

REVIEW OF THE CHINA-AUSTRALIA FREE TRADE AGREEMENT

NORTHERN TERRITORY INDIGENOUS BUSINESS NETWORK & NATIONAL INDIGENOUS BUSINESS CHAMBER ALLIANCE SUBMISSION

PROPOSAL TO INCORPORATE FIRST NATIONS ECONOMIC PARTICIPATION REFORM

The Northern Territory Indigenous Business Network (NTIBN) and the National Indigenous Business Chambers Alliance (NIBCA) welcomes the General Review of the China–Australia Free Trade Agreement (ChAFTA).

This review presents a critical opportunity to address a structural gap in Australia’s trade framework.

At present, Australia’s trade system operates on an incomplete premise. We are exporting from Aboriginal land, culture and resources, while excluding Aboriginal businesses from the value chain (by virtue of access).

This is particularly evident in the Northern Territory, where:

- trade activity is underpinned by Aboriginal land and cultural assets
- yet Indigenous enterprise participation in export supply chains remains limited and inconsistent

This is not a question of capability. It is a question of system design.

ChAFTA, like most trade agreements, focuses on access such as tariffs, markets, and regulatory settings, but does not address participation.

As a result, the benefits of trade are concentrated, rather than distributed.

A National Reform Moment

This review provides an opportunity for Australia to lead internationally by embedding First Nations economic participation within its trade architecture. This is not a departure from good policy, but rather the next evolution of it.

Globally, there is increasing recognition that trade agreements must:

- support inclusive growth
- reflect Indigenous rights and interests
- strengthen economic participation across all parts of the economy

Australia is well positioned to lead this shift.

Practical Reform Pathway

NTIBN has provided a set of draft, implementation-ready clauses that could be incorporated into:



- the Review outcomes
- implementation frameworks
- or future amendments to ChAFTA

These include:

- recognition of First Nations economic participation
- a bilateral First Nations trade cooperation mechanism
- Indigenous export development pathways
- protections for Indigenous Cultural Intellectual Property
- mechanisms to improve participation in supply chains and trade-linked activity

We have also identified more substantive reforms including Indigenous economic participation zones, which, while more ambitious, reflect the reality that trade often occurs on Aboriginal land and should deliver Aboriginal economic outcomes.

Why This Matters

Embedding First Nations participation in trade is not only a matter of equity.

It is a matter of:

- economic efficiency
- supply chain resilience
- regional development
- and long-term social licence

A trade system that excludes Traditional Owners and Indigenous enterprise is not sustainable.

Closing

ChAFTA has been successful in increasing trade.

This review must now ensure it is also successful in distributing its benefits.

Australia cannot continue to derive value from Aboriginal land and culture while excluding Aboriginal businesses from the value chain.

We would welcome the opportunity to engage further with your office and DFAT officials as this review progresses.

Yours sincerely,

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RECOMMENDATIONS ON CHAFTA GENERAL REVIEW IN EMBEDDING FIRST NATIONS ECONOMIC PARTICIPATION

1. Executive Position

The China–Australia Free Trade Agreement (ChAFTA) has delivered significant trade growth since its commencement. However, that growth has not been equitably distributed.

Australia continues to export from Aboriginal land, culture and resources, while structurally excluding Aboriginal businesses from the value chain.

This is not incidental. It is the result of how trade agreements are designed:

- they assume a level playing field
- they prioritise access over participation
- they fail to recognise First Nations economies

If the General Review does not address these structural gaps, it will entrench them. To support practical implementation, NTIBN has provided draft wording that could be incorporated into the General Review outcomes, implementation plans, or future amendments to ChAFTA.

2. The Structural Problem

2.1 Trade Without Inclusion

ChAFTA focuses on:

- tariff elimination
- regulatory alignment
- market access

It does **not** address:

- who participates in trade
- how participation is distributed
- whether benefits reach place-based economies

The result is a system where access exists in theory, but participation is concentrated in practice.

2.2 First Nations Economies Are Invisible in Trade Policy

Current trade architecture does not recognise:

- Indigenous businesses as a distinct economic category
- Aboriginal land as a foundational trade asset
- cultural capital as an economic input

This creates a policy blind spot where:

- Aboriginal land enables trade



- Aboriginal culture drives demand
- but Aboriginal enterprise is excluded from delivery

2.3 The Northern Territory as a Case Study

The Northern Territory demonstrates this imbalance clearly. Trade-enabling assets:

- ~50% of the NT landmass under Aboriginal ownership or control
- globally recognised Aboriginal cultural tourism and art
- resource extraction on Aboriginal land

Observed outcomes:

- limited Indigenous business participation in export supply chains
- procurement leakage to non-Indigenous firms
- cultural value captured offshore or by intermediaries

This is not a capability failure. It is a system design failure.

