

China Australia Free Trade Agreement

Critique version 5.0

To complete this Agreement is absolute crass stupidity!!!

Doubt this, then read on.

Summary

Recently there has been a rapid build up of Chinese investment and immigration of Chinese to our country and the effect is rising exponentially. The alarming feature of this is that **the Chinese Communist Party (CCP) has been systematically subverting ethnic Chinese in Australia to the point almost all are now supportive of the CCP.** The China Australia Free Trade Agreement (ChAFTA) guarantees this build up will continue and we will be powerless to stop it.

It is only a small step for the CCP to convert this support into a united voting block come future elections. A voting block of just 2-3% of the voters would be sufficient to swing the result between Labor and the Coalition so both will do everything in their power to gain CCP support. That is providing even greater benefits to the CCP and even more in subsequent elections as more and more Chinese become citizens with a right to vote. This will eventually result in the CCP taking total control of our country.

If this doesn't produce the desired result the CCP can use several hundred million dollars of its massive \$13 billion per annum 'external propaganda' fund to corrupt our electoral system, our politicians and public servants. This situation is even more untenable in that the CCP is so corrupt an expert claims there would be no one left in the CCP if all the corruption was wiped out. Why has the Attorney-General, George Brandis, who is responsible for security, not recommended to cabinet to terminate the ChAFTA?

What benefit will we get to compensate us for the loss of our country? At most, a mere 0.1 % increase in our GDP each year for 20 years based on the government's own modeling, the only economic assessment of the ChAFTA. This meagre benefit will be cancelled out by the extra \$1.4 billion per annum in extra taxes needed to compensate for the lost tariff revenue so there will be precisely zero benefit. If one then considers the flaws in the ChAFTA outlined in this critique and by others it will have a significant negative value. **Just how crass stupid is our government!!!.** It poses the alarming question, is our country run by a group of traitors?

Some of the flaws include no service industry or any other activity can be established in China because the ChAFTA prohibits the purchase or even leasing of property in China, the CCP by rorting the Agreement could buy up every hectare of arable land in Australia, the CCP has a history of imposing barriers to trade after FTAs have been concluded and, contrary to Robb's repeated assurances, there will be no labour market testing for skilled workers and semi-skilled workers can come in under concessional agreements.

This appalling state of affairs has come about because Robb failed to carry out a detailed economic analysis of the possible benefits and weaknesses of the anticipated ChAFTA prior to entering into negotiations and before finalizing the agreement as the Productivity Commission has been advocating for years.

Furthermore it appears Robb, and the government’s ‘cheer squad’ of most journalists and the multitude of other supporters of the ChAFTA could not be bothered to study the government’s modeling, before formulating their support.

Worst still Robb has misled Prime Minister Turnbull, parliament and the public at large on the true worth of the ChAFTA. Robb also misled the public when he stated that 178, 000 jobs would be created by the ChAFTA. The modeling determined it will average only an extra 9,000 jobs during the next 20 years. On the foregoing Robb is hopelessly incompetent and Turnbull, if he is to retain creditability, must sack Robb and terminate the ChAFTA.

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Chinese Communist Party (CCP)

Firstly one needs to consider the party we are dealing with, the Chinese Communist Party (CCP), arguably the world's most dangerous and flawed organization.

Let's look at the facts. The CCP has dispersed China's assets and wealth amongst Communist Party members so they have become absurdly rich while non party members have endured decades of poverty. If you doubt this show me how wealthy Chinese made their wealth without getting some benefit from the CCP or by corrupt means? To become wealthy you need at least a small amount of capital to start with. 30 years ago every Chinese outside of CCP was destitute and, except for rare exceptions, they could not have accumulated the capital at least until recently.

This is supported by Professor Roderick MacFarquhar, one of the world's leading authorities on Chinese politics who states "Corruption is so rampant that the danger is that no one will be left in the party (CCP) if all of the corruption is wiped out", in article by Peter Cai, Aust., Sept 30, 2015,

It gives just lip service to the rule of law. This could be even more important in the years to come. Ed Conway writing in The Times and reprinted Aust, Sept 30, 2015 stated:

"If you accept the premises that the country will suffer a slump or, at the very least a slowdown, then its stability in the coming years will depend on whether it has the institutions to support it through the ordeal. Japan survived two decades of stagnation with nary a whiff of social chaos, largely because of the well-established legal system and social safety net.

In crises such things matter, so it is disquieting that China has neither of the above."

Further on in this article is reference to Michael Pettis of Peking University stating: "There have been perhaps 30 or 40 "growth miracles" since World War II. Every single one has ended either in a debt crisis or a lost decade or two of very low growth. The only different thing about China is that the levels of indebtedness and economic imbalances are greater than anything witnessed before."

As well the CCP has developed a vast surveillance network in China so as to subdue dissidents so the CCP members can go on enriching themselves at the expense of the average citizen. As outline further on, the CCP has developed a similar surveillance network here in Australia to monitor all ethnic Chinese living in Australia.

In keeping with this China appears to be engaged in massive cyber espionage and theft of trade secrets.

It has an appalling Human Rights record. There were more than 184,000 instances of mass unrest against the government in 2013, John Lee, Aust., July 8, 2015.

It maintained an absurdly under valued currency in order to make up in double quick time for the 50 years China wasted away under communism and in the process decimated the manufacturing industries in nearly all the first world countries.

The CCP has expended vast sums of money building up its defence capability far in excess of what it needs to defend itself **when one third of Chinese live on less than \$2 a day**, John Lee, Aust July 8, 2015 and countless dollars are needed for more needy activities such as health, education, social security etc. For what reason? The most logical reason is the CCP intends to dominate the world.

As an example, a senior Chinese military officer has stated within two decades the US will be force out of the western Pacific, John Garnaut, Fairfax Media, Feb16, 2013 The Western Pacific including Australia is apparently to become China's fiefdom.

It was not prepared to go to the International Court of Justice to determine its claim to the South China Sea. Instead it has worked on the premise 'might is right' to sustain its claim. The artificial islands it has developed on the Spratly Islands are now having military hardware installed so the CCP can control this strategic sea with its important sea lanes. It will now be able to be the gate keeper for these trade routes which includes most of Australia's trade.

In keeping with this, China maintains its claim over the South China Sea is along a boundary with Vietnam just 80 Km from Vietnam's shore line for the whole 1600 km of its coastline when the UN Convention on the Law of the Sea considers that a 320 km exclusive economic zone exists around a nation's sea boundary.

Gareth Evans, Aust July7, 2015 states while accepting China may have a case for expanding the islands in the Spratly Group, the "nine-dashed line"—embracing some 80% of the South China Sea and described as China's "historic waters"—the entire international community should reject them out of hand.

It can not be trusted. As an example the CCP is refusing to abide by the agreement when the UK gave Hong Kong back to China to allow Hong Kong citizens free elections of its officers in 2017. Another example is that the US brokered a settlement to the Scarborough Shoal between China and the Philippines in which both parties agreed to withdraw their presence on the reefs. The Philippines complied but China renege on the agreement and remained.

Do we really want to develop close links with such an organization that has a very uncertain future? Will the CCP adhere to their ChAFTA commitments?

CCP take over of Australia

The old adage 'money talks' is highly applicable here with so many Australians wanting the immediate benefit of Chinese money and ignoring the consequences. Agents happy to act and vendors happy to sell properties to the Chinese, Universities eager to enroll Chinese students who expect to be granted residency when they graduate, company owners and shop keepers happy to sell their businesses to the Chinese and destitute farmers who have been decimated by the absurdly over valued dollar and have no option but to sell to the Chinese to avoid bankruptcy.

More alarming is the article by Paul Monk, Quadrant, April 2013 where he refers to the remarks of a well informed China watcher who stated "he had come across evidence that the Communist Party has been using front companies to buy up Chinese

community radio and newspapers in Australia and elsewhere in the West and use them for Party propaganda among the Chinese diaspora”. Paul Monk wrote a similar piece in the Fairfax Media on July 10, 2014. In this piece he went further suggesting the Communist Party was implanting informers and other agents within the diaspora. Why has our government allowed a foreign power to interfere with our democracy?

In keeping with this infiltration, John Garnaut writing in the Fairfax Media on the 21st and the 26th of April 2014 noted China was building covert networks of informants at leading universities in Melbourne and Sydney to keep tabs on ethnic Chinese lecturers and students as well as hosting cultural events and creating a web of social groups that would have the effect of galvanising support for the CCP.

More alarming than these statements are those made by John Fitzgerald in Why Values Matter in Australia’s Relations with China, The Asan Forum, June 13, 2014.

