



8 July, 2004

Mr David Holly  
 Head, China FTA Study Taskforce  
 Department of Foreign Affairs and Trade  
 R.G. Casey Building  
 John McEwen Crescent  
**BARTON ACT 0221**

Dear Mr Holly

### **Re: Proposed Australia-China Free Trade Agreement and Study**

I refer to our meeting of 24 May 2004 and subsequent discussions. I am pleased to advise that AEEMA has been able to subsequently seek views from our membership based on the questionnaire format supplied by your Department. I have also had the opportunity to discuss the proposed FTA with colleagues from the World Electronics Forum at an electronics trade meeting in Qingdao, China in late June.

In providing advice to the Government about this issue, AEEMA is mindful of 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.”

You will be aware that AEEMA has provided considerable support for the FTAs recently concluded with Singapore, the USA and Thailand, and in respect of the Australia-USA FTA, AEEMA (through its collaborative arrangements with the Electronics Industries Alliance of the USA) has been active in seeking support of the FTA through the US Congress.

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In moving forward with the Government's agenda for the proposed FTA with China, AEEMA understands that the benefits accruing to Australian manufacturers from the Australia-US FTA can be summarised viz

- All Australian and US tariffs on manufactured goods will be zero by 2015.
- US concessions - over 97% of Australia's manufacturing exports to the US will be duty free from date of entry.
- Australian concessions - over 99% of US' manufacturing exports to Australia will be duty free from date of entry. Phase-in periods exist for tariffs on passenger motor vehicles, textiles, some footwear and an agrochemical product. The US Government believes that the Agreement will result in \$2.57 billion in increased US exports of manufactured goods to Australia.
- Rules of origin, based on the US system, require manufactured products that include inputs to be 'substantially transformed' in either Australia or the US before they can benefit from the Agreement.
- Manufacturers that export finished goods to the US will also be able to avoid a 3% Australian duty levied on imported inputs under the tariff concession scheme.

## **THE AUSTRALIA-CHINA TRADE AND ECONOMIC FRAMEWORK**

AEEMA understands that the Government's *Trade and Economic Framework* for the engagement with China provides for a commitment to undertake a joint feasibility study by October 2005 into a possible free trade agreement between Australia and China, a commitment to ongoing trade liberalisation and facilitation, and cooperative activities in a range of industry sectors and areas which will improve the commercial and policy linkages between the two countries (energy and mining; agriculture and quarantine inspection; textile, clothing and footwear; services; investment; information and communications technology and e-commerce; customs cooperation; food safety; health; technical barriers to trade; and intellectual property protection). Having regard to the above, AEEMA notes that **the scope of the engagement does not specifically mention electronics** although the Australian Government-endorsed Electronics Industry Action Agenda provides quite deliberately for engagement in two key market areas, one of which is China..

AEEMA also understands that the Australia-China joint free trade agreement feasibility study does not commit China and Australia to a free trade agreement but instead, the study will present a basis upon which both governments can consider the benefits and costs of such an agreement prior to any decision being taken on the commencement of negotiations. AEEMA also understands that any decision to enter into free trade agreement negotiations can be only be undertaken on the basis that both governments consider each other economic equals. Accordingly, AEEMA understands that the Australian Government would also be required to decide whether to recognise the Chinese economy as a market economy when a decision is taken on whether to enter into a FTA negotiation.

From information provided by you to AEEMA, it is understood that the joint feasibility study into a bilateral Free Trade Agreement negotiation will be conducted with the following terms of reference:

- to provide an overview of recent trends in bilateral trade and economic relations;
- to assess recent international trade policy developments and the possible implications for Australia-China trade and investment;

- to identify and describe existing barriers to trade and investment flows, covering goods, services and investment and other issues that might be addressed in a free trade agreement;
- to identify possible cooperation measures to promote trade and investment liberalisation and facilitation between Australia and China;
- to assess the impact of the removal and/or reduction of existing barriers to goods and services trade and investment; and
- make conclusions and recommendations as regards options for future action.

AEEMA also understand that the joint free trade agreement feasibility study will also take into account China's significant commitments on trade liberalisation as part of its accession to the World Trade Organisation.

You will appreciate that AEEMA represents some 400 companies which are infrastructure providers in the ICT, electronics and electrical manufacturing industries. AEEMA members companies are principal suppliers to Australia's energy supply, telecommunications, defence, building and construction, and consumer electronics industries, and through work being undertaken in the Electronics Industry Action Agenda, it is anticipated that AEEMA will become increasingly involved in the future of Australia's automotive and medical electronics/healthcare industries. Companies belonging to forums within AEEMA's ICT Australia<sup>®</sup> Division are significant suppliers of a range of IT security, automatic data capture and smart card products and services.

AEEMA is of the view that Chinese sourced manufactures will continue to gain penetration into Australia's electrical and electronics industry and in within a very short period of time, China manufactures will become strong competitors to Australian-made white goods, automobiles, consumer electronics, electrical accessories, luminaires, and ICT products.