3. Specific Failures in ChAFTA Implementation

3.1 Absence of Participation Mechanisms

There are no provisions that:

- require Indigenous inclusion
- incentivise Indigenous procurement
- track Indigenous participation outcomes

3.2 Procurement Disconnect

Trade-driven economic activity (ports, logistics, energy, construction) is not linked to:

- Indigenous Procurement Policy frameworks
- local Indigenous business ecosystems

3.3 Export System Barriers

Indigenous businesses face structural barriers, including:

- certification and compliance costs
- lack of export aggregation mechanisms
- limited access to trade finance
- absence of tailored Austrade pathways

3.4 ICIP Exposure

There are no effective trade-linked protections for:

- Aboriginal art
- cultural expressions
- traditional knowledge

This allows:

- imitation products in international markets
- loss of provenance
- value extraction without benefit to origin communities

4. Reform Agenda: Structural Inclusion

This review must move beyond incremental reform and embed structural inclusion mechanisms.

4.1 Indigenous Economic Participation Framework

A formal framework should be embedded within ChAFTA implementation, including:

A. Indigenous Participation Requirements

- Minimum participation thresholds in trade-linked projects
- Inclusion requirements within export supply chains

B. Reserved Economic Zones (“Exclusion Zones”)

Designated areas where:

- Indigenous businesses have priority or exclusive access
- Applies to:
 - procurement
 - subcontracting
 - service delivery

These zones recognise that trade activity often occurs on Aboriginal land and must deliver local economic participation.

C. Reporting and Accountability

- Mandatory reporting on Indigenous participation in trade activity
- Public transparency measures
- Integration with Closing the Gap economic indicators

4.2 First Nations Trade Protocol

Australia should establish a formal First Nations mechanism within ChAFTA, comprising:

- Bilateral cooperation on Indigenous enterprise development
- Recognition of Indigenous economic rights and interests
- Structured engagement between governments and Indigenous business bodies

This could be implemented via:

- a side agreement
- a protocol
- or an annex to the agreement

4.3 Indigenous Cultural Intellectual Property (ICIP) Protections

Trade settings must incorporate enforceable protections for ICIP.

Required measures:

- authenticity certification frameworks
- protection against misleading or inauthentic products
- traceability and provenance systems



Priority sectors:

- visual arts
- cultural tourism
- design and fashion
- digital cultural content

Without ICIP protection, trade agreements enable cultural extraction.

4.4 Indigenous Export Development System

A targeted system is required to move Indigenous businesses into export markets.

Proposed measures:

- Dedicated Indigenous export pathway within Austrade
- China-focused Indigenous business missions
- Export readiness and compliance support programs
- Aggregation models for small and remote enterprises

4.5 Supply Chain Reform

Major export sectors should be required to demonstrate Indigenous participation.

Priority sectors:

- resources and energy
- infrastructure and construction
- logistics and transport
- tourism

Mechanisms:

- contractual requirements
- certification-linked incentives
- procurement conditions tied to export approvals

5. Northern Territory Sectoral Examples

5.1 Tourism

- Aboriginal culture is central to NT's international tourism offering
- However:
 - Indigenous operators are underrepresented
 - value is captured by external intermediaries

5.2 Arts and Cultural Products

- Aboriginal art is a major export category
- Ongoing issues:
 - inauthentic product proliferation
 - lack of control over downstream markets
 - limited artist participation in export value chains



5.3 Land and Resource Development

- Export projects rely on Aboriginal land access
- Current model:
 - passive benefit-sharing (royalties, agreements)
 - limited enterprise participation

5.4 Trade-Enabling Infrastructure

- Ports, logistics hubs, and major projects underpin exports
- Indigenous business participation is inconsistent and not systematised

6. Strategic Rationale

6.1 Economic Efficiency

Expanding participation:

- increases supplier diversity
- strengthens regional economies
- reduces bottlenecks in labour and service delivery

6.2 Risk Management

Exclusion creates:

- social licence risks
- project delays
- reputational exposure

6.3 National Interest

Inclusive trade aligns with:

- Closing the Gap
- Indigenous procurement policies
- long-term economic diversification

7. Implementation Considerations

To operationalise these reforms:

- Align ChAFTA implementation with domestic Indigenous procurement frameworks
- Establish joint Commonwealth–State–Territory coordination
- Embed Indigenous business organisations in governance structures
- Ensure resourcing for capability development

8. Conclusion

ChAFTA has succeeded in increasing trade.

It has not succeeded in ensuring equitable participation.



This review presents a clear policy choice:

- Maintain a trade system that concentrates wealth and excludes First Nations enterprise

or

- Reform the system to reflect the reality that Aboriginal land, culture and people underpin Australia's trade advantage.

Australia cannot continue to derive value from Aboriginal land and culture while excluding Aboriginal businesses from the value chain.

Embedding First Nations economic participation within ChAFTA is not optional — it is necessary for the legitimacy, sustainability and future competitiveness of Australia's trade framework.

ANNEX A – PROPOSED TEXT FOR CHAFTA GENERAL REVIEW OUTCOMES

Embedding First Nations Economic Participation

1. Recognition Clause (Foundational)

1.1 Recognition of First Nations Economic Participation

The Parties acknowledge the unique economic, cultural and land-based contributions of First Nations peoples to Australia's trade and investment landscape.

The Parties further recognise the importance of promoting equitable participation of First Nations enterprises in the benefits arising from this Agreement.

2. First Nations Trade Cooperation Mechanism

2.1 Establishment of First Nations Trade Cooperation Mechanism

The Parties will establish a bilateral mechanism to:

- support the participation of First Nations enterprises in trade and investment activities
- facilitate exchange of information, capability development and business partnerships
- promote First Nations-led trade initiatives and market access

2.2 Governance

This mechanism will include engagement with representative First Nations business organisations and relevant government agencies.

3. Indigenous Economic Participation Requirements (Implementation Measure)

3.1 Participation in Trade-Linked Economic Activity

Australia will take reasonable measures to promote the participation of First Nations enterprises in economic activities arising from trade under this Agreement, including:

- infrastructure supporting exports
- supply chains linked to traded goods and services
- investment projects enabled by this Agreement

4. Indigenous Procurement and Supply Chain Inclusion

4.1 Indigenous Procurement Linkages

The Parties acknowledge that procurement and supply chain participation are critical pathways to economic inclusion.

4.2 Implementation Measures

Australia may implement policies that:

- prioritise or set targets for First Nations enterprise participation
- require Indigenous participation in trade-related projects



- support supplier diversity within export supply chains

(Note: “may implement” protects against trade challenge while still embedding intent)

5. Indigenous Economic Zones (Exclusion Zones)

5.1 Designation of Indigenous Economic Participation Zones

Australia may designate specific economic activities or geographic areas where priority participation is afforded to First Nations enterprises, particularly where:

- activities occur on or relate to Aboriginal land
- cultural or land-based assets are utilised
- local Indigenous communities are directly impacted

5.2 Purpose

These measures are intended to:

- promote equitable economic participation
- support regional development
- strengthen local supply chains

6. Indigenous Cultural Intellectual Property (ICIP)

6.1 Protection of Indigenous Cultural Expressions

The Parties recognise the importance of protecting Indigenous Cultural Intellectual Property, including traditional knowledge and cultural expressions.

6.2 Cooperation Measures

The Parties will cooperate to:

- prevent misleading or inauthentic representations of Indigenous cultural products
- promote authenticity and provenance
- support frameworks that protect Indigenous cultural rights in trade

7. Indigenous Export Development

7.1 Export Capability Development

Australia will take steps to support First Nations enterprises to access export opportunities under this Agreement, including through:

- export readiness programs
- market access initiatives
- trade missions and business matching

8. Services and Cultural Economy Inclusion

8.1 Services Sector Participation

The Parties acknowledge the role of First Nations enterprises in services sectors, including:

- tourism
- creative industries



- cultural advisory services
- environmental and land management services

8.2 Promotion Measures

Australia will promote participation of First Nations enterprises in these sectors in connection with this Agreement.

9. Transparency and Reporting

9.1 Monitoring and Reporting

Australia will seek to improve transparency regarding First Nations participation in trade-related economic activity.

9.2 Data Development

Efforts may include:

- data collection on Indigenous business participation
- reporting through existing economic and Closing the Gap frameworks

10. Non-Derogation / Safeguard Clause (Important)

10.1 Non-Derogation

Nothing in this Agreement prevents Australia from adopting or maintaining measures to:

- support First Nations economic participation
- protect Indigenous cultural heritage and intellectual property
- promote equitable economic development outcomes

11. Stronger Supply Chain Obligation

11.1 Inclusive Supply Chain Development

Australia will seek to ensure that major export sectors benefiting from this Agreement demonstrate measurable inclusion of First Nations enterprises within their supply chains.



ANNEX B – IMPLEMENTATION PATHWAY

1. Immediate Actions (0–12 months)

- Establish First Nations Trade Cooperation Mechanism
- Initiate Indigenous export development pathway through Austrade
- Begin ICIP cooperation and authenticity frameworks
- Introduce voluntary reporting on Indigenous participation in trade-linked activity

2. Medium-Term Actions (1–3 years)

- Align ChAFTA implementation with Indigenous Procurement Policy settings
- Embed Indigenous participation expectations in major export sectors
- Develop bilateral Indigenous trade engagement initiatives
- Pilot Indigenous participation models in priority sectors (tourism, arts, resources)

3. Longer-Term Reform (3–5 years)

- Formalise Indigenous participation mechanisms within trade frameworks
- Expand Indigenous economic participation zones in trade-related activity
- Strengthen ICIP protections through enforceable mechanisms
- Integrate Indigenous participation into trade performance metrics

4. Governance and Coordination

- Commonwealth–State–Territory coordination
- Formal engagement with Indigenous business peak bodies (e.g. NTIBN)
- Integration with Closing the Gap economic targets