I quote the following excerpts:

A cursory glance at Beijing’s dealings with Chinese Australians and Chinese residents in Australia does little to support his (Malcolm Fraser’s) vision of a benign China.

A win-win values perspective on Australia’s relations with China would require Beijing to recognize that Chinese Australians and Chinese residents in Australia enjoy full and equal entitlement to all of the rights and freedoms guaranteed in a liberal democracy. Beijing’s manipulation of Chinese-Australian media and its systematic surveillance of Chinese Australians and resident Chinese suggest otherwise.

In relation to the Chinese Media in Australia Fitzgerald states:

Today, Australia’s major Chinese language media are largely controlled from Beijing, which outlaws open discussion of constitutional issues and civic equality in areas under its remit, even within Australia.

New Zealand Overseas Chinese specialist James To observes that Beijing has gained overwhelming dominance of Chinese language media in Australia, New Zealand, and the Pacific Islands following a concerted effort at content placement and media industry networking by China’s embassies and consulates in the region. This effort is part of a larger proactive strategy of “group management, extra-territorial influence, counter-infiltration, and counter subversion” targeting Overseas Chinese communities generally—particularly Chinese students abroad—to ensure their loyalty to Beijing wherever they happen to be domiciled.

Beijing’s investments in Australia’s Chinese language media have had negligible impact on the broader Australian public, but they are earning high dividends among the Chinese-Australian communities targeted through an active public-diplomacy program that is highly strategic, clearly focused, and generously supported. Through China International Radio, the World Chinese Media Forum, and other arms of the party-government, the Central Propaganda Bureau outlaws the slightest

criticism of the CCP or PRC government on its Australian radio and press networks. It pre-packages its own content for placement in local media, including layout, editing, and typesetting, and has largely banished alternative news sources from co-placement on Australian networks.

Recent arrivals from China are said to feel comforted by the familiar voice of Beijing emanating through the Austar International Media network, but others, notably immigrants from Taiwan and earlier arrivals from China, find their programming “culturally and politically controversial.” Other Australians, if they understood Mandarin Chinese, might find CCP Propaganda Bureau broadcasts on Australian community radio networks equally uncomfortable.

In 2013, central Party officials added seven subjects to the list of topics never to be mentioned in colleges, the media, or the Internet. The seven taboo issues include “freedom of speech,” “judicial independence,” “civil society,” “civic rights,” and “universal values” in addition to criticism of the CCP and allusions to its privileged and wealthy leadership. Even mentioning to foreigners the existence of the document that lists these banned subjects is considered a betrayal of state secrets in China.

Then in regards to surveillance Fitzgerald states:

What has changed in recent years is the scale of surveillance operations and the opacity of the clandestine organizations engaged in the operation run from Beijing. In 2005, an officer based in the Sydney Chinese consulate, Chen Yonglin, came out with the claim **that a thousand or more informants were reporting on the political, social, and religious affiliations of Chinese-Australians and short-term residents from China.**(my emphasis)

The CCP’s informant network is built on the benign principles of neighbourhood watch under the less benign supervision of paid operatives. These operatives gather and file information from a large number of volunteer informers in Australia, who report on their fellow students and working colleagues, who then pass on reports to higher authorities in the intelligence system back in China. The surveillance system is modelled on the pattern of CCP and Youth League cells in China, which multiply in proportion to the scale of those under surveillance.

The opacity of the system is also a matter of concern. But for Chen Yonglin’s brave testimony, the massive clandestine surveillance operation in Australia would remain hidden from view.

The CCP’s Australian operations are more clandestine than those of the old-time triads that used to run surveillance and stand-over rackets in Australia’s Chinatowns.

Despite the risk of reputational damage associated with secret surveillance and standover tactics, the CCP and Youth League front organizations are unlikely to go public in Australia anytime soon.

In Australia, the party ranks control and management of the Chinese diaspora community well above damage to that community's reputation. Beijing considers the 2008 counter-demonstrations orchestrated along the route of the Olympic Torch relay in Australia not as a disgraceful display of extra-territorial hubris but as a successful endorsement of its strategy harnessing Chinese residents of other countries to its national objectives. The party's point of reference is not the widespread suspicion that events of 2008 generated among non-Chinese communities abroad but the anti-communist demonstrations that shook the diaspora a generation earlier following the 1989 Beijing Massacre. **The turnaround within the Chinese diaspora community from open opposition to open support for the communist government over these 25 years has been remarkable. For Beijing this is all that matters.** (My emphasis)

If the Chinese diaspora is supporting the Chinese Communist Party what allegiance do they have to Australia? A sobering thought.

Secrecy remains a precondition for Beijing's success in cultivating the diaspora. From a close reading of official cadre handbooks on "Overseas Chinese Work," James To concludes that Beijing counsels its diplomats, agents, and cadres overseas to conceal their roles in coordinating and assisting Chinese community organization "from a distance, without them being aware of it." **The aim is to appear benign in public, while exercising proactive management and control of Chinese community organizations and media in foreign jurisdictions.**(My emphasis) If managing and controlling its diaspora takes precedence over wider community optics in Australia, and secrecy is a condition of diaspora control, it follows that Beijing is likely to maintain secrecy at the cost of extensive reputational damage to the Chinese-Australian community organizations it manipulates in addition to damaging China's standing as a benign regional player.

It was all very well to respect the value differences that separate Australia from China while each country went about its business. This may have been the case in Prime Minister Howard's day, but it is certainly not the case today. China is determined to change the status quo in the region, to project its values through public diplomacy, and increasingly to link trade and investment with political trade-offs. In Australia, the CCP is mobilizing and policing its diaspora to flaunt its distaste for liberal-democratic values. Howard used to say that Australia faces a phony choice between its economic interests and its basic values in balancing relations with China and the United States. The problem for Prime Minister Abbott is that it may no longer be Australia's choice whether or not to exercise even a phony choice. In arriving at this point, Australians have handicapped themselves by ceding too much to China on national values and reflecting too lightly on the universal character of their own.

Adding credence to Fitzgerald's statement is his support for the Chinese living in Australia as outlined in his book 'Big White Lie: Chinese Australians in White Australia', ABC Shop, one page review by Alastair Kennedy.

Paul Monk, Quadrant, May 2014, in an article entitled Chinese Spies and Our National Interest referred to the Joel Fitzgibbon saga where a Chinese business woman allegedly gave Fitzgibbon, former Minister for Defence, \$20,000 for his 1998 re-election campaign and her companies gave a further \$50,000 to the NSW ALP.

Monk then goes on:

"She's just a Chinese business woman with whom I am friends and who happens to have good Party connections," was the Fitzgibbon defence. Exactly so; although the nature of the gifts and contributions looks highly suspicious. But such gifts and contributions, such friendships, are the way it works and the target may never know what the game is until deeply into it.

Monk later states:

In any case, Chinese espionage right now is occurring on a scale that dwarfs what the Soviet Union accomplished during the height of the Cold War. This is not something widely appreciated.

Alternatively the CCP could fund supposedly wealthy Chinese to make political donations to politicians to gain their support. American Sinologist David Shambaugh estimates that **China spends roughly \$US10 billion (\$A13.4bn) a year on "external propaganda"**, article by Joseph Nye Jr, Aust., July 13, 2015. To outlay just a few \$100 million of this on an Australian election would have a massive effect and would be a negligible outlay in the context of a \$13 billion overall expenditure if it was to lead to the CCP gaining control of this vast country.

In keeping with this, some of the \$13 billion expenditure could also be used to corrupt public servants to provide benefits to China. Specifically corrupt the officials in the Department of Immigration who are responsible for agreeing on the 'concessions' that are part of the ChAFTA. These 'concessions' will be a term of a private contract between two parties and not on the public record and thus difficult to vet.

"Already Chinese are giving substantial donations to political parties. Electoral commission records show \$850,000 was donated to the Labor Party by the mysterious Zi Chun Wang who hails from the capital of China's Hebei province, Shijiazhuang, and is said to be an Australian-Chinese businessman in the property game", Ben Butler, Aust. Feb 2, 2015. It would be interesting to know the motives of Mr. Zi for making such a large donation. Then in the same article "close to \$200,000 was stumped up by Hong Kong company Rich Global Holdings."

Mr. Fitzgerald also states:

Significantly, China is now aligning trade deals with values and alliances as well. In Howard's time, Australia could profess its values and uphold its traditional alliances while landing big trade deals with China. This will no longer do for Beijing. The shift over the past six years was exposed at the third annual Australia-China Forum in Canberra in December 2013

when the official Chinese delegation insisted that trade and security were inextricably linked in bilateral relations.