### **AEEMA'S KEY ISSUES**

From AEEMA's perspective, **there are six key issues that any feasibility study must address so that any benefits that are offered through the FTA clearly outweigh any perceived downsides that may arise from its implementation.** 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.
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 achieve 'cast iron' guarantees on IP and counterfeiting abuse which is major issue for the global electrical and electronics industries.
6. A commitment by the Australian Government to remove the remaining elements of the Tariff Concession Scheme which currently penalises Australian manufacturers which use imported components in their manufactures.

## **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 becoming increasingly dependent on the growth of the electronics industry and which, in Australia, offers substantial opportunity for industry growth and employment.

## **Market Access**

It is noted that the terms of reference for the feasibility study will address these matters.

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

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 featured amongst the limited response AEEMA received to the questionnaire survey.

## **Removal of Non Tariff Trade Barriers**

Generally these 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

Of these issues, AEEMA members (in a limited response – four only, to the questionnaire) have specifically identified the following barriers.

Customs-related issues:

- Import tariffs
- Customs procedures, including customs valuations
- Other import taxes and charges
- Rules of origin/certificates of origin

Quarantine, standards and certification issues:

- Testing and certification requirements

Other internal regulations issues:

- Internal taxes

- Visa requirements and work permits
- Banking and foreign exchange issues

#### Governance and competition-related issues

- Processes for obtaining government approvals
- Transparency and fairness in tendering procedures for government contract and in the award of tenders
- Lack of legal protection for investors

#### Social or market-related issues:

- Staff recruitment
- Local business culture

### **Electronics Industry Action Agenda**

AEEMA notes that the Australian Government has to date given special consideration to enhancing sectoral advantage (particularly in mineral resources and agriculture) in pursuing FTAs with other countries. AEEMA expects that the Government will also examine as part of the feasibility study how the FTA might be used to benefit other sectors including electronics, mining services, scientific services, digital content etc which the Government has identified as priority sectors for national industry development.

### **IP and Counterfeiting**

AEEMA believes 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 piracy 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. photonics, nanotechnology, microelectronics 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. It should be noted that at its meeting of 14 July 2004, the AEEMA Board will be considering a proposal to join an international consortium of European

and UK trade associations to combat counterfeiting, much of which is known to originate in China.

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

### **Tariff Concession Scheme**

While it is accepted that this issue is internal to Australian industry and has no external ramifications, the issue does need to be addressed in the context of the political and economic considerations that need to be addressed by the Government in advancing the FTA proposal.

### **SPECIFIC RESPONSES TO THE QUESTIONNAIRE SURVEY**

Based on the specific responses to the survey, the following information is submitted for consideration.

#### **Q8: Key issues to be addressed in FTA**

- Equal standards in relation to OH&S as an example that competition remains fair
- Import tariffs
- Testing and certification requirements should fall into line with IEC standards
- Parity of wages
- The Australian transformer industry could be wiped out by cheap imports from China from joint venture factories owned by multinational operators. Often Chinese plants quote non market prices simply to earn foreign exchange. This issue raises the extent of anti-dumping measures that will be necessary to protect Australian industry from these alleged practices.

#### **Q9: Barriers to be addressed by the proposed FTA**

- Removal of tariffs
- The importation of more skills into China
- Fair and transparent tendering processes

#### **Q11: Positive Impacts**

- Reduction of barriers to do business in China
- Cheaper imports from China
- Preference over foreign competitors to China
- Lower production costs
- Better market integration, labour division and resources allocation
- Strengthen export capacity to a third country market

#### **Q17: Key Issues of Concern**

- Rules of origin
- Elimination of Australian tariffs, including phasing arrangements
- Free access to the Australian market

- Impact on profit margins
- Closure of manufacturing plants

#### **Q 18: Structural Adjustment Costs**

It should be note that two respondents cited substantial and two respondents cited minimum levels of structural adjustments costs should an FTA be concluded with China.

Three of the four respondents indicated that they would be prepared to discuss their responses with DFAT and their contact details can be obtained on application from AEEMA.

#### **THE WAY FORWARD**

AEEMA is driving the Electronics Industry Action Agenda which is engaging with the China Region, and in respect of China, AEEMA is proud of its formal collaborative relationship with a kindred electronics industry association, the China Electronics Chamber of Commerce (CECC). The MOU with CECC is a key plank of AEEMA's planned initiatives into China. CECC has a total of nine local electronics chambers of commerce domestically, with more than 3,000 unit members based in 29 provinces, autonomous regions and municipalities directly under the Central and Local Government across China. With an independent corporate status, the CECC operates under the guidance of the Ministry of Information Industry in terms of business development. AEEMA and CECC meet and interact regularly as co-members of the World Electronics Forum.

It is suggested that in the same way that AEEMA was able to address a number of the technical issues associated with the Australia-US Free Trade Agreement through its relationship with kindred associations in the USA, AEEMA and CECC be invited to participate together in the feasibility study process. AEEMA also has less informal contacts with an industry association in the electrical equipment manufacturing area.

Finally, AEEMA appreciates the opportunity for input into this feasibility study proposal. 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



Angus M Robinson  
**Chief Executive**