

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

June 2004

Australian Fair Trade and Investment Network (AFTINET)

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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 4th 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 demographics

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?



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9/12/04

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Dear Mr Holly

Additional submission to Australia-China Free Trade Agreement Joint Feasibility Study

On 31 March 2004, DFAT called for public submissions to the Australia-China Free Trade Agreement Joint Feasibility Study. AFTINET forwarded an initial submission in June 2004 which raised general issues which should be examined by the Study.

Since the AFTINET June Submission, a number of more specific concerns have arisen regarding the fast-tracked process of the Feasibility Study and the potential human rights and environmental impacts of a China FTA in both China and Australia.

We ask that the China Task Force consider the following issues:

1. Curtailed community consultation

DFAT's initial call for public submissions to the Feasibility Study indicated that the Study would be completed by October 2005. The announcement stated that the Feasibility Study was not intended to commit Australia to a China FTA, rather it "presents a basis upon which the Australian and Chinese governments can consider the opportunities and challenges of such an agreement prior to any decision being

taken to commence negotiations” (DFAT website information, 2/4/04). Following Mr Downer’s meeting in Beijing in August 2004, the Government announced that the Feasibility Study timetable would be shortened to complete the study by March 2005. After the completion of the feasibility study, the Australian government would first consider the results of the study and then decide whether to grant China market economy status for the purposes of anti-dumping. Only if this decision were positive would negotiations commence for an FTA. However, In November 2004, the Minister for Trade announced, after meeting with the Chinese Premier at the APEC meeting, that negotiations on a China FTA were expected to **start** in March 2004.

AFTINET is concerned that this latest announcement implies that there will be little or no time for proper consideration of the Feasibility Study. Concluding the Feasibility Study in March 2004 and beginning negotiations in the same month clearly does not allow sufficient time for effective consideration by the Government, nor does it allow for public debate in relation to the recognition of China as a market economy or the decision about whether to negotiate an FTA.

2. Recognition of China as a market economy

Under multilateral trade rules in the World Trade Organisation (WTO), China is not yet recognised as a market economy because not all prices are based on market costs, making it difficult to determine if goods are being “dumped” or sold unfairly at prices below the real costs of production. Under current WTO rules, Australian industry can object to the dumping of goods.

Industry groups have expressed concern at the Government’s agreement to the pre-condition set by China that Australia recognise China as a market economy before negotiations could start. For example, The Plastics and Chemicals Industry submission to the Government feasibility study expressed “surprise and disappointment” at the government’s agreement to the pre-condition set by China that Australia recognise China as a market economy before negotiations could start. It argued that such recognition would “have adverse implications on Australia’s capacity to take anti-dumping action, and ultimately on the competitive position of manufacturing industry in Australia, including the chemicals and plastics sectors”

(quoted in Brenchley, F, 'Industry Group fears free trade favour to China,' **Australian Financial Review** 19/8/04, p.8).

More recently, the Australian Industry Group has expressed the view backed by a legal opinion the granting of market economy status to China would reduce that ability of industry to take action against the dumping of goods. (quoted in Taylor, L, "Industry dumps on China free trade deal" **Australian Financial Review**, 6/12/04, p.1).

3. Lack of workers' rights and environmental protections in China

There is considerable evidence about lack of adherence in China to the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work and China's own Labour Laws, and lack of environmental protections.

Many instances of abuse occur in China's export-oriented industries. AFTINET is concerned that giving preferential access to Chinese goods without any regard to these issues may further entrench these inadequate labour rights and environmental standards.

Export processing zones have been established in Southern China to produce export products as part of a government strategy to attract foreign investment, and now host 19 million workers. It is reported that factories in these free trade zones cut labour costs and working conditions to bid for contracts from Western brand name firms and retailers. For example, Robin Munroe, of the Hong Kong **China Labour Bulletin**, quoted in the **Sydney Morning Herald** 30/10/04, says of the toy industry, 'Basically it's the foreign buyers squeezing the factory owners to do reverse bidding for orders, bidding the lowest possible price to get the order...this inevitably translates into cutting workers' salaries.'

As a result of this 'race to the bottom', real wages have fallen despite rising levels of production, Anita Chan, a researcher on China at the Australian National University, comments that wages paid in the export processing zones are \$96-\$112 per month, and have risen by only \$11 in the last 12 years. "That means wages have been going

down, not up, even though the official minimum wage has been going up each year (quoted in McDonald, H., "Wages of Fun" **Sydney Morning Herald**, 30/10/04, p41)

Hamish McDonald reports that workers are often pressured to work 12 hours a day, seven days a week. Overtime is paid at a lower rate than the basic salary and pay is often in arrears to stop workers changing jobs. In addition, most workers are migrants from rural areas, who have no right to permanent residence and must live in crowded dormitories with poor food. "Wages of Fun" **Sydney Morning Herald**, 30/10/04, p41).

Workers often have no effective rights to freedom of association or collective bargaining. Workers who complain are often victimised and the official trade unions, aligned with the Chinese Government, have not effectively represented workers' interests. Recently even the official trade unions have complained that China's new Labour Laws, introduced from 2001, are not being implemented in some cases. (**China Daily**, 1/9/04)

There is also evidence of significant environmental degradation in China caused by the dumping of untreated industrial waste and sewerage. As reported by Stephen Wyatt, "[I]n the central part of China, the people are being poisoned. The rivers and the intricate canal systems that branch off these rivers run black...Tanneries, paper mills, fertilisers and raw sewerage have added to a potion that has now fouled the ground water" ("The stinking secret of China's growth" **Australian Financial Review**, 16/11/04, p68-9).

It is clear that the competitive prices of Chinese exports are often based on very low wages, poor working conditions and failure to comply with China's own labour and environmental laws, let alone international standards.

These issues must be considered in the decisions as to whether we should grant preferential trade access to China through an FTA.

4. Social Impacts of an FTA in Australia

AFTINET is also concerned about the impacts of an FTA on vulnerable communities in Australia. China is already Australia's second largest export market and third largest source of imports.

Australia's main imports from China are clothing and footwear, toys, sporting goods, electrical goods, TVs and VCRs and tariff rates in these sectors have already been reduced. A 2004 Australian Industry Group survey of 848 Australian manufacturers found that most already felt negative impacts from current Chinese imports. Forty-five per cent saw no benefit from an FTA with China, and only thirteen percent saw benefits from an FTA. (**Australian Financial Review**, 6/8/04, p14).

The removal of all remaining tariffs in these sectors would create job losses in the Australian manufacturing industry. It is likely that these job losses will be felt most keenly in regional areas of high unemployment. For example, The Australian Productivity Commission reports that 78,000 people work in the textile, clothing and footwear industry. Most of these workers are women of non-English speaking background. This industry provides significant employment in regional areas where there is little alternative, including Northern Adelaide, Mt Gambier, Bordertown, Geelong, Albury, Ballarat, Burnie, Devonport, Launceston, Wollongong, Taree, Ipswich and Toowoomba. (Productivity Commission Report on the Textile Clothing and Footwear Industry, 2003, www.pc.gov.au).

Conclusion

The Feasibility Study should provide a full examination of the social and economic costs as well as the claimed economic benefits of an FTA in both Australia and China;

There should be publication and full public and parliamentary debate of the Feasibility Study before any decision is made to recognise China as a market economy or proceed with an FTA

The Feasibility Study should examine labour conditions in China's export processing zones that underpin the prices of its exports. Both Australia and China should abide by United Nations standards on workers' rights and environmental sustainability.

Australia should not grant preferential access for Chinese products through an FTA while its exports are based on the absence of workers' rights and environmental standards.

Thank you for your consideration of these issues. Please do not hesitate to contact AFTINET if you require more information.

Yours sincerely,

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Convenor, Australian Fair Trade and Investment Network.