There is to my knowledge, no express or implied statement in the ChAFTA meeting this requirement.

Is the CCP forgoing this requirement as it knows that with a build up of Chinese immigrants it will be able to use its surveillance network outlined above to unite the ever increasing Chinese diaspora into a voting block that will give China ever increasing power over our nation that will ultimately lead to China gaining control of Australia?

In keeping with this it is no coincidence that the length of stay under a temporary visa for the various classes of natural Chinese persons in Annex 10-A is for four years, the same time as that required to become an Australian citizen with the right to vote. The only extra requirement would be to seek and be granted permanent residency after having been in Australia for three years.

The 2011 census determined ethnic Chinese make up 4.3% of Australia's population. I believe from anecdotal evidence ethnic Chinese living in this country now, 2015, is more in the region of 6- 9% although only a portion would have voting rights. If the ChAFTA is enacted this percentage will rapidly increase due to the large current Chinese investments and the extra that will flow from the ChAFTA.

It should be noted that there are 1.9 million or 8% of our population here on temporary visas. 457 visas, current students, back packers, current tourists and other legitimate immigrants make up only a minor portion of this figure suggesting there are a large number of illegal immigrants and this may account for the rapid build up of Chinese in Australia.

No doubt one of the first uses of the CCP's power will be to ensure all temporary Chinese residents are given permanent residence and in turn citizenship so as to maximize the Chinese vote.

With the two major parties gaining similar support this voting block could provide victory to the party that was given this support. The CCP could play on this and extract totally unreasonable benefits for China such as even greater Chinese investment and rapid increase in Chinese migration. This in turn would give them greater power so in the following election they could demand even greater benefits until the Chinese became the dominant racial group in Australia and the CCP could move to take control of the country.

Considering the above, how can we possibly enter into a free trade agreement with China which will see ever increasing Chinese investment and immigration of Chinese people and in turn giving the CCP ever increasing control over our country?

It's inconceivable that the previous Abbott Government would not have been aware of these revelations. **Why did Mr. Abbott allowed this situation to**

continue? Was it because he was only interested in issues that would have gained his party extra votes at the next election so he and his Ministers could retain the perks of office?

The security of a nation should not be based on an adverse event probably occurring or that it may possibly occur. The criterion should be that it can never occur. The above scenario is certainly possible and if the CCP genuinely wants to take over our country it will probably occur. Clearly this is untenable. ASIO should step in and recommend to parliament that it is not in Australia's interest to approve this Agreement.

Another security issue is that Chinese companies are allowed to enter into Investment Facilitation Arrangements for telecommunications projects. To allow China and the CCP to be involved in this industry is too big a security risk. As nearly every activity in our nation now relies on telecommunications the whole nation could be brought to a stand still if it failed or was deliberately sabotaged.

It has been suggested that if Chinese companies supplied the routers and other equipment they could place a chip in them that when the chip receives a certain signal it will corrupt all the data being transmitted. Our whole nation would then instantaneously grind to a halt. If the CCP has control of this network it would be too easy for them to intercept traffic and engage in espionage. Considering the previous revelation regarding the CCP it is too big a risk to have Chinese companies being involved in this activity. **However such action will probably be barred by Article 8.19 of the ChAFTA**

To a lesser extent Chinese companies should also be barred from any involvement in electricity generation and distribution as it is too vital and Chinese companies are too closely connected to the CCP.

These concerns have been magnified by the election of Malcolm Turnbull as Prime Minister. Christopher Joye writing in the Aust Financial Review, Sept 15, 2015 states:
“Malcolm has had a healthy skepticism for the intelligence community.

This is reciprocated in spades with Australian and US spooks insinuating Malcolm is soft on national security and the China threat while noting his Sinophile son is married to the daughter of former senior Chinese Communist Party officials.”

Also his commitment to defence has been questioned by Greg Sheriden, Aust, Sept. 24 & Sept. 26-27, 2015 in two scathing articles suggesting Turnbull is not going to take defence seriously and he made a major blunder replacing Kevin Andrews with Marise Payne as defence Minister.

CCP Activities in Australia in the future

I predict the CCP will wait 5-10 years to allow a build up of Chinese especially those with the right to vote then they will exert their influence as outlined above.

Then in about 30 years, the Chinese influence will have increased to such an extent they will be in a position to move to take full control of Australia over the following 15 years at which time the CCP will move to totally transform Australia.

The CCP will not be looking on Australia having an ultimate population of just 40 or 50 million but 300 million. If you doubt that, consider the following facts.

There is roughly 25,000 km of coast line around Australia. It should not be difficult to site 100 new cities around this coast line. If each had three million there is 300 million. Also a third of inland Australia is reasonably habitable. You might ask why large cities would be established there. Simply because of sunshine and warm weather, the same reason Phoenix, Arizona is one of the fastest growing cities in the USA.

But where would you get the water for these cities? Firstly the consumption of water for domestic and most industries with the exception of agriculture is relatively small and this could be reduced further if sewerage was treated and recycled. The technology exists today to do this. Secondly the vast amounts of water that flow out to sea in the tropics could be conveyed down south. The economics of achieving this with a large population would be more favourable than with our current population. Thirdly the fall back would be desalination. Not the absurdly expensive plants that have been built in Australia but the low cost plants built in Israel and Singapore where the capital costs per litre of water produced were just 10% of Australian costs. Furthermore the technology is rapidly advancing such that in 25 years it is likely to be substantially less.

What about food for this vast population? Food is rapidly becoming a world wide traded commodity that could be supplied anywhere. If there are 300 million Chinese living in Australia there is likely to be 300 million less in China so there is no net increase. Also technology is likely to bring about a substantial increase in production in the coming decades.

Why would China want to populate Australia with such a large population? It could be to reduce the overcrowding in China or because China wants to dominate the world in the coming decades and an extra 300 million Chinese living here would increase its overall power.

The final issue would be employment. The crux of this will be the exchange rate of the Australian dollar and in turn how competitive the nation is. However it would have some advantages. It would be close to the future centre of world activity that is East Asia, it would have a large domestic market and near ideal living conditions that should aid morale and in turn productivity.

While the construction of so many cities is beyond the comprehension of Australians, it is a regular activity for the Chinese. Having established the cities the CCP could arrange for one Airbus A380 flight a day to 25 destinations around Australia that would provide five million immigrants per annum. If the program was conducted for 30 years that would be 150 million and if the immigrants are newly weds ready to establish a family with each family having two children would lift the Chinese population to the 300 million.

I envisage a transition stage occurring with the CCP being allowed to build cities along the sparsely populated coast line and have Chinese immigrants fill them leaving the established areas for current Australians and their heirs.

Is there a need for the ChAFTA?

It is stated we have to have this agreement because of the bleak prospects for the country without it. This is a half truth and the ChAFTA will provide no benefit.

The real cause of our bleak prospect is that the Australian dollar has been absurdly over valued and decimated our manufacturing and agricultural industries. If we made it a requirement that the nation had to balance its current account as all nations for centuries in the past had to, we would have an exchange rate around \$A1= 55-60 US cents and permanently maintained at this level. Then there would be more exports less imports and greatly reduced unemployment and a rosy future albeit with a lower material standard of living. Why balance the current account? Because it is the closest measurement that a country has to a business profit and loss statement and if balanced a nation can exist indefinitely with no other financial change. This scenario could be easily adopted by the government giving the Reserve Bank power to control the exchange rate so the current account was balanced.

Secondly the Abbott government wanted Chinese investment as it provided an immediate increase in activity and would buoy up its chances of being reelected at the next elections. As outlined in this critique, these investments are undermining the security of our nation. These investments are not essential, if we all spent less and saved more we could generate the capital needed.

It remains to be seen if the Turnbull government will adopt the same policies.

However none of these problems justify giving away our country

China is not a full market economy

The rot set in back in 2005 when the government entered into a Memorandum of Understanding on the Recognition of China's Full Market Economy Status with China. There have been numerous examples of Chinese government intervention since then. Some examples are set out in the section on Supply of Goods, page 24 & 25 in this critique and the CFMEU's submission to the Inquiry on pages 39 & 50. The effect of all of these is against our national interest and the ChAFTA will inhibit any chance of changing them.

Analysis of the ChAFTA

There are many flaws in this Agreement that could have catastrophic affects.

Negotiating the ChAFTA

The Productivity Commission's Review 2013-14 had this to say:

“The complexity of bilateral and regional trade agreements and the potential for provisions to impose net costs on the community presents a compelling case for the negotiated text of an agreement to be comprehensively analysed before signing.

