



**The Association of
Consulting Engineers
Australia**

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Submission to

Australian Government Department of Foreign
Affairs and Trade

China Free Trade Agreement

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ACEA represents Australian consulting engineering firms which provide technology-based consulting services to government and private sector clients in Australia and 40 countries worldwide. Services are provided in building, infrastructure, oil and gas, transportation, mining, communications and information technology, agriculture, food processing and manufacturing.

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The consulting engineering industry in Australia

The Association of Consulting Engineers Australia (ACEA) represents the interests of nearly 300 engineering and technology businesses providing consulting services to government and private sector clients throughout Australia, both metropolitan and regional, and in more than 40 countries overseas.

The value of construction projects designed by ACEA member firms each year is estimated to be \$11 billion. The industry is a significant contributor to the Australian economy in terms of both revenue and employment and provides essential services to clients and the community.

ACEA firms offer a large range of design services for major projects in the fields of building, infrastructure, transport, communications and information technology, project management, environmental management, geotechnical and electrical services, mining, oil and gas.

ACEA firms employ more than 15,000 professionals in Australia alone, and many tens of thousands ancillary staff.

A profile of ACEA and the consulting engineering industry is attached. **(ATTACHED)**

Exporting consulting engineering services

Engineering service exports from Australia have increased rapidly and in recent years have accounted for around 5 per cent of total revenue¹. The export statistics are set out in Table 1. As the table shows:

- Exports of engineering services have grown strongly from \$141 million in 1992/93 to \$447 million in 2002/03, an average growth rate of 12.2 per cent a year.
- Engineering services accounted for the major share of all services related to building and construction – more than half of total building and construction services exports in 2001/02 and two-thirds in 2002/03.
- Engineering consulting exports accounted for 1.4 per cent of Australia's total service exports of \$32.5 billion in 2002/03.

¹ Centre for Strategic Economic Studies, *Overseas Market Activities of the Building and Construction Industry*, Victoria University, Melbourne, June 2000

Table 1
Building and Construction Services Exports

	<i>\$ million</i>					
	1992/93	1995/96	1999/00	2000/01	2001/02	2002/03
Construction	98	66	23	68	101	85
Architecture	11	27	6	8	21	22
Engineering	141	210	549	420	344	447
Surveying	8	30	12	13	4	7
Other	73	52	133	148	200	106
Total AES&O	233	319	700	589	569	582
Total B&C	331	385	723	657	670	667
All services	16,316	22,966	28,557	33,547	32,250	32,471
B&C % Total	2.0	1.7	2.5	2.0	2.1	2.1
Engineering %:						
Total B&C	43	55	76	64	51	67
All services	0.9	0.9	1.9	1.3	1.1	1.4

Source: *Overseas Market Activities of the Building and Construction Industry*, p.46,
and ABS, Cat. No. 5302.0

The exports measured here, however, include only the supply of services from the territory of one country into the territory of another. They do not include the supply of services abroad from wholly- or partly-owned subsidiary or associated companies, or from Australian consultants working abroad on overseas projects.

Although aggregate statistics on these overseas earnings are not available, they are known to be substantial.

- About one third of ACEA members perform some overseas work, which includes China.
- The larger the firm the more likely it is to undertake overseas work.
- Some large ACEA firms earn as much as half of their revenue from overseas clients.
- On average, export activity generates about 14 per cent of total fee revenue.
- At least a third of ACEA's large firms have offices in China.

Examples of recent work undertaken by ACEA firms in China include:

- Guangzhou Metro Modal Interchange Study: a study of the underground metro lines to advise on best practice for development at key stations and the principles for efficient operation of modal interchanges.
- Development of a National Flood Management Strategy for China.

- The Beijing Olympic Games, which has created a range of business opportunities for ACEA member firms including; foundation design for the Olympic Stadium; public transport planning; design of residential/hotel developments and; infrastructure development.

Barriers to trade in China

Clearly exporting of consulting engineering services to China has been achieved by a number of ACEA members contributing to the success and profitability of those firms. However, although a third of ACEA's largest members have established an office in China; across the ACEA membership this represents only a small number of consulting engineering firms. The feedback ACEA has received from its members is that the rules relating to the establishment of a Wholly Owned Foreign Enterprise (WOFE) in China are both complex and unclear. These rules constitute the most significant barrier to trade that ACEA members have identified.

Establishment of Wholly Owned Foreign Enterprises in China

In the regulation promulgated on May 10, 2004 by the Ministry of Construction of P.R. China, a WOFE is not allowed to set up in the construction and engineering design industry unless the foreign enterprise is prepared to cooperate with at least one Chinese engineering design corporation to conduct Sino-Foreign cooperative engineering design. It must have attained the construction engineering design qualification from the relevant construction administrative authority. Moreover, the scope of the service delivery of the Foreign-invested engineering design corporation must stay within the scope of the Chinese partner according to its qualification.

Elementary design documents (basic design) and building-operation design (detailed design) are not effective until they are reviewed, confirmed and signed by a member of staff who is a China Registered Architect and Registered Engineer, and sealed by the cooperative Chinese engineering design corporation.

When the WOFE applies for the construction and engineering design enterprise qualifications, it must have one ex-patriot member of staff, who has been qualified as a certified architect or engineer in China, to every four of the total professionals required under the qualification criteria (see Article 15 Regulations on Administration of Foreign Invested Construction and Engineering Design Enterprises). Given there is no recognition of the ex-patriot's Australian qualifications, this rule presents a significant barrier/disincentive.

Please refer to the Interim Provisions of Construction Project Design of Foreign Enterprises (May 2004) and the Regulations on Administration of Foreign Invested Construction and Engineering Design Enterprises (Decree 114, September 2002) **ATTACHED**.

Qualification Accreditation of Engineering Consulting Entities

For the foreign enterprise to participate in the co-operative described above they must be accredited by the National Development and Reform Commission under the Qualification Accreditation of Engineering Consulting Entities (April 2005) provisions **ATTACHED**.

The rules are very onerous for any firm wishing to establish an enterprise in China. To qualify the entity must have at least 15 full-time technicians and no less than 5 professional technicians. These rules have been recently implemented and as yet the mechanism for applying for accreditation is unclear so at this time we are unable to provide any further detail on the accreditation process.

Construction Project Management

Consulting engineering firms offering project management services have been able to offer these services as an alternative to tackling the rules relating to design WOFES. However in December 2004 the Ministry of Construction issued the 'Provisional Measures on Construction Project Management'.

Prior to the issue of the Provisional Measures, project management service providers were not required to hold a formal Chinese qualification certificate. However from 1 December 2004 the Provisional Measures require project management enterprises to have qualifications in one or more of the following fields: survey, design, construction, supervision, cost advisory or tendering agency. The Provisional Measures **ATTACHED** appear to suggest that to provide project management services the enterprise must hold all of the required qualifications. This will be a significant issue for Australian consulting engineers as there is no recognition of their qualifications in China.

Furthermore the Provisional Measures dictate that the project management enterprise cannot own or be associated with any of the construction companies on the projects that they are managing. This is a disincentive to many consulting engineering firms that provide multidisciplinary services including engineering, procurement and construction management.

Solutions that an Australia-China Free Trade Agreement could provide

1. A review of the rules on the establishment of design WOFES to simplify the procedure for Australian consulting engineering firms.
2. A reduction in the qualification of grades of engineering consulting entities to allow the establishment of smaller enterprises.
3. The full recognition of Australian engineering qualifications.
4. The provision for foreign enterprises to offer project management and engineering design services within a more simplified regulatory environment.