

Mr Ric Wells
Australia-China Free Trade Task Force
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
BARTON ACT 0221

Dear Mr Wells

Thank you for the time set aside last week to discuss the evolving issues in the Australian negotiations with the Chinese Government and industry as we move towards a freer bi-lateral trade environment. As requested during that meeting, the Building Products Innovation Council (BPIC) now provide this written submission in support of our earlier expressed views.

At the outset it is appropriate for BPIC to acknowledge our industries support for a fair and balanced free trade agreement. We would stress that any such negotiations be carried out bearing in mind the evolving capacity within China and the reality that the Chinese economy will, during a time of reduced domestic demand, become an export focused market for building materials. Provisions that foresee this occurrence must be built into the mechanisms of any FTA with China.

In general terms the industry assistance provided by the Customs Tariff in Australia is quite low, with most building products attracting a 5% or less rate of duty. However, there are significant contracts for long term supply of product where the price is extremely sensitive. For this reason BPIC requests that China must match the tariff reform in Australia. BPIC does not request similar percentage adjustment, but introduction of like for like applied tariff rates. Obviously if there are instances where the Chinese tariff is lower than that in Australia, the lower should apply from commencement of the agreement. However, BPIC would also point out that the significant Government assistance to certain manufacturing facilities in China, both in terms of direct and indirect costs, provides an added advantage that the tariff considerations alone do not recognise. For example, the removal of a 5% tariff in both Australia and China will only partly remove the imbalance in Government assistance caused by subsidisation in China.

BPIC would like to now provide brief comments on the following points:

Intellectual Property – there are significant opportunities for the export of Australian made products into China and also for the supplementation of local manufacturing capacity with offshore sources. In both these circumstances there must be a system of law that recognises the proprietary rights of intellectual property and provides appropriate enforcement follow up. The Department would no doubt be aware that this issue attracts significant attention in the multi-lateral environment through the WTO, however it is BPIC's position that the pursuit of a bi-lateral agreement both demands and provides the opportunity for significant ground to be made on these and other issues that are perhaps a little more difficult to pursue through the multi-lateral process.

Non-Tariff Barriers - This is perhaps one of the most difficult areas to address yet can lead to the most effective trade barriers. Our understanding is that there is a significant degree of latitude at local and regional levels within China to demand specific performance in one area or another. For example, the ability to set up independent distribution systems may be limited in certain areas. These types of barriers are both difficult to identify and dynamic in nature. BPIC would argue these two characteristics are perhaps complementary in situations where national consistency is not evident.

Having said this BPIC is strongly of the view that rather than demanding removal of non-tariff barriers in specific instances the approach to be taken should be more pro-active to ensure the greatest opportunity for Australian exporters. China should provide a specific reference point for market entry similar to those that exist in Australia. There must be a concerted effort to standardise the legal and economic requirements for foreign companies to set up, export to, manufacture or distribute within China. The Australian system provides a relatively transparent mechanism to achieve market entry and if we are to achieve truly fair trade then similar opportunities must be made available to Australian exporters/investors.

Anti Dumping and Safeguards – BPIC has previously discussed with the Department the industry needs in respect of a strong and accessible anti-dumping system. BPIC acknowledges recent amendments to the Australian Customs manual aiding administrative practices in respect of the conduct of inquiries and determination of normal values and we will watch with interest the exercise of applying this new policy in practice. BPIC understands that the proposed FTA would have a reference to the availability of action through the anti-dumping system and we would be pleased to discuss this aspect further as the terms of this section or reference are considered.

Importantly, BPIC is of the view that any agreement must have provision for safeguard actions separate from those available under Article 19 of the WTO. There are precedents for such inclusions and it is important that the industry can move ahead with domestic investment activity in an environment backed up by explicit commitment and capacity to quickly target significant and serious instances of material injury to domestic manufacturers. It is possible that such safeguard provisions may prove more effective and valid in particular circumstances than traditional countervailing measures.

Standards and Compliance – Australian manufacturers are finding an increasing degree of penetration by imported products into our market. It is important that the negotiations for the proposed FTA take into account the mutual recognition of standards and ensures that the current and future standards applied by the Australian authorities are met by not only locally produced but also imported products. In fact, the opportunity should be taken to examine and ensure that foreign certification processes in China are aligned with the Australian (and often international) processes. This highlights the need for consideration of compliance aspects with the increasing growth in trade and the regulated environment for building materials. It is important to remember that this regulation is driven (in part) by a need for safety.

Sustainability, Environmental and Safety Issues – Australian manufacturers are increasingly striving for reduced environmental impact through their manufacturing and distribution processes. These steps, whilst in most instances driven by clearly identifiable aims and outcomes, add to manufacturing costs. If these on-costs to manufacturing are to be fairly attributed then in many cases the same environmental manufacturing and distribution goals must be applied to Chinese manufacture of like goods. The various levels of Government in Australia

are increasingly turning to sustainability assessments as an outcome for the future generations and any FTA with China must have provisions to ensure similar sustainability outcomes are assessed as appropriate for Chinese products.

On a similar note the Government should also take the opportunity to compare the occupational health and safety requirements in either member country. It is our view that the impact of the Australian requirements compared to those that would apply in China in a similar circumstance is a relevant comparison in free trade negotiations.

Investment Security - Perhaps this issue may be covered off in the guide for business that is mentioned above as it is an issue for all goods and services not just building materials. There needs to be an equitable and fair system for investment, dis-investment and repatriation of profits to allow for the maximum potential outcome from any bi-lateral arrangements. It is important at this point to highlight that we are considering investment opportunities as a means to regional supply issues, not just for bi-lateral supply.

Building Code of Australia – The use of materials and systems in Australia must comply with the provisions of the Building Code of Australia (BCA). Often the BCA will refer to standards as a means to satisfy particular performance requirements. The opportunity to examine the building materials requirements in the Chinese markets should be taken.

Rules of Origin – BPIC would like to be aware of the initial thoughts of the respective Governments in terms of the rules of origin that might apply to determine eligibility for preferential tariff treatment among other matters. BPIC has no particular view at this point on whether a value-added system or whether an activity-based determination linked to harmonised tariff classifications may be more appropriate. BPIC would be happy to discuss this with the Department as the discussions continue.

BPIC is aware there are many other broad issues that the Department is considering such as trade facilitation and we will endeavour to provide comment to assist as the negotiations continue. We would conclude with a request that the Department and the wider Government carefully consider the impact of entering into a free trade agreement with an economy with a fixed or at least controlled currency. Any analysis of the benefits or costs of a free trade agreement must significantly alter if the currency were to float. BPIC notes, and agrees with, the sentiment of the international pressure on China to release its exchange controls and let the currency float in the international market. Such issues must, we would argue, underpin the concept of a fair free trade negotiation.

Please feel free to contact us for further detail on this issue.

Yours sincerely



Tony McDonald
Chief Executive

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