However, current processes fail to adequately assess the impacts of prospective agreements. They do not systematically quantify the costs and benefits of agreement provisions, fail to consider the opportunity costs of pursuing preferential arrangements compared to unilateral reform, ignore the extent to which agreements actually liberalise existing markets and are silent on the need for post-agreement evaluations of actual impacts”.

To not quantify the value of an agreement is an appalling failing and shows that Robb and the negotiating team are just rank amateurs. It also raises the alarming conclusion that to Robb the primary benefit is not the economic gain and lends weight to the belief that the most important feature to him is that the signing of the agreement is likely to result in the government gaining more votes at the next election.

In keeping with this, the National Interest Analysis prepared by DFAT fails to quantify the benefits of the Agreement. The only calculation in this document is the value of the tariff revenue that will be lost. The rest of the document is just a compellation of known general facts. It should have contained facts specific to the Agreement along with calculations that quantifies the value of the Agreement. This would be similar to the analysis the Productivity Commission has suggested. This analysis is imperative as the Productivity commission points out ‘the devil is in the detail’.

Immigration of Chinese workers and Labour market testing

Movement of Natural Persons

The general movement of natural persons is governed by article 10.4.3 namely:

In respect of the specific commitments on temporary entry in this Chapter, unless otherwise specified in Annex 10-A, neither Party shall:

- (a) impose or maintain any limitations on the total number of visas to be granted to natural persons of the other Party; or
- (b) require labour market testing, economic needs testing or other procedures of similar effect as a condition for temporary entry.

Some have taken this to show no labour market testing is required. However that phrase is preceded by the phrase ‘unless otherwise specified in Annex 10-A’.

Clause 1 of Annex 10-A states in part:

Grant of temporary entry in accordance with this Annex is contingent on meeting eligibility requirements contained within Australia's migration law and regulations.

This Immigration Act and Regulations is voluminous and is beyond the scope of this critique to assess. The interpretation is probably open to challenge. Also some requirements can be just departmental policy.

However this interpretation has been made considerably easier by Free Trade Agreement being exempt from labour market testing. Evidence of this is contained in the comprehensive document entitled 'Temporary Work (Skilled) (subclass 457) visa'. On page 25 under the heading 'International trade obligations' it states:

LMT (labour market testing) will not need to occur where it would conflict with Australia's international trade obligations, in any of the following circumstances:

The worker you nominate is a citizen/national of Japan or Thailand, or is a citizen/national/permanent resident of Chile, Korea or New Zealand.

That is countries we have FTAs with. This exception does not state what skill level applies other than a 457 visa is a skill visa.

Mr. David Wilden, First Assistant Secretary, Immigration and Citizenship Policy Division, Dept. of Immigration and Border Protection when giving evidence before The Treaties Committee on September 7, 2015, stated "you are not talking about cleaners as they do not qualify under the 457 because they are not considered skilled positions. They have to be ANZSCO level 3 or above."

Ms. Jan Adams, Deputy Secretary, Dept. of Foreign Affairs and Trade, reinforced this contention when she gave evidence to the Committee stating:

"What I am trying to say is that making this commitment to China, our largest trading partner and the largest importer of services—Australia's largest services export market—is the same kind of treatment that we give to all of our trading partners in trade agreements and, in a slightly different format, under the WTO. The idea that we would not have made a standard commitment to our largest trading partner, our largest goods export market and our largest services market is a fairly difficult proposition".

Mr. Wilden's assertion that ANZSCO level 3 or above is required appears to be a policy and not legislated. This leaves a possible grey area of level 4 skills or semi-skilled workers such as concreters, scaffolders and other building workers who may be allowable under FTAs.

Also not defining the skill level in the ChAFTA leaves the door open for a more liberal interpretation of 'skills'.

Further evidence of this lack of LMT is Robb's refusal to clearly include LMT in the ChAFTA which could, according to Peter Martin, Fairfax Media, Sept 15, 2015, be achieved by modifying s140GBA of the Migration Act.

This waiver to 457 visa requirements appears to be only for LMT, they probably still need the required English skills. This access should not be just for Chinese coming in under article 10.4(3), it should also be applicable to workers coming in under Investment Facilitation Arrangements (IFA)

As Chinese workers will be earning five times more pay than they were in China they will be prepared to 'work their butts off' just as any Australian worker would if offered five times more pay. Also Chinese workers are more likely to cut corners over health, safety and environmental issues as this is the norm in China. The result is few Australian workers will be employed in preference to Chinese workers.

Also what is stopping Chinese companies operating in Australia requiring employees to be proficient in Mandarin because some if not most of the communications are to be conducted in Mandarin? This would rule out nearly every Australian worker.

Clause 14 of Annex 10-A of the Agreement allows the spouses of Chinese workers brought in under the Agreement an unfettered right to work in Australia. These spouses could double the number of Chinese workers that gain employment under the ChAFTA.

Investment Facilitation Arrangements (IFA)

IFAs are designed to emulate the existing Enterprise Migration Agreements (EMAs). However EMAs were for \$2000 million plus projects employing in excess of 1500 workers in remote areas where mining and energy projects were being built and it would be difficult to get the workers needed. The CMFEU also noted it was also a one-off mechanism to deal with the peak of a 'once in a century' resources construction boom that has now passed.

To suggest that a project of just \$150 million in a city, the likely location, needed such dispensation is farcical and it appears to be purely a mechanism for Chinese companies to bring in a Chinese workforce.

ACTU President, Ged Kearney, raised the issue of lack of labour market testing for Investment Facilitation Arrangements (IFA). A FactCheck by Joanna Howe, senior Lecturer in Law at the University of Adelaide, *The Conversation*, June 22, 2015 confirmed that Investment Facilitation Arrangements (IFA) for major projects in eight of the most significant industries does not require labour market testing and Stuart Rosewarne, Associate Professor, Dept of Political Economy, Uni. Sydney, in the same article agreed with this contention.

Ms. Lowe also confirmed with IFAs, 'concessions' relative to 457 visa requirements can be negotiated that allow for reduced levels of skills, reduced English language ability and remuneration lower than the minimum income threshold currently set at \$53,000.

The Memorandum of Understanding (MOU) on IFAs is more ambiguous than the above assertions regarding labour market testing.

Clause 6 of the Memorandum states "The IFA will set out guaranteed occupations and the terms and conditions against which overseas workers can be nominated for a temporary skilled visa for the purposes of the eligible project. The IFA will also record any requirement and conditions that the project company must comply with. **There will be no requirement for labour market testing to enter into an IFA**, (my emphasis)."

But then in clause 8, Issue of Visas under IFAs it states, “A labour agreement will be entered into in a timely manner and will set out the number, occupation and terms and condition under which temporary skilled workers can be nominated, **consistent with the terms of the IFA** (my emphasis), and the sponsorship obligations associated with the labour agreement, **including any requirements for labour market testing**, (my emphasis).” How could there be any when the terms of the IFA states there will be no requirements for labour market testing?

There is clearly a conflict here and it is **extremely sloppy wording for such a controversial issue**. I wonder if the government wasn't deliberately trying to cloud the situation so it could make out there will be labour market testing when in fact there will be none.

There is a further flaw in clause 6 in that how can a project company justify seeking concessions when there has been no labour market testing to determine if concessions are justified?

The ACTU in their submission to the Inquiry is more specific stating:

“This means an IFA can be negotiated and entered into with no absolutely no evidence required as to the state of the Australian labour market or consideration of local unemployment levels, and no assessment of whether in fact Australian could fill positions under the project. At the same time, the IFA can approve the inclusion of overseas workers in lower skills level occupations and with lower English language levels than would be allowed under the standard 457 visa program, and can waive the current minimum wage floor for the program.”

However Bob Kinnaird in his article entitled ‘More government dishonesty on China FTA’, Johnmenadue.com states:

“It now seems that the total number of concessional 457 visas approved for an IFA project will be determined based on consultants reports and similar speculative data as to projected future ‘shortages’ of Australian workers in up to 4 years time, provided to the Immigration Department (DIBP) by the project owner.”

Kinnaird later goes on to state:

The Coalition government will not admit that these IFA arrangements are unprecedented. Australia has never before in an FTA package deal permitted concessional 457 visas for even skilled workers, let alone for semi-skilled workers (like concreters, scaffolders, truck drivers, even office workers). It is also unprecedented for any Australian government to allow foreign companies access to concessional 457 visa workers under labour agreements. Until the China FTA package, only Australian businesses could access these concessional 457 visa workers because these arrangements are too high risk for abuse and exploitation.

