

Education Queensland International Submission: Australia-China FTA Negotiations

Dear Michael

Further to our conversation this morning, here is a summary of our situation and the type of assistance that we are requesting.

Education Queensland International (EQI) is the branch of the Queensland Department of Education and The Arts that is responsible for all matters relating to international students and programs. Since 1995 we have licensed the Queensland Year 10 curriculum and related support services to Chinese institutions to deliver the program in offshore locations. These clients have been engaged through EQI-drafted curriculum licensing agreements.

In recent years the PRC Ministry of Education has enacted a series of measures to regulate those cooperatively-run offshore education programs provided by Chinese and foreign parties (I am attaching the implementation document for your reference). The Provinces will still do much of the pre-approval, but the final say appears to lie with the MOE.

The MOE requires that all existing and new programs be approved and registered, and has outlined the relevant requirements. One such requirement is that an application must include a "cooperative agreement", and they have specified in quite general terms the areas which need to be addressed as part of that document.

Recently we began negotiating with a party. The negotiations have been severely hampered due to the client informing us that we no longer can use our standard licensing agreement, as they had already presented it to the MOE and received word that it had been rejected on the grounds that it does not accord with the "cooperative agreement" specifications. They have therefore proposed that both parties sign their own version, which they say does accord and is likely to be approved without issue. The problem is that this document appears to give the impression that this is a joint-venture agreement; when this is clearly not the case. The client tells us that the MOE is most likely to accept the document if it does not have a commercial leaning. However EQI's relationship with the client is essentially commercial and as such we want to ensure that the agreement protects our commercial rights. We are also very concerned about misrepresenting ourselves to the PRC Government.

Another issue is that we have been told that the MOE will not recognise a government-to-school agreement, as the requirement is for both parties to be of an equivalent status. This is indeed mentioned in the measures. The client is pushing for us to nominate one of our schools to sign the agreement. This option however is not available under EQ policy. At this stage we therefore would like to know if the MOE is likely to recognise a government-to-school cooperative agreement. If not, we will most likely need to forgo further negotiations with this client.

Overall, we do not know whether the information being provided by the client is correct or whether it is the official line of the MOE. We

also suspect that we may encounter similar problems in the near future as these measures begin to be applied in those provinces where we deliver the program.

We have previously discussed this issue with AEI in Beijing who have been able to provide some general information but nothing specific. At a recent meeting, Stephan Bohnen (Deputy Director, DFAT-Qld) suggested that I make contact with you.

In summary, we appeal to DFAT, or the suitable agency, to clarify both of these issues with the MOE and if need be, to lobby for a broader recognition of offshore cooperation arrangements. I am happy to provide any further information upon request, including a copy of our original contract as well as our attempt at marrying both the client's "cooperative agreement" and the EQI contract.

Many thanks and I look forward to receiving your advice.

Mark Buckley
Senior Project Officer- International Project Unit
Education Queensland International