

Dissenting Report by Senator Peter Whish-Wilson

Australian Greens Senator for Tasmania

1.1 Australia's treaty-making process is broken, and the China-Australia Free-Trade Agreement is a case in point. ChAFTA was negotiated in secret. At no stage was the Australian Parliament, or the people it represents, asked why we would be seeking to negotiate this agreement or what we wanted from it. At no stage was the expertise or insights of businesses, unions, academics or a host of other interested parties called upon to help inform the government on the implications of the deal, at least not in any publicly transparent way. ChAFTA has been initiated and agreed to by the executive, and presented to parliament as a take-it-or-leave-it prospect.

1.2 The ChAFTA implementation bills illustrate this last point. The bills presented to parliament cover only a relatively narrow portion of the agreement, being those aspects related to controls and tariffs on the trade in goods. Historically, this might have constituted the extent of a free-trade agreement. However, modern trade agreements, including ChAFTA, extend well beyond these confines. Yet parliament is not given the opportunity to consider in legislation anything other than the customs controls, and is asked to agree to these customs amendments as a proxy for the entire agreement.

1.3 Even so, ChAFTA is a lopsided agreement. In time, the agreement will see Australia remove all tariffs on Chinese imports. Yet China will retain tariffs on at least 257 categories of goods. Reciprocation is a basic goal of trade agreements that this government has not managed to achieve. And we don't have any independent economic analysis demonstrating that ChAFTA is in our long-term economic interest.

1.4 Beyond tariff controls, ChAFTA has serious problems. On labour mobility, only some of the issues related to labour market testing have been safeguarded, and protections for 'contractual service providers' and 'installers and servicers'—some of the lowest paid occupations—remain excluded. ChAFTA appears to be creating a parallel industrial relations system.

1.5 Environmental standards don't get a look in. ChAFTA does not include chapters on labour right or environmental standards, unlike the recently negotiated Korea-Australia Free Trade Agreement.

1.6 On the issue of whether Chinese corporations should be able to sue our government for public policy changes under the investor-state dispute settlement (ISDS) chapter, Australia appears content for the EU and the US to sort that for us out at a later date, a point which—among many others—this committee report has not investigated deeply as it is beyond the scope of the legislation.

1.7 The trend with recent bilateral, or preferential, trade agreements is a continual erosion of standards and public policy safeguards; and each one sets a precedent for the next. ChAFTA has continued this worrying trend.

Recommendation 1

1.8 That the Senate not pass the Customs Amendment (ChAFTA Implementation) Bill 2015 and Customs Tariff Amendment (ChAFTA Implementation) Bill 2015.

Senator Peter Whish-Wilson

Australian Greens