The CFMEU in their submission p30 express similar concerns. They then go onto maintain IFAs are against departmental advice. Evidence of this was in a paper by David Wilton who said categorically:

Australia does not enter into commitments regarding labour mobility and lower skilled workers in free trade agreements. To do so would dramatically change the nature of Australia's migration programmes and leave Australia vulnerable to requests for the same access from other trading partners on the basis of the Most Favoured National (sic) Principle.

The government requirements for IFA and visa requirements are set out in a comprehensive document entitled Project Agreements Information for employers – requesting a project labour agreement May 2015.

The ACTU is suspicious of these guidelines as they first became aware of them on the 22 July 2015 and DFAT's "myth-busting" Fact Sheet released in mid-July made no mention of the guidelines.

The ACTU later states:

A key concern we have is that the MOU itself makes no reference at all to the project agreement guidelines. If the Government's commitment, or claim, that labour market testing will apply to IFA labour agreements was so rock solid, it begs the question as to why the MOU does not expressly state that. This could be a simple provision in the MOU along the lines of "...Labour market testing will be required for individual labour agreements under IFAs, in accordance with the provisions of the Australian Government project agreement guidelines."

The fact the MOU has no such guarantee in it means that unions and the community at large are left to accept the word of the government that labour market testing will apply, rather than having a mandatory, enforceable legal provision for labour market testing under the terms of CHAFTA.

Further on in the ACTU submission it states:

Any labour market testing that does apply to IFA labour agreements will also fall short of the legislated standard for labour market testing under the Migration Act. For example, the project agreement guidelines, if they are to apply to labour agreements under IFAs, only refer to evidence of recruitment efforts that must be provided at the time of entering into a project labour agreement. As Bob Kinnaird has pointed out:

"This is a much lower standard than the legislated 457 LMT obligation where sponsors must prove to DIBP that no suitably qualified Australian is available to do the job, at the time of each 457 visa nomination (our emphasis added)".

Kinnaird also picks up on the practical issues and considerations that would arise once an IFA is in place.

"The Minister's attempt to assure that these 'guidelines' offer adequate protection for Australian workers also conveniently ignores the fact that these applications for concessional 457 visa workers by individual IFA project employers will be made in a context where the project owner has already secured approval for large numbers in the umbrella IFA agreement. This places undue pressure on DIBP officers to

approve 457 visa applications from individual IFA employers, especially operating in a high-profile 457 visa program area with no legislative framework and far too much room for Ministerial and political intervention.”

Even more alarming is the CFMEU’s contention that LMT for these concessional 457 applicants is a sham in that they state:

The MOU on IFAs deals only with special arrangements allowing concessional 457 visa workers on IFA projects.

What the Coalition Ministers call the ‘labour market testing’ requirement for direct employers seeking concessional 457 visa workers on IFA projects is a sham LMT or a ‘Clayton’s’ LMT.

The reasons are firstly that direct employers on IFA labour agreements are not subject to the legislated LMT condition under the Migration Act 1958. Migration regulation 2.72AA prescribes the classes of 457 sponsors subject to the 457 LMT condition, and sponsors of concessional 457 visa workers under a labour agreement are not prescribed, only sponsors in the non-concessional 457 visa program.

Secondly with delays up to 20 months between advertising a position and actually hiring is also a sham as how many Australian workers would want to wait around for nearly two years before they were employed.

As noted above Kinnaird stated it is unprecedented for any Australian government to allow foreign companies access to concessional 457 visa workers under labour agreements. But this is to be combined with sham LMT.

The above applies to concessional visa applications as skilled workers complying with ANZSCO level 3 should automatically be excluded from LMT because of the exception given to FTAs.

Then Peter Martin, Fairfax Media, Sept 8, 2015, states “the Department of Immigration is keen to outline the labour market testing it requires. Except that it doesn’t have to require it. The requirement aren’t enshrine in law. A department spokesman conceded to ABC Fact Check that “in unique and exceptional circumstances” the requirement could be waived..... (This is clearly contrary to Mr. Wilden’s evidence to the Treaty committee). It would take just a simple amendment to section 140 GBA (of the Immigration Act) to require it absolutely without even the possibility of an exemption.”

While this amendment could be made the government refuses to consider it no doubt because it is not in keeping with policy for labour hire under a FTA.

The Migration Council Australia maintain the occupations covered by IFAs are limited to skill level 1-4 occupations, level 4 being semi-skilled workers. They also claim many labour agreements allow level 4 occupations.

Accepting labour market testing is not required for skilled workers it may still be applicable to semi-skilled workers. However Bob Kinnaird and Bob Birrell, Age Sept

4, 2015 note “the testing needed to access these visas is not rigorous, because it will allow employers to hire Chinese semi- skilled 457 workers up to 20 months after they stop advertising the jobs.” The CFMEU’s submission, p33, makes a similar claim

The Migration Council Australia in their submission to the Treaty Committee had this to say about labour market testing, “labour market testing was abolished in 2001 (and partly reintroduced in 2013). This allowed a determination that such the (sic) regulation was ineffective at meeting its intended goal. Malicious employers could easily sidestep such regulation while the majority of employers who acted in good faith were burdened with administration proving the job advertisement requirement”.

The CFMEU’s submission to the Senate Inquiry, on pages 30-36 set out a number of other weaknesses with IFAs.

In keeping with these statements is the following from the ETU’s submission:

“In 2013-214 there were 35285 active 457 visa sponsors. Of these 2223 (6.3%) were monitored and only 1278 (3.62%) were actually visited. Of those that were monitored 717 (32.25%) were found to be in breach of their sponsorship obligations.”

Also in keeping with this the ETU states:

“there will be little or no policing or enforcement of licencing checks by either level of government because they don’t have the time or resources. It doesn’t happen now, and it will just get worse under these arrangements.

Overall there can be no confidence or solace taken in the Government’s responses to the very real issues raised by the removal of mandatory skills assessment. Put simply, the arrangements under ChAFTA will destroy electrical trades in Australia.”

The ETU also cites a case study that of ABC Tissues:

“In 2006 a \$60 million construction project supported by the federal and NSW governments employed foreign workers on temporary work visas was closed after it received 39 safety infringement notices.

Approximately fifty workers documents revealed they did not meet basic criteria for eligibility for their 457 visas at the site in Wetherill Park, Sydney, where ABC Tissues is building a tissue-paper mill and plant.

At the ABC Tissues site there were forklift drivers and electricians without appropriate licences. The site was closed by ABC Tissues after inquiries by WorkCover. It transpired they were being paid in China, in breach of the visa conditions, by a Chinese Government-owned company acting as labour hirers.

Australian workers on the site said none of the Chinese workers could speak English, read safety signs or follow emergency procedures. Many had to be trained to perform basic tasks. One Australian tradesman said he was stunned to see one of the guest workers make a non-compliant Chinese power tool fit a socket by stripping the cord and inserting naked wires straight into the plug.”

That the Chinese Government would act in this manner and supply such workers is evidence of the contempt it has for Australian laws.

With non-compliance like this how can one have confidence the authorities will carry out their functions diligently?

On this basis what confidence would one have in the government fairly regulating the ChAFTA?

Then there is the possibility that Chinese companies and the Chinese government will use part of its \$13 billion per annum 'external propaganda' budget to corrupt government officials and politicians in order to get favourable treatment. If the CCP's real intent is to gain control of Australia they will have no hesitation in engaging in this conduct.

There is so much uncertainty in the foregoing assessment that it is wide open for astute Chinese to exploit.

I take issue with others that other avenues such as article 10.4(3) allows concessions for Chinese workers. Except for the possible grey zone that may allow ANZSCO level 4 unskilled workers or those with reduced English skills in under the general rights pertaining to FTAs no other worker concessions exist except through IFAs under the ChAFTA. These statements exclude any rights that may exist under Chapter 8, Trade in Services

Robb's deception on labour market testing

The ACTU's submission noted two examples namely:

On August 3, 2015 appearing on Sky News, transcript

David Speers (Interviewer): Let me just go to the section they're worried about; article 10.4

Andrew Robb: Well one of these provisions which applies in every Free Trade Agreement – signed by Labor or ourselves – is where senior business executives are able to come in without the need for market testing. That is an obvious provision; if you've got senior executives in the company that need to come in and help establish the project, then it's not a question of workers, it's a question of the management of the company being able to come and get full access. If they're putting in tens of billions of dollars, they should be able to have some of their management in there to conduct affairs.

David Speers: So that only applies to management, not to labour.

Andrew Robb: There's only one provision; where they have got technical expertise which relates to the purchase of a major piece of equipment – a multi-million dollar piece of equipment – they can come in on a particular visa which is only short-term and it only applies to the fact that it's a piece of equipment that requires expertise to either install it or maintain it in the short-

term. But it's quite explicit in the agreement that those people cannot stay for long, they're only in there to help put in place a major piece of machinery.

