

• Committed to Australia's ICT, electronics and electrical manufacturing industries.



3 June 2005

Mr Ric Wells
Chief Negotiator
Australia-China Free Trade Agreement
Department of Foreign Affairs and Trade
R.G. Casey Building
John McEwen Crescent
BARTON ACT 0221

Dear Mr Wells

Australia-China Free Trade Agreement Negotiations

Thank you for the opportunity to attend and participate in the industry briefing today.

I can advise that our submission in regard to the key issues of concern to AEEMA during the negotiation process is a reinforcement of the points made in our original submission to DFAT dated 8 July 2004.

In this regard, I again refer you to AEEMA's policy on tariff issues which was agreed to by Association's Advisory Council and adopted by the AEEMA Board in December 2003. This policy position states in support of ongoing retention of the General Tariff, *inter alia*:

"AEEMA must be prepared to consider supporting concessions to the General Tariff for individual bi-lateral trade agreements as a negotiating measure for the freeing up of access to new markets; these measures include non-tariff and technical barriers to trade."

Notwithstanding this position, AEEMA is aware that there are some countries where the proliferation of non-tariff barriers is of sufficient magnitude to cause concern to members that would necessitate AEEMA to carefully review this policy on a country by country basis."

AEEMA'S KEY ISSUES

From AEEMA's perspective, **there are five remaining key issues of interest**. These issues are

1. The extent to which Australia, through the WTO, is able to make substantial progress in the concluding multilateral negotiations in the DOHA Round with the objective of obtaining protections which are capable of being enforced through the WTO.

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2. The extent to which Australia can achieve substantial market access into a centrally controlled economy with a multitude of provincial, local government and autonomous regional controls.
3. The extent to which the FTA can remove a proliferation of known and yet to be determined non-tariff barriers to trade.
4. The extent to which Australia can leverage benefit for Australia's electronics and ICT industries.
5. The extent to which Australia can use the FTA to put in place effective IP measures and to address counterfeiting abuse which is major issue for the global electrical and electronics industries.

Additionally please note that AEEMA supports the current AiG position on anti-dumping measures.

WTO Negotiations

AEEMA supports negotiations, particularly a broad and comprehensive agreement on market access for non-agricultural industrial products. AEEMA also supports a sectoral approach to tariff elimination, specifically for the automotive sector which is becomingly increasingly dependent on the growth of the electronics industry and which, in Australia, offers substantial opportunity for industry growth and employment.

Market Access and the Removal of Non Tariff Trade Barriers

AEEMA recognises that the China economy is centrally controlled and is complex, involving a myriad of central, provincial and local government agencies with may organisations, although structured under independent corporate status arrangements are in fact 'government guided'.

Our earlier letter reported that the issues of visa requirements and work permits and the prohibition or other restrictions on supply of services or establishment of investments in certain sectors feature amongst the limited response AEEMA received to the questionnaire survey. During the past 12 months, AEEMA has not received any further specific complaints about these problems, but we suspect that there is a general expectation amongst industry that a negotiated FTA will address these barriers effectively.

You will appreciate that the scope of non-tariff barriers are extensive and in some cases the issues are complex. These barriers include the following

- Technical standards
- Certification procedures
- Technical regulations
- Customs rules, including rules of origin and product classifications
- Environmental regulations
- Lack of regulatory due process
- Industry subsidies

To provide a more effective means of tackling these issues, AEEMA again suggests that DFAT establish cross sectoral industry working groups which should more effective in pooling industry experiences and addressing collectively

how the Australian side can arrive at some creative solutions for your negotiating team to put to the Chinese side.

As far as the Electronics, ICT and Electrical Manufacturing Industry is concerned, AEEMA has established excellent kindred association relationships with China, and our relationship with the major China Electronic Chamber of Commerce (CECC) is at a particularly high level. Mr Holly will confirm that at a recent industry meeting held in Sydney with the Secretary General of CECC, Mr Wang Ning, there was strong support expressed on both sides for the establishment of industry association-based working groups. In this regard, you may be interested to learn that CECC has strong links with Mr Wu Bangguo who met individually with World Electronics Forum representatives in Beijing in September 2002. In this capacity, I was privileged to represent the Australian electronics industry.

Electronics Industry (and other related) Action Agendas

You may recall that you mentioned that you wanted some feedback about special industry needs which might assist you in negotiating favourable positions for individual industry sectors.

Given that on 10th June 2003, Cabinet approved the Electronics Industry Agenda which, as one of its recommendations, identified China as one of two key target markets, AEEMA expects that the Government will ensure that the FTA be used to leverage benefit electronics and other sectors including mining services, scientific instruments, digital content, medical devices etc which the Government has approved as priority sectors for national industry development as a consequence of the Action Agenda process.

The Australian electronics and ICT industries need to identify specific niche opportunities which might be achieved through the negotiation of specific collaborative ventures that leverage off Australia's science, technology and engineering base. Whilst AEEMA is aware of the existence of a Australia-Science Science and Technology MOU (managed by DEST), it is submitted that a more industry-focused approach linked to Action Agenda imperatives needs to be negotiated. It is recommended therefore that DFAT makes arrangements to meet with the Implementation or Strategic Leaders Groups of the Electronics, Advanced Manufacturing, Scientific Instruments, and Medical Devices Industry Action Agendas to discuss these issues.

It should be noted that the Electronics Industry Action Agenda is currently marketing Australian capabilities in telematics which includes automotive electronics, home networking, and ehealth. On 2nd July 2005, I will be presenting a keynote presentation on this subject to the 2nd Asian Electronics Forum in Quingdao.

IP and Counterfeiting

AEEMA again submits that the assurance that IP rights will be respected and protected represents a key factor in encouraging business participation in international markets. Differences in national IP laws and enforcement can be exploited by governments to create barriers to free and fair trade. Even where strict laws exist, some countries have lax or non-existent enforcement, leaving

industry with no recourse when IP is stolen. Despite improvements in recent years, China remains a key concern for trading companies which operate in home regimes that respect and enforce IP rights. AEEMA supports the enforcement of IP protection and the use of legal action through the WTO's TRIPs rules as appropriate. In this context, it is most important that the Australian Government makes substantial progress in contributing to the conclusion of the DOHA round to ensure that IP protection measures are in place to underpin any FTA with China. It should be recognised that current enforcement in China remains limited due to China's reliance on administrative rather than criminal measures to combat privacy of technology.

Because Australian companies in the electronics and ICT industries particularly will be offering access to Australian-developed advanced technologies in key areas (e.g. opto-electronics/photonics, nanotechnology, microelectronics, digital content etc) to enable collaborative arrangements with Chinese firms, IP protection is a major issue.

The related but separate issue of the counterfeiting of electrical manufactures is also significant. Apart from the loss of market share and sales to bona fide manufacturers, the proliferation of sub-standard counterfeited products raises issue of product safety (electrical safety and fire hazard consideration) and reputation.

AEEMA notes that the extent of IP protection and counterfeiting control can vary considerably from province to province.

Ongoing Liaison with the Negotiating Team

AEEMA understands that DFAT is quite prepared to be continuously notified about any discovered instances of non-tariff barriers. In addition, we remain committed to working with your negotiating team to participate in any briefing sessions between the Negotiating Rounds and to nominate members representatives to any key issue working groups that DFAT might decide to establish.

Should you require any additional information or wish to discuss any particular matter raised in this submission, please do not hesitate to contact me at 62 47 4655.

Yours sincerely

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Chief Executive