

**Submission to the
Department of Foreign Affairs and Trade
on a possible
Australia-China Free Trade Agreement**

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Phone (02) 62306399
Fax (02) 62306355
Level 2 AMP Building, 1 Hobart Place
Locked Bag 916, Canberra ACT 2601

1. EXECUTIVE SUMMARY

- Avcare represents the crop protection and animal health industry in Australia. Agricultural and veterinary chemicals (agvet) are manufactured and/or sold by the majority of Avcare members.
- In principle, Avcare welcomes the prospect of a successful conclusion of the Australia-China FTA negotiations.
- Non-tariff barriers need close attention – to ensure that Chinese industry actually adheres to the FTA's provisions, especially in relation to:
 - quality assurance of active ingredients and formulated products;
 - maintaining Trade Related Intellectual Property Rights (TRIPS);
 - proper understanding of sanitary and phytosanitary quarantine provisions;
 - open, transparent and timely management of administrative issues such as licensing and investment controls; and
 - effective, transparent and timely resolution of dumping issues.
- Avcare is supportive of the prospect of no tariffs on bilateral trade in agvet chemicals.
- In a broader context, China's managed exchange rate may need adjustment if the full potential of Market Economy Status is to be realised.

2. THIS SUBMISSION

Avcare is pleased to respond to the Department of Foreign Affairs and Trade's invitation to provide stakeholder views in relation to the Australia-China FTA negotiations.

Avcare is the industry association that represents the interests of Australian agvet chemical manufacturers and sellers. A list of Avcare's present membership is at **Attachment 1**.

The industry has three main sectors:

- Agrichemicals – herbicides, insecticides and fungicides;
- Veterinary chemicals/medicines; and
- Agbiotechnology products - several of our members have also developed an interest in research and development of GM (genetically modified) crops.

3. THE AGVET CHEMICALS INDUSTRY IN AUSTRALIA

Agricultural production is a large and important sector of the Australian economy. The agvet chemicals industry provides essential inputs to deliver efficient production of a range of products, many of which are largely destined for export markets.

Many of Avcare's members are Australian subsidiaries of global companies, with headquarters in the USA or Europe. Our members' global operations may involve location of plants in different parts of the world, including China, that partly supply the Australian market.

The trading relationship between Australia and China is already well established and the relationship will surely grow and diversify further.

In principle, therefore, Avcare welcomes the prospect of successful conclusion of the proposed FTA. We note that economic benefits to both countries are expected, based on modelling exercises. Our industry stands to share in those benefits.

In particular, the expected rise in Australian agricultural exports to China must rely on greater productivity of Australian crops and livestock¹. They in turn will depend on the ready supply of safe, efficient and environmentally acceptable agvet chemicals and agbiotech products. Australia is fortunate to have, in the Australian Pesticides and Veterinary Medicines Authority (APVMA) a world-class regulatory agency, and likewise, the Gene Technology Regulator observes the highest licensing standards for this developing industry.

¹ DFAT's modelling shows at Table 2.2 that, on the "baseline case", Australian Agriculture imports from China were \$US46 million in 2005 and expected to grow to \$US63 million by 2015. Chinese Agriculture imports from Australia are expected to grow from \$US2,012 million to \$US4,072 million over the same period.

4. QUALITY ASSURANCE

Avcare believes that one important function of the APVMA is to ensure that agvet chemicals offered for sale do comply with the domestic active ingredient and formulation standards. The APVMA has some statutory powers in this respect but we consider these need expanding and strengthening. Our members' experience has been that some products originating overseas (including China) do not always meet the required standards. Our members often go to considerable trouble and expense, and have to resort to private litigation to seek remedies.

It follows that Avcare believes that the APVMA's statutory powers will need enhancement to ensure that farmers have access to quality chemicals, irrespective of source.

5. AUSTRALIA – CHINA TRADE IN AGVET CHEMICALS

Trade in agvet chemicals between China and Australia is significant and is growing. For the reasons set out above, further growth seems likely.

It is also notable that the trade is likely to be in both directions, reflecting the global nature of this industry's operations.

Against this background, Avcare offers the following observations about the proposed FTA.

5.1 SCOPE OF THE FTA

We consider that the Agreement should:

- Cover **all** agricultural production of both countries; and
- Operate, from its inception, in respect of the entire territory of each party.

5.2 NON – TARIFF BARRIERS

Avcare, in line with the Australian industry in general, trusts that those responsible for negotiating the China FTA will ensure that the provisions of the agreement will deliver performance in accordance with it.

China is many times larger than Australia – in size and in its potential for economic growth. Many Australians have faced difficulties in doing business in China, even when an apparently level playing field was said (or assumed) to exist. In particular, Avcare has the following concerns:

- Intellectual Property Rights (IPR) must be upheld, in practice as well as in expressed intention; maintaining the provisions of Trade Related Intellectual Property Rights Article 39.3 (data protection) is considered a fundamental necessity;

- Sanitary and phytosanitary measures must be science-based and risk-based and quarantine provisions administered accordingly. Of particular concern is the ongoing practice of Chinese vegetable growers still using raw human sewage for fertilizer. Australia needs to ensure that its phytosanitary measures for imported produce from countries still using such practices are updated so as to manage the risk of plant transmittable human disease from such foods.
- The proposed FTA must ensure that Chinese enterprises do not dump product on the Australian market, by providing for anti-dumping procedures that are more timely and effective and less costly than the prevailing arrangements; and
- Laws and administrative decisions must be timely and transparent and include clear provisions as to access to appeals.

5.3 TARIFFS

Currently, imports of agvet chemicals from China attract up to 5% duty. The global agvet chemicals industry supports the abolition of tariffs on our products world-wide and the Australian industry is supportive of the lifting of any duties on Chinese imports providing reforms to the IPR regime are implemented in China (Trade Related Intellectual Property Rights – data protection).

We do not know of any current direct exports of Australian *finished* agvet chemicals to China. However, several Avcare member companies have successful agrichemical or vetchemical joint ventures located in China, which in turn supply both the international and domestic markets.

5.4 TARIFF CLASSIFICATION/RULES OF ORIGIN

Avcare considers that the FTA with China should follow the benchmark laid down in the US FTA.

5.5 OTHER ISSUES

Most economic commentators agree that, sooner or later, action will have to be taken on China's exchange rate. Clearly, this is an issue going well beyond the proposed FTA. But an artificially maintained rate sits uncomfortably with Australia's acceptance of China as having Market Economy Status.

Avcare considers that China still retains many elements of a centrally-directed, planned economy. This must continue to be dismantled, progressively and in an orderly function. Avcare trusts that the Australian side in the negotiations will bear this necessity in mind at all times.

In this respect, we note the potential for arguments as to the interpretation of a wide range of instruments written in Chinese where no English equivalent text has been established or accepted.

Avcare would also like to see the FTA provide mechanisms to improve the environmental standards, compliance and enforcement in China. Different standards between the countries may disadvantage Australian products. The performance of Chinese industries that provide inputs to the Australian industry may negatively impact on the environmental sustainability and life cycle assessment of supply chains in Australia.

ATTACHMENT 1

AVCARE MEMBERS (excluding Associates)

CROP PROTECTION	CROP BIOTECHNOLOGY ²	ANIMAL HEALTH
A & C Chemicals Pty Ltd	Bayer CropScience Pty Ltd	Alpharma Animal Health Pty Ltd
BASF Australia Ltd	Dow AgroSciences Australia Ltd	Ancare Australia Pty Limited
Bayer CropScience Pty Ltd	DuPont (Australia) Ltd	Bayer Australia Ltd (Animal Health)
Becker Underwood Pty Ltd	Monsanto Australia Limited	Boehringer Ingelheim Pty Limited
Caltex Australia Limited		Elanco Animal Health
Crompton Specialties Pty Ltd		Fort Dodge Australia Pty Ltd
Dow AgroSciences Australia Ltd		Intervet Rural Co Pty Ltd
DuPont (Australia) Ltd		Merial Australia Pty Ltd
FMC (Chemicals) Pty Ltd		Novartis Animal Health Australasia Pty Ltd
Janssen-Cilag Pty Ltd		Pfizer Animal Health Pty Ltd
Makhteshim-Agan Australasia		Schering-Plough Animal Health Limited
Monsanto Australia Limited		Virbac (Australia) Pty Limited
Nufarm Limited		
Runge Agrichems Pty Ltd		
Sipcam Pacific Australia Pty Ltd		
Sumitomo Chemical Australia Pty Ltd		
Summit Agro Australia Pty Ltd		
Syngenta Crop Protection Pty Limited		
United Phosphorus Ltd Australia		
DISTRIBUTION		ANCILLARY
Elders Limited		Autopak-Vetlab Group Pty Ltd
GrainCorp Operations Limited		Cheminova Australia Pty Ltd
IHD Pty Ltd		Greif Australia Pty Limited
Landmark Operations Limited		Orica Australia Limited

² Hold dual membership