We have got now, not assembly type manufacturing, we are at the high-end of manufacturing and often you do find equipment and machinery which is multi-million dollar, highly technical and is quite specific to a company that designed it and has manufactured it. **So that is the only exception**, (my emphasis) and it's a sensible one and it's one that again, if there's no one in Australia that has those skills and is not involved with the company, they could not meet that need in the short-term.

That's a blatant lie. As outlined previously all skilled persons, that is ANZSCO level 1-3, are exempt from labour market testing.

Then Robb was interviewed by Leon Byner, Radio 5AA, August 24, 2015

The clause he (Kelvin Thompson) chose and quoted all sorts of numbers, about no labour market testing being required for individuals applying for temporary work entry, that again is in every trade agreement. In fact, it's a WTO – the World Trade Organisation – commitment and **it's for business executives, it's for senior managers in major companies, it's independent executives, it's not skilled workers, it's the management team of companies** (my emphases).

Again another blatant lie. All skilled persons, that is ANZSCO level 1 – 3, are exempt from labour market testing.

Similar deceptions were made by Robb in interviews with:

Leon Byner on 24 August 2015

Marius Benson on 3 September 2015

Kieran Gilbert on 7 September 2015

Andrew Bolt & Steve Price on 9 September 2015

Then on 7 July 2015, Minister Robb in a press statement claimed that:

“Under ChAFTA, a Chinese company investing more than \$150 million in specific types of Australian infrastructure projects **MUST USE AUSTRALIAN WORKERS** (his emphasis), unless it can prove there are no qualified Australians to do the job.”

There is no such requirement for managerial, professional or skilled workers that is ANZSCO level 1 – 3 as they are exempt from market testing under the general provisions pertaining to FTAs.

Then on or about September 14, 2015 he put out a press release claiming the ChAFTA plus the Japanese and Korean ones will create an extra 178,000 jobs when the modeling shows it will average only an extra 9000 during the 20 years of the modeling. **Another blatant lie by Robb.**

Former Prime Minister Tony Abbott's deception on labour market testing

On the above information the former Prime Minister, Tony Abbott, was being less than honest when he states “the guarantees Mr. Shorten sought were “already absolutely explicit in policy” “nothing changes to our labour –market laws under the agreement—nothing changes”, Aust., Sept 4, 2015. There will be no labour market testing for skilled Chinese workers under the ChAFTA when there was in the past.

He almost certainly deliberately misled parliament and in turn the public on Sept 8, 2015 when he said “It is absolutely critical to note that there is absolutely no possibility of placing any foreigner in an Australian job without labour market testing.”

Limitation on the total number of Chinese immigrants

As noted before article 10.4.3 states in part:

neither Party shall:

- (a) impose or maintain any **limitations on the total number of visas** to be granted to natural persons of the other Party; or
- (b) require labour market testing, **economic needs testing** or other procedures of similar effect as a condition for temporary entry.

As with labour market testing the relevant legislation, regulations and policy may temper this Article. Also whether the rights under FTAs has application is problematical as, to my knowledge, no such limitation exists in other FTAs as it is not such a potential problem in other FTAs

The highlighted phrases may appear innocuous but they could have far reaching effects in the longer term.

We have seen a rapid build up of Chinese investment in recent years and there is no reason to expect this trend will abate and we could have ever increasing amounts in future years. As Chinese policy is to employ Chinese for their activities so we may in turn see ever increasing numbers of Chinese immigrants to an extent that it could totally destabilize our nation. With the above clauses we could have no way in future years of preventing this from happening.

Few if any of Robb and the negotiating team, the submitters, journalists or others other than the CFMEU have picked up on this issue. In the CFMEU's submission they state:

No ‘any economic needs test or other procedures of similar effect’

The Australian commitment (Chapter 10) not to apply ‘labour market testing, economic needs testing or other procedures of similar effect’ to China FTA workers applies to all categories described above, that is ‘contractual service suppliers’, ‘intra-corporate transferees’ of China in the non-concessional 457 visa program, and Chinese ‘installers and servicers’ in the 400 visa.

The term ‘economic needs testing’ is not defined in the ChAFTA, but

Chapter 8 'Trade In Services' provides some indication of the regulatory measures which will no longer be available to Australia under the FTA, in relation to China FTA workers and the 457 and 400 visas. These include the 'Market access' provisions (Article 8.6) which prohibit numerical quotas on visa grants to China FTA workers and:

'limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test'. (8.6(d))

The Australian commitment not to apply 'other procedures of similar effect' to LMT and economic needs testing is unprecedented in an FTA. What this actually means, in terms of limiting the ability of future Australian governments and Parliaments to make laws or policies relating to the 457 and 400 visas affecting China FTA workers, is not clear. The DFAT National Interest Analysis has nothing to say at all on this matter.

Likely number of Chinese workers coming to Australia

There are a number of reasons why Chinese workers need to be considered differently to others.

Firstly, for there to be a large influx of Chinese workers there needs to be Chinese businesses set up in Australia to employ them. There is every indication there will be and certainly many times more than Japanese and Korean companies. Secondly wages are much lower in China with average wage being only 20% of the equivalent Australian wage where as Japanese and Korean are more comparable with ours.

This wage differential coupled with China's vast population will mean literally millions of Chinese will want to come and work in Australia. Then there are the 400 million Chinese that John Lee's claims only earn \$2 per day. No doubt some of these could be trained to be semi-skilled workers and would be desperate to come and work in Australia. With the relatively ineffective labour market testing for semi skilled workers many will probably be able to do so.

This build up is not going to occur instantaneously but more likely over 5-10 or more years. If the build up of Chinese investments continues its exponential trend we could see literally hundreds of thousands of Chinese immigrating to Australia each year. Under the terms of the ChAFTA we will be powerless to prevent it.

With Chinese workers earning five times more pay than what they earned in China they will be prepared to 'work their butts off' just as any Australian worker would if offered five times more pay. The Chinese workers will no doubt also be prepared to cut corners on health, safety and environmental issues. These features will lower the cost of Chinese companies operating in Australia such that they will prosper while law abiding Australian ones will wilt and over time will go out of business with a resultant further loss of employment for Australian workers.

Removal of mandatory skills assessments

The CFMEU's submission to the Senate Inquiry pp21-25 outlines in detail the problems that occur without skills assessment. The most significant of these comments are:

“Mandatory skills assessments were introduced for three main reasons of 457 program integrity: to prevent exploitation by employers nominating Chinese and other workers for skilled 457 visas in trade occupations but working them as semi-skilled or unskilled workers, and concerns about the trade training standards and the extent of qualifications and document fraud in these countries.

Before mandatory skills assessments for Chinese and other high-risk countries, it was commonplace for employers to nominate Chinese workers for 457 visas in the trades (including construction) when the workers were unqualified and were put to work in lower-skilled jobs including as unskilled labourers. In fact even some Chinese workers granted 457 visas as professional engineers were found to be working as labourers on Australian construction sites.

The introduction of a minimum (though still relatively low) English language skills requirement for 457 visa grants (‘vocational English or IELTS 5) was important in reducing these grants to Chinese nationals.

But DIBP's own judgement was that the introduction of mandatory skills assessment for Chinese applicants in the trades was a major contributor to the reduction in visa grants in trade occupations”

The introduction of mandatory skills assessments (combined with other 457 reforms) caused grants to fall by 80% for Chinese 457 trade applications.

Remuneration

If Chinese workers are to be paid Australian wages Chinese workers would be earning at least five times more than they were back in China.

Their employer could expect them to not just do a fair day's work but ‘work their butts off’ just as any Australian worker would if offered five times more pay. They could also possibly be paid award rates which are in most cases less than market rates. Also what is stopping Chinese companies from employing Chinese workers as salaried employees who notionally work a 35 hour week but because they are earning five times more pay will be happy to work a 50 hour week or possibly six days and 60 hours per week.

Also what is stopping Chinese companies engaging in shady deals such as a supposed job recruiting business in China charging a massive procurement fee to arrange an Australian job, say \$50,000, which has to be paid when the Chinese worker returns to China with the fee then being passed back to the Chinese company operating in Australia? If the Chinese worker is paid \$100,000 in keeping with Australian awards he will only cost his employer \$50,000. The Chinese worker would still get 2.5 times more than he was earning in China so he could go along with this scam.

