

SUBMISSION



AUSTRALIAN
FOOD AND GROCERY
COUNCIL

Submission to the:

Department of Foreign Affairs and Trade

on issues relevant to the:

Negotiation of a Free Trade
Agreement (FTA) between Australia
and China.

June 2005



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FOOD AND GROCERY
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27 June 2005

Mr Ric Wells
China FTA Task Force
Department of Foreign Affairs and Trade
RG Casey Building
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Barton ACT 0221

Dear Mr Wells

The Australian Food and Grocery Council (AFGC) is pleased to provide the following submission to the Australia-China Free Trade Agreement (FTA) in an effort to contribute to the development of negotiating priorities. This document is in addition to our July 2004 submission on the feasibility study into the FTA.

Like other Australian manufacturing sectors, the Chinese market presents the food and grocery sector with a wide range of challenges and opportunities. The value of Australia's food exports to China reached almost \$530 million in 2003-04. The value of exports of highly processed foods including dairy and meat products has steadily increased from \$21 million in 1996-97 to over \$100 million in 2003-04 demonstrating the potential growth of the value added market and highlighting possible gains from an FTA.

In addition to increased access via reductions in tariffs and quotas, the AFGC specifically seeks improved transparency and consistency in the post border infrastructure regime for Australian food and grocery (and agricultural) product exports to China. Given the obvious and close links between processed food production and agriculture, the AFGC believes any free trade agreement with China must include agriculture in both the negotiation and final agreement. If the FTA is to be of tangible benefit, the negotiations and outcome on food and agriculture must be fully comprehensive and not exclude any sectors.

The feasibility study has shown that, while bilateral trade has grown strongly over recent years, significant barriers to further goods and services trade growth remain in place. Some of these barriers were highlighted in the AFGC's feasibility study submission. However, I would like to reiterate and reinforce the importance of the following areas.

Tariffs & quotas

The AFGC is of the view that a successful and comprehensive FTA between Australia and China would be expected to substantially eliminate tariffs on all trade between the two countries. In addition, it would be important to ensure that non-tariff measures do not negate the trade and economic benefits of tariff elimination. The Australian food and grocery industry seeks an immediate general lowering of tariffs and quota systems in the China market for key products including processed dairy, meat, cereal and seafood products. At a minimum, the FTA should go beyond China's commitments in the World Trade Organization (WTO) by addressing non-tariff measures and increasing transparency in goods trade.

Transparency and consistency in procedures

Technical or 'post border' issues relating to import procedures must be at the forefront of negotiations so that they do not continue as non-tariff barriers to trade. It is essential that the negotiation process include a commitment to cooperatively simplify and harmonise issues such as customs procedures to ensure their proper and consistent application in relation to bilateral trade.

It is important that the negotiations include a commitment to establishing and maintaining procedures that are transparent and reflect international standards. Further, negotiations for an agreement should commit to the establishment of communication channels to respond to import related inquiries and advise of changes in relevant laws and procedures. The negotiations should take prompt and substantial steps to address the concerns of foreign business and bring the Chinese business environment in line with its obligations under the WTO.

In terms of actual experiences that Australian food companies are dealing with on a regular basis, the most common concern relates to inconsistency in the layers of Chinese bureaucracy. There is a real and tangible perception that within China "nothing is permitted but everything is possible". The AFGC is aware of claims that major ports can take different interpretations on documentary requirements, which can cause costly delays, in already congested ports.

In addition, difficulties associated with an unstable business environment in China are common with discontinuity in business sustainability resulting in unsecured contractual relationships. There is some evidence of Chinese entities operating in one province or region and unexpectedly disappearing without any apparent reason for departure. While these can be the commercial realities of business, there is a real level of uncertainty that remains outside a reasonable business risk profile. It is critical that there is a lessening of ambiguity and uncertainty of business arrangements in China if (food) trade is to increase.

