

The joint feasibility study has the following terms of reference:

- \* to provide an overview of recent trends in bilateral trade and economic relations;
- \* to assess recent international trade policy developments and the possible implications for Australia-China trade and investment;
- \* to identify and describe existing barriers to trade and investment flows, covering goods, services and investment and other issues that might be addressed in a free trade agreement;
- \* to identify possible cooperation measures to promote trade and investment liberalisation and facilitation between Australia and China;
- \* to assess the impact of the removal and/or reduction of existing barriers to goods and services trade and investment; and
- \* make conclusions and recommendations as regards options for future action.

### **Questions to be addressed within the feasibility study**

A number of particular issues should be considered within the feasibility study. These include:

#### **1. The relationship between the agreement and human rights, labour and environmental conditions**

In recent years China has considerably increased its level of commercial engagement with foreign countries. A large amount of evidence has also emerged about the impact of this engagement on employment and poor labour and environmental conditions in China (see, for example, Dequiang, H and Tujan, A (eds) 2002 'Implications and New Challenges of China's Accession to the WTO: Proceedings of the 4<sup>th</sup> Annual Conference of the Asia-Pacific Research Network', APRN Manila, and Association for Sustainable and Responsible Investment in Asia 2002 'Labour Standards in China: The Business and Investment Challenge' ASrIA, Hong Kong).

The feasibility study should examine:

- How labour and environmental conditions in China are related to recent trade developments. These include rural unemployment resulting from increased agricultural imports, migration of rural workers to cities and employment and environmental conditions in industrial areas.
- The current state of compliance by both Australia and China with human rights, labour and environment standards, including the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work. These standards include:
  - the right of workers and employers to freedom of association and the effective right to collective bargaining (conventions 87 and 98),
  - the elimination of all forms of forced or compulsory labour (conventions 29 and 105),
  - the effective abolition of child labour (conventions 138 and 182), and
  - the elimination of discrimination in respect of employment and occupation (conventions 100 and 111).
- How Australia and China might ensure compliance with human rights, labour and environmental standards by investors, including effective monitoring mechanisms.

## **2. Effective community consultation processes**

AFTINET has expressed concern in the past about the need for the Australian government to commit to effective and transparent community consultation about trade agreements, with sufficient time frames to allow public debate about the impact of particular agreements before negotiations begin. At times DFAT's consultation processes seem to be rather ad hoc, and it would be appropriate for a clear structure and principles for consultation to be developed publicly.

The Senate Foreign Affairs, Defence and Trade Committee made detailed recommendations for legislative change in its November 2003 report 'Voting on Trade' which, if adopted, would significantly improve the consultation, transparency and review processes of trade negotiations (Senate Foreign Affairs, Defence and Trade Committee, 2003 'Voting on trade: The General Agreement on Trade in Services and an Australia-US Free Trade Agreement', 26 November 2003, Commonwealth of Australia, Recommendation 2, paragraph 3.91). The key elements of these recommendations are that:

- Parliament will have the responsibility of granting negotiating authority for particular trade treaties, on the basis of agreed objectives,
- Parliament will only decide this question after comprehensive studies are done about the economic, regional, social, cultural, regulatory and environmental impacts which are expected to arise, and after public hearings and examination and reporting by a Parliamentary Committee,
- Parliament will be able to vote on any trade treaty that is negotiated.

Processes such as these should be established from the outset for any negotiations for a China-Australia FTA.

The feasibility study should discuss these issues, and in addition consider how the need for transparent, accountable and representative community consultation processes will be met by both the Australian and Chinese governments. The feasibility study should also set out the principles and objectives that will guide these consultation processes.

### **3. Modelling and impact studies on regional areas and particular demographic groups**

It is critical that any decision to commence negotiations for a China-Australia FTA be based on comprehensive and inclusive studies, including input from particular regional and demographic groups which will be affected by the agreement. This should include impacts on the environment, human rights, regulatory powers of government, and any restrictions on the ability of future governments at any level to take actions in the public interest.

- What process will the Australian government follow in undertaking these modelling and impact studies?
- What time-frame will this process have to ensure that the studies will be publicly available in time for effective input by members of the public?