A like situation is currently occurring with 7-11 convenience stores offering to sponsor a visa holder for a \$25,000 to \$70,000 fee, Age, Sept 24, 2015

Another like example was alluded to before at the ABC Tissues construction site in Wetherill Park, Sydney where Chinese workers were being paid in China no doubt at Chinese rates of pay by a Chinese Government-owned company acting as labour hirers. This is in breach of the visa conditions.

That the Chinese Government would act in this manner is evidence of the contempt it has for Australian laws.

The above assumes that workers from the more affluent areas of China are engaged. If they were to come from the 33% of Chinese who John Lee maintains currently earn only \$2 per day there could be far greater exploitation of these workers.

Considering the above, Chinese companies will do every thing in their power to employ Chinese workers. The combination of these factors would give Chinese controlled companies a big cost saving over Australian companies and would over time put Australian companies out of business. This would result in an ever increasing Chinese workforce and an ever decreasing Australian one.

Supply of goods

The only real benefit of the Agreement is for Australia to supply goods that China cannot produce. This is basically just minerals and energy; principally iron ore, coal and natural gas and high quality agricultural products plus services such as tourism and education. The other supposed benefits are largely illusionary.

Even the benefit of supplying these goods has its risks.

Firstly no concessions were given to wheat, rice or sugar, three of our major products. Then there is the ominous statement that China intends to become self sufficient in beef, pork, poultry wheat and rice by 2025, John Lee, Nov19, 2014. On this basis any short term benefits gained under the ChAFTA will slowly diminish to nothing in 10 years time for these products.

“Then there are the post-agreement obstacles. China’s record of sticking to deals is inconsistent. ... Yet we have many examples of what happens when importers gain a strong foothold in industries considered important to Beijing. In 2003 it banned American beef (largely at the request of domestic beef producers) after Chinese authorities discovered the existence of mad cow disease in just one animal and has yet to relax the ban even now. This is part of a well-practiced strategy that China has followed with many trade partners, including some with whom it has signed FTAs.”
John Lee, Aust, Nov19, 2014.

“Agreements tend to emphasise reducing or eliminating tariffs as has been done with this FTA. Having done so, Beijing has frequently resorted to using ad hoc regulatory or legal hurdles to restrict the import of goods and services, as well as weaken the market position of foreign firms,” again John Lee, Aust., Nov 19, 2014.

“It is no coincidence that licensing requirements become more onerous after FTAs have been signed to “regulate” foreign entry and access even after tariffs have been eliminated”, again John Lee, Aust., Nov 19, 2014.

Then there is the “very cumbersome requirement”, with exports to China requiring an origin ruling issued by Chinese Customs, Rowan Callick, Aust, June 19, 2015. Chinese Customs for what ever reason could unduly delay making a decision and markedly affect this trade. This would be especially so for food which has a finite shelf life.

Obvious areas for dispute are the origin of goods and the nationality of service providers. Listed rules of origin for goods vary between 1000 and 5000 for eight trade agreements we have. (For Singapore there is just one.) Costs associated with origin requirements could be as high as 25% of the value of goods trade within ASEAN, PC Review.

With China responsible for determining the origin there is ample scope, if the ChAFTA has a similar number of rules and if China acts in bad faith, as suggested by John Lee above, it could cause totally unacceptable delays and kill off sections of our export trade to China. A similar situation could delay the establishment of services.

Finally a “most favoured nation” clause that would guarantee Australian an equal footing with countries concluding future free-trade agreements with China was excluded for our goods exported to China, Rowan Callick, June 19, 2015.

If this was the intent of China and not an oversight it suggests China may be planning on giving other nations more favourable treatment especially if they will allow China to buy up large tracks of land and employ their own workers at China’s rates of pay. Such competition could decimate our rural exports to China. Supporting this is “the central government has ordered \$3 trillion be spent securing food and farmland overseas.” Sunday Night, July 5, 2015

Supply of services in China

Arguably no service activity or anything else can be established in China under the ChAFTA as clauses 2 & 4 of Article 9.3 of the Agreement do not allow for the establishment or acquisition of any investment in China. The definition of investment is very wide and includes property leases. If Australian companies setting up in China cannot buy or lease premises where do they have their offices and carry on their operation? May be Mr. Robb expects it to be in the clouds!! **This effectively precludes the establishment of any new business activity in China under the ChAFTA.**

It does however allow for expansion of an investment but the footnote on page 86 of the Agreement states “For greater certainty, the concept of ‘expansion’ in Article 3 means the expansion of an existing investment and does not include the establishment or acquisition of a new, separate investment.” Thus if Australian companies do not now have an investment in China they cannot expand it.

This limitation is not withstanding that in the same clauses China agrees that Australian investors will be treated no less favourably than it accords its own investors which have no such limitation. Also the same limitations do not apply to Chinese organizations setting up in Australia.

Putting aside the above impediment, to establish services or any other activity in China will in the long term be unviable as China, with its still absurdly low cost structure and highly efficient and disciplined workforce, will always out-compete Australian companies. This situation is unlikely to change for the next 30 years or more.

Sure Australian companies using the unique know how they have could gain a footing in China. However history shows that the Chinese will embrace this know how and with their much lower cost structure put Australian companies out of business. If you doubt this, just look at Caterpillar. They became the major supplier of excavators in China until a Chinese company produced an almost identical excavator at a much lower cost and Caterpillar lost its dominant position.

A much more significant example occurred when the Chinese government took in experts from around the world with the know how for very fast trains as joint venture partners. By doing this they gained all the technology to design and build these networks and now they are marketing this expertise solely without their previous joint venture partners, Peter Cai, Aust, Oct. 3-4, 2015

Another factor is that every company and every country wants access to the giant Chinese market and it is likely to become highly competitive with low profitability. While Australian companies may have an initial advantage it is only a matter of time before other countries gain the same access Australia is being offered.

No analysis of chapter 8, Trade in Services, has been undertaken. That is up to others to do.

Investments

As noted above Australian companies or investors cannot establish or acquire investments in China but Chinese companies and investors in Australia are allowed to establish and acquire as well as expand investments here. This is unjust.

Chinese investors are to be limited to purchasing a maximum of \$15 million of agricultural properties. What is stopping the CCP lending each of its 89 million members \$15 million each with the specific agreement they will then buy their \$15 million dollar quota with the purchaser agreeing to lease the land back to the CCP indefinitely for a pepper corn rental. The CCP could then effectively buy up all our agricultural land under the Agreement.

The Agreement allows for almost unlimited investment in Australia by Chinese companies eventually giving the CCP greater power over our nation.

Wording of the ChAFTA

The wording of a document as important as a major free trade agreement that will be in force for ever needs to be flawless. If it's not there could be endless disputes about its interpretation and unforeseen losses. It also indicates careless negotiating and preparation. Just a cursory appraisal has uncovered the following:

- (a) As noted in the services sections no services can be established in China under the ChAFTA because Australian business cannot buy or rent property.
- (b) The conflicting requirements for labour market testing for IFAs as noted in the labour market testing section above,
- (c) a "most favoured nation" clause that would guarantee Australian an equal footing with countries concluding future free-trade agreements with China was excluded for our goods exported to China. This would seem to be a reasonable inclusion with little sacrifice for China and would appear to be an oversight of our negotiators.
- (d) Clauses 2 & 4 of Article 9.3 of the Agreement do not allow for the establishment or acquisition of any investment in China. This limitation is not withstanding that in the same clauses China agrees that Australian investors will be treated no less favourably than it accords its own investors which have no such limitation.
- (e) Under clause 1 of Annex 10-A it states Australia requires a natural person.... to obtain appropriate immigration formalities. To obtain appropriate immigration formalities is a nonsense. What was probably meant is to comply with appropriate immigration formalities.
- (f) What other flaws exist?

Chinese lawlessness

There are a number of disturbing statements about Chinese not complying with the law which is hardly surprising when the CCP doesn't believe in the rule of law.

Submission 74 to the Senate Inquiry states:

"I worked 20 years for a Chinese company with manufacturing plants in China, Hong Kong, New Zealand and Australia NSW QLD. One important fact experienced was the total disregard of Government laws and regulations.

The 457 Visa requirements were disregarded, the poor workers were forced to work 7 day 12 hour shifts nominal pay. The company was named in parliament when John Howard was in office. Apart from being named nothing else happened to the company **being a political party donor** (my emphasis). The owner's philosophy was no one is going to tell me what to do with my company. The company believed money will open opportunities everyone has a price indeed quite a few politicians made it easy for the company".