Food safety

There is significant concern in relation to China's application and adherence to food safety measures. First hand advice from AFGC member companies suggest that some Chinese businesses maintain an awareness of issues such as chemical residues, contamination and food safety provisions. However, the actual application of the standards in the business operations is limited and inconsistent in its nature.

The negotiations should aim to improve the implementation of procedures and protocols within this crucial area. Equivalence in conformity assessment should be the goal. Documentation and appropriate certification must be properly enforced and be recognised as a critical requirement of business operations. The negotiation process should focus on the application of established standards and obligations to ensure substantial improvement.

Sanitary and phytosanitary measures

The context of the FTA should deal with sanitary and phytosanitary issues in a way that directly and clearly enhances consultation and cooperation. It should improve understanding of regulatory practices, testing and certification procedures so that informal or unfounded SPS measures do not result in unjustifiable restrictions on trade.

Most importantly SPS arrangements must be science-based. Failure to address or remove non-science based SPS measures and quarantine barriers between Australia and China will continue to provide barriers to export growth in food products. The negotiations with China must address the real problem of equity and transparency in China's SPS standards. Failure to do so may mean access for a range of products remains restricted.

As noted in the feasibility study, the Law of the People's Republic of China on Standardisation is complex. It consists of national standards, industrial standards, local standards and enterprise standards. Local standards are formulated by bureaus at the provincial level. Local bureaus also take part in formulating national and industrial standards and supervising the enforcement of standards. There is a concern with in the food and grocery industry that there is inconsistent application across these levels of jurisdictions. The negotiation process must address issues of consistency and transparency in this area.

Intellectual property rights

Increasing globalisation has made intellectual property (IP) rights, regulations and standards an important component of the international trade policy framework. A widely accepted international standards system will play a key role in protecting fair market competition, expediting transactions of commodities and thus promoting Australian trade in processed food and grocery items. The FTA should reaffirm commitments and obligations under the various multilateral treaties and organisations i.e. World Intellectual Property Organization (WIPO), TRIPs and the APEC Intellectual Property Rights Experts Group (IPEG). The AFGC is aware of a recent report suggesting China's record on intellectual property rights protection topped a list of investor concerns. Almost two thirds of the respondents gave low marks to China's IPR enforcement at the provincial and local levels, while more than half were dissatisfied with enforcement at the national level. IP rights will be of significant importance to Australian food and grocery manufacturers and should be a key component of the negotiations process.

Regulatory environment

The irregularity in government procedures and regulation is currently hindering trade. There is inconsistency with product detention, testing and even rejection varying between point-of-entry and/or the particular official involved. Complications and delays in obtaining permits or approval and lack of information regarding specific agencies in China for various trading enquiries has added to the frustration for Australian food exporters. There is a growing sense of inefficiency and non-transparency within the Chinese business and/or government environment. Further, there is a perceived lack of an open and transparent regime that ensures equitable resolution of business disputes. Overcoming these identified bureaucratic obstacles must be a high priority for Australia's negotiators.

Summary

The AFGC believes an FTA with China will have an impact on the operations and strategies of Australian food manufacturers. China is both an opportunity and a threat for Australian food manufacturers as it has quickly developed internationally competitive strengths in various aspects of the food processing supply chain.

The AFGC encourages the Government to rigorously pursue the opportunities inherent in a FTA with China. However, to gain the maximum benefit the issues highlighted in this, and our previous submission, must be addressed. The objective of the negotiations should be to produce a comprehensive agreement facilitating increased trade which would flow from improvements in tariff and non-tariff barriers. The additional key to unlocking many of the opportunities however, lies in improvements to transparency and consistency in the 'post border' business and regulatory environment.

The AFGC looks forward to working closely with the Department of Foreign Affairs and Trade at all stages of the negotiation and we remain willing to provide input and advice as is required.

Yours sincerely,



Dick Wells
CHIEF EXECUTIVE.