



ABALONE ASSOCIATION OF AUSTRALASIA
INCORPORATED

ABN 93 373 883 402
136 Greenhill Road Unley South Australia 5061
Phone (08) 8300 0115 Fax (08) 8300 0208 E-mail: timmm@business-sa.com

To. **Australian Government**
Department of Foreign Affairs and Trade

SUBMISSION TO THE CHINA
FREE TRADE AGREEMENT (FTA)
FEASIBILITY STUDY

- v **The Association**
- v **Overview of the Australian Abalone Industry**
- v **Value of Abalone exports to the Australian economy**
- v **Major Market Access Barriers and Anti-Competitive Trade Practices in China**
 - **Trade and Import Duties in China**
 - **Import Quotas and Licensing**
 - **Brand Protection, Intellectual Property and Legal Systems**
 - **Food Standards**
 - **Business Standards**
 - **Market Manipulation in China**
 - **The Illegal Abalone Trade**



THE ASSOCIATION.

The Abalone Association of Australasia Inc (AAAI) is an organisation of licensed abalone processors/exporters who are active in both the Australian and New Zealand abalone industry.

Membership of the Association is open to licensed abalone processors (post harvest operators) and businesses connected with the Australasian Abalone industry. Member firms represent approximately 85% of the total abalone harvest which is processed and exported from Australia.

This submission relates to Australian member interests in trade with China.

The Association was formed to provide a focal point for licensed industry operators to foster and develop a sustainable abalone export industry by promoting high standards of health, safety and business practices protecting both domestic and international markets and consumer interests.

OVERVIEW OF THE AUSTRALIAN ABALONE INDUSTRY.

Australian members of the AAAI are licensed by their respective State Government Fishery Managers, to receive abalone only from licensed fishers. Conditions attached to licenses are detailed in relevant State legislation and provide a regulated environment for operators.

Following receipt from an abalone harvester, abalone is processed for sale to both domestic and international markets with the international market absorbing 90% of total production. Processing presents abalone for sale live, dried, frozen or par-boiled as well as hermetically sealed in cans (steel or plastic) and plastic pouches.

All licensed abalone processors who are engaged in export of abalone must be registered with the Australian Quarantine and Inspection Service (AQIS). This registration provides a Registered Establishment Number (EX Number). It is a requirement of legislation that this number be permanently applied to each primary package that is destined for export.

In all producing States abalone is a quota managed fishery, consequently the harvest sector has a restricted number of operating licenses. Each State Government fishery management organisation administers the harvesting and quota system applied in each region/state. The current Australia wide abalone quota (wild caught) harvested each year represents 5,600 metric tonnes.

Australian abalone is exported to South East Asia – Singapore, Hong Kong, China, Taiwan and Japan – as well as to a lesser extent North America, UK and Europe.

Australia is the major supplier of wild caught abalone to international markets, supplying almost 50% of the world's supply and competes with product from South Africa, New Zealand and Mexico. In addition to wild caught abalone there is an increasing quantity of product entering the market from aquaculture ventures, both land and sea-based in Australia, China, South Africa and South America.



The common factor in all markets, domestic or international is that abalone is considered a traditional food in Asian culinary cuisine. The major markets therefore have a common thread of an Asian population base.

Output from licensed Australian processors/exporters is considered to be of a high standard in both presentation and product quality. Quality standards are determined by AQIS and through accreditation under the International Standards Organisation (ISO).

VALUE OF EXPORTS TO AUSTRALIAN ECONOMY.

The Australian Abalone Fishery supplies approximately 50% of the world's wild caught product and this output provides an economic benefit to the Australian community of approximately \$900M.

MAJOR MARKET ACCESS BARRIERS AND ANTI-COMPETITIVE TRADE PRACTICES IN CHINA.

The Australian abalone industry currently faces significant anti-competitive and market access barriers in the abalone export trade into China.

Trade Import Duties in China.

The abalone industry advocates the elimination of all tariff barriers and import duty placed on Australian imports into China. At present import duties of between 25% – 45% are placed on abalone imports into China.

The abalone industry is keen to establish an open free trade system that would provide greater access to Australian exporters and provide benefits to consumer market interests in China.

In relation to the policing and administration of current import duty requirements in China, officials do not have a consistent interpretation of their own requirements. This provides significant inconsistency in the application of duties payable in China. Imposing additional costs on Australian Exports into the Chinese market.

Import Licenses, Import Quota Restrictions and other Non Tariff Barriers in China.

The abalone export community in Australia also face additional restrictions in the Chinese market with the imposition of import quotas. Import licenses imposed in China are seen as another limitation to a free market relationship between Australia and China.

Another trade barrier experienced by Australian exporters is the restrictions imposed by the Central Bank in China on outgoing funds to pay for imports. The association believes that an easing of the controls on the repatriation of money out of China would create greater business efficiency and confidence.

Brand Protection, Intellectual Property Rights and Legal System in China.

There is strong evidence that some Australian brand names have been copied in China and used on abalone products packed from illegally sourced raw material.



SUBMISSION TO THE CHINA FTA FEASIBILITY STUDY

Australian firms have registered brand patents and trademarks in China, unfortunately providing little protection for the real owners of this intellectual property. Current policing regimes of patents and trademarks in China are not effective. Australian firms have experienced difficulty protecting their brands and Trademark interests in the Chinese courts system.

Legal remedies for non-payment of goods.

It is common practice for exporters of Australian live seafood to be paid after the goods have arrived in China. If the buyer defaults on payment, the legal system in China offers no protection to the firm seeking payment for the goods.

The abalone industry advocates a transparent legal framework in China, delivering internationally accepted standards and fairness for business operators trading into China

Food Standards.

Abalone processors and exporters are subjected to a number of internationally recognised food standards, imposed on producers to protect consumers. The Association advocates that Chinese authorities adopt CODEX Standards with respect to all food imports into China. Similarly acceptance by China with the provisions imposed by the International Standards Organisation and the USFDA Standards for food imports would provide the appropriate mechanisms for safeguarding health and food quality for Chinese consumers.

Business Standards and Government Regulation.

In an endeavour to establish a level playing field for both Australian and Chinese business interests to trade freely in a competitive market, the Abalone Association recognises the need to adherence to a range of internationally adopted business standards applied in Australia. These standards are imposed to protect workers, the environment, business organisations and consumers of goods and services.

Australian businesses are required to comply with standards relating to the following: -

- Occupational Health and Safety in the workplace.
- Environmental protection standards.
- Equal Opportunity legislation.
- Provide workers compensation insurance.
- Minimum employment conditions and practices for workers.
- Public Health standard.
- Equipment design, quality and maintenance standards, and
- A range of taxation provisions imposed on businesses such as superannuation for workers and Payroll Tax.

All of the above business inputs have an effect on the ability of the Australian Abalone Industry to compete in the market in China.

It is imperative that the government and business community in China adopt similar business standards to that applied in Australia. Creating a level playing field for all business and trade relationships between Australia and China.

Bankruptcy laws

The Association is also keen to see appropriate bankruptcy laws introduced in China. This will provide protection to local and international business creditors operating in the Chinese market.



Market Manipulation in China.

Australian businesses are required to comply with strict trade practices legislation policed by the Australian Competition and Consumer Commission (ACCC). These measures are imposed to ensure that certain unfair trading practices are not permitted in Australia. This is not the case in China. At present a cartel of buyers in Yantian (near Shenzhen) manipulates the live and frozen seafood market from Australia to China. This has the effect of driving down prices and blocking supply, manipulating the market in this manner is illegal Australia.

The Association, therefore, advocates strong trade practice legislation and the policing of international business practices in China. This will eliminate anti-free trade and market manipulation currently evident in China.

The Illegal Abalone Trade.

A major impediment to the future sustainability of the Australian abalone fishery and export trade is the extent to which illegally sourced and processed abalone is allowed to be traded to and in Asian markets.

Australian producers are keen to work with the Australian and Chinese Government to introduce procedures, which not only protect this valuable resource but eliminates the importation of illegally sourced abalone traded between the two countries.

To protect and improve the Trade of legal Abalone exports from Australia's, licensed operators in Australia are investigating new technologies to Tag and Trace legal Abalone exports from approved fisheries in Australia. This initiative will require the cooperation of importing countries, such as China to recognise only legally obtained abalone in their markets.

Improving China Exports to Australia.

Many of the issues discussed in this submission have an impact on the quality of products and services traded between Australian and China. Indeed there are many internationally recognised business practices and standards that both trading partners should approach with a common goal.

Australian Importers have a number of concerns about the quality and safety of seafood products from China.

These concerns include: -

- The use of illegal chemicals, additives and antibiotics in seafood exported to Australia.
- G M substances included in the production of food products, not declared to appropriate authorities.
- Seafood processors in China not meeting OH &S, Equal Opportunity, Environmental and many other business standards applied to Australian firms.
- Exporters in China not providing product liability insurance on seafood exports to Australia.

Ref AAA (TM CM) May 2004.