Then Bruce Jacobs, Emeritus Professor of Asian Language and Studies, Monash Uni., Fairfax Media, Sept 18, 2015 states:

"Most Chinese investments are made by state-owned enterprises or by Chinese entrepreneurs with close connections to China's political establishment. Such

Chinese companies often operate for political purposes rather than the profit of free-market models. Furthermore much of the funding behind such investments comes from corruption and insider trading. Such companies also often attempt to flout environmental regulations.

Chinese workers sent overseas usually do not receive their full official wage. In addition, the quality of work on Chinese infrastructure projects using Chinese workers overseas has often proven to be poor”.

In a similar vein is a comment following an article on the ChAFTA by Peter Martin Fairfax Media Sept 8, 2015 stating:

“Ah your right these are the rules, but you have no clue about Chinese businessmen having great skills in getting around the rules...I live there and know how they play the game, once a door is open or not they will exploit any hole in any agreements not to do what its says.

You must remember these guys are great at business as they don't follow the rules and only back peddle when it causes them to loose face or central Government tells them to stop.

You have no idea that many Chinese and other asian (sic) business employ people on holiday visa's (sic) as Australia is well known to be very poor at monitoring people once they get past the gate and the penalties are laughable”.

If these comments are representative of the norm then it spells big trouble as business acting in line with this conduct will have lower costs and will prosper while law abiding ones will wilt and go out of business with resultant loss of employment for Australian workers.

This problem could be greatly magnified if some of the CCP's \$13 billion per annum external propaganda fund is used to bribe government officials and politicians.

In keeping with the above claims is the statement by Professor Roderick MacFarquhar, one of the world's leading authorities on Chinese politics that “Corruption is so rampant that the danger is that no one will be left in the party (CCP) if all of the corruption is wiped out”, in article by Peter Cai, Aust., Sept 30, 2015,

As well there are the sub-standard products China produces.

The worst example is arguably the 4000 km of substandard Chinese electrical cabling that has been installed in 40,000 Australian homes. As cabling is installed in the wooden frames and partitions before the plaster wall sheeting is installed all these homes are going to have to be ripped apart to install replacement wiring.

Other examples are outlined in the CFMEU's submission pp46-48 and include 125,000 items of clothing and bedding which contain hazardous azo dye, hepatitis contaminated berries, asbestos containing plasterboard, engine and exhaust gaskets, formaldehyde emitting furniture and a range of substandard building products. Notwithstanding the extent of the illegality the government refuses to take any action.

Other issues

Kyla Tienhaara, research fellow at the Regulatory Institutions Network, ANU and Gus Van Harten, professor at Osgoode Hall Law School in Toronto, Fairfax Media, June 19, 2015 state

“the Abbott Government has signed a treaty before it has finished negotiating key aspects of it. The Investment chapter is missing many provisions that have created controversy in other FTAs. Instead the Government has agreed to set up a committee that will, in the future, negotiate these provisions.

What does it mean? It seems the ChAFTA may eventually contain problematic clauses on “indirect expropriation” and the “minimum standard of treatment”- which are frequently used by investors to challenge public health and the environmental measures- but Parliament will not be able to scrutinise them before ratifying the deal.”

The Productivity Commission, Trade & Assistance Review 2013-14, also expresses concerns about investor-state dispute settlement (ISDS) provisions noting a broad range of government measures have been challenged. Claims have ranged from US\$8 million to US\$2.5 billion where the information was reported. However, a combined award of US\$50 billion to three investors is the highest known award.

The Chief Justice of the High Court argued that as trade agreements and bilateral investment treaties were long-lived and resort to ISDS had increased significantly over time, it was not sufficient to argue...that the risks posed by ISDS were overstated, above Review.

Arguably the most significant weakness of ISDS is the risk of regulatory chill. That is governments are too scared to legislate useful or even vital legislation in the fear of being sued.

The investor-state dispute settlement mechanism could have unexpected consequences. As an example it could preclude the Australian government from taking control of our exchange rate as suggested above and we would then remain at the mercy of free markets which absurdly over valued the Australian dollar in recent years. It may also trigger a similar clause in other FTAs.

Another consideration is there are cracks appearing in the communist style of administration suggesting there could be a major upheaval with very uncertain prospects and in turn reducing the value of access to this market.

Considering the foregoing the benefit of this Agreement is likely to fall short of the insignificant benefit derived from modeling of just 0.1% increase in GDP each year for 20 years. Also I doubt this modeling includes the effect of reduced government income from the removal or reduction of tariffs.

On the foregoing there are too many flaws in the Agreement for parliament to approve it.

Benefits of the ChAFTA

What are the benefits we are getting to offset the loss of our nation? Considering the hype from nearly every journalist, coalition politician and leading business people surrounding the benefits of this Agreement you would think we are onto a bonanza but nothing could be further from the truth.

The modeling by The Centre for International Economics of not just the ChAFTA but including the Japanese and Korean FTAs has put the overall benefit at a mere 0.1% increase in GDP each year for the next 20 years. A benefit the size of a bee's knee, to use a Chris Corrigan expression and in the process we could lose our country.

This benefit is arrived at by accepting the GDP increases for the first and last year of the modeling, i.e. 2016 & 2035, page 30 of The CIE report, Economic benefits of Australia's North Asian FTAs plus the present value of the cumulative increase in GDP between 2016 and 2035 of \$24,362 million (using a discount rate of 5 per cent) also on Page 30. On page 1 this value is referred to as 'present value terms'. This figure indicates the average annual increase over the 20 years is about 0.08%.

This overall benefit of 0.1% per year needs to be reduced for the benefits of the Japan and Korean FTAs to arrive at the ChAFTA benefit and possibly a little more because these figures were arrived at using the CIE G Cubed model which gives slightly greater benefits than the GTAP model, page 29.

Furthermore this meagre gain needs to be reduced by all the weaknesses outlined in this critique which will almost certainly result in a loss.

Offsetting this meagre benefit is the \$4,150 million over three years or \$1,380 million each year in lost government revenue from reduced tariffs just for the ChAFTA. This may be even higher if imports from countries not party to a free trade agreement are supplied by Chinese exporters, National Interest Analysis, p9. There will be further lost tariff revenue from the Japan and Korea FTAs.

The overall effect is **absolutely no benefit** but we will probably lose our country in the process. **How absolutely crass stupid is that!!!** Why have coalition politicians been spruiking the benefits of this FTA when there are none?

The modeling also determined that the increase in employment would top out in 2020 at an extra 14566 or only a 0.15% increase in the workforce and then slowly diminish to a mere 5434 in 20 years time. Furthermore this includes the jobs generated by the Japanese and Korean FTAs. As there will be a sizable increase in Chinese migration there will in fact be a reduction in employment for Australians.

Extra information on these issues

Extra information on these issues can be found in the CFMEU's very detailed analysis of the ChAFTA available on the Joint Committee for Treaties and the Senate Inquiry web sites.

Existing Free trade Agreements

Politicians make out free trade agreements are good for us. In reality they have been disastrous due to the failure of our ministers and support staff to skillfully negotiate them.

Let's look at some facts. Our biggest free trade agreement has been with the USA. Last financial year the imbalance of imports from the USA compared to our exports to the USA was \$24 billion. That \$24 billion is employing USA workers at the expense of Australian workers. Its no wonder the US Ambassador to Australia proclaimed the Agreement is a great Agreement.

To put the \$24 billion into perspective it's equal to 1.5% of our GDP and the jobs losses are around 1.5% of our workforce and accounts for 25% of our unemployment. On top of this is the substantial loss of government income from the foregone tariffs which is probably magnified by the diversion of imports from countries where tariffs are levied to imports from the USA. Have you heard any of our politicians admit to this disaster?

This loss is more than 10 times the supposed benefit we expect from the ChAFTA. Efforts should be made to improve access to the US market.

Then there is the FTA with Thailand. It's been great for Thailand with \$13 billion of exports to Australia but just \$5.6 billion of our exports to Thailand resulting in another 0.5% reduction in our employment.

Then there is the much vaunted claim for the recent FTA with Korea and Japan of how they will give Australian cheaper consumer goods. What our politicians won't admit to is that the removal of the tariffs which brings about the reduced prices is a loss of government income which will have to be made up for by extra taxes so there is no net benefit. Alternatively the government can just increase the deficit and pass it onto the next generation as a mounting debt. A policy the Abbott government has opted for.

Sid Maher, Aust, March 9, 2015, outlines how onerous and unjustified regulations in key markets on major agricultural commodities are costing Australian exporters up to \$7 billion despite free-trade agreements signed with countries such as China, South Korea and Japan. Has this been taken into consideration when determining the benefits of these FTA's?

Flaws in the Government

How could our nation have got to such a state? The problem can be sheeted back to politicians only being interