



A•S•U

File/Our Ref: [DS/sa 37.96](#)
Your Ref:
Please quote in reply

Thursday, 27 August 2015

The Committee Secretariat
Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO BOX 6100
Parliament House
CANBERRA ACT 2600

By Email: fadt.sen@aph.gov.au

**Australian
Services
Union**

**National Office
Melbourne**

All correspondence to:

Ground Floor
116 Queensberry St
Carlton South VIC 3053

T: (03) 9342 1400
F: (03) 9342 1499
E: info@asu.asn.au
W: www.asu.asn.au

National Secretary
David Smith

Assistant National Secretaries
Greg McLean - Sydney
Linda White

**National Office
Sydney**

Level 8
321 Pitt St
Sydney NSW 2000

T: (02) 9283 9280
F: (02) 9283 9270
E: info@asu.asn.au

Dear Committee Secretary,

Re: China-Australia Free Trade Agreement (ChA FTA)

The Australian Services Union writes to express strong opposition to the China-Australia Free Trade Agreement (ChA FTA).

The Australian Municipal, Administrative, Clerical and Services Union, trading as the Australian Services Union (ASU) welcomes the opportunity to provide comment to the Senate Foreign Affairs, Defence and Trade Committee in relation to the China-Australia Free Trade Agreement (ChAFTA).

The ASU is one of Australia's largest Unions, and represents approximately 120,000 employees. Our members work in the public services and private sector industries and occupations.

Whilst we are not opposed to trade agreements with China per se we are opposed to agreements, such as this, which:

- Enable foreign companies to bring in most of their own workforce with no requirement that jobs be offered to local workers first.
- Lack commitment from either Government to enforce labour rights, safety or environmental standards.
- Enable foreign companies to sue governments if those companies are of the view that changes to our laws or policies adversely impact on their business.

The Memorandum of Understanding attached to the ChAFTA allows investors with projects of over A\$150 million with 15%-50% Chinese ownership to employ temporary migrant workers irrespective of whether local qualified workers are available. Minimum wage rates for the temporary migrant workers will be the subject of negotiation and may be lower than market rates paid to Australian workers in the industry. As their employment arrangement would be totally dependent on the employer, they would be isolated from the rest of the Australian workforce and would be vulnerable to exploitation.

The Investor State Dispute Settlement (ISDS) provisions will allow Chinese investors to sue the Australian government for damages in an international tribunal if they can argue that their investment is harmed by domestic law or policy. Exact criteria that could be used for such cases is not spelt out in the agreement, but left to be negotiated in three years, and will be incorporated into the agreement without voting by Parliament.

There is no definition of two of the most controversial aspects of ISDS, which are the definition of 'indirect expropriation' and the definition of 'minimum standard of treatment for foreign investors'. These are provisions which foreign investors have often used to sue governments under other agreements.

Global experience of the use of ISDS provisions has indicated the readiness of wealthy corporations to use ISDS provisions against the interests of communities and nation states.

The ASU is a member of AFTINET (Australian Fair Trade & Investment Network Ltd) and as such, we are in receipt of their well-researched information in relation to the way ISDS provisions have been used elsewhere. Although there are "safeguards" intended to protect health, environment and other public welfare measures, similar "safeguards" have not prevented foreign investors from suing over such measures. For example:

- The Renco lead smelting company is suing the Peruvian government over a court decision which ordered it to clean up and compensate for lead pollution.
- The US Lone Pine mining company is suing the Canadian government because the Québec provincial government conducted a review of environmental regulation of gas mining.
- The French Veolia company issuing the Egyptian government over a contract dispute in which they are claiming compensation for a rise in the minimum wage.

The union is of the view that citizens and their governments have a right to determine how best to safeguard public health, community welfare and the environment - these should not be over-ridden by the interests of powerful foreign companies.

The inclusion of ISDS provisions in a free trade agreement sends a signal to the community that the Australian Government is prepared to put foreign company interests ahead of the interests of its own people and the national wealth. It also indicates that the government would not be concerned about the consequences of such provisions on the citizens of other nations.

As already noted, it is also dismaying that the Agreement will divert jobs away from local workers at a time of high unemployment. This will have negative impacts on individuals, their families and communities – resulting in increased calls on the public purse in the longer term.

For all the reasons discussed above, the Union opposes the ChAFTA. We therefore call upon the Committee to recommend against the implementing legislation.

Our Assistant National Secretary, Mr. Greg McLean OAM, would be pleased to participate in related public hearings if he is available. Please contact Sarina Andronaco regarding public hearing notifications

Yours faithfully



David Smith
NATIONAL SECRETARY

cc [Greg McLean](#)
[Lyn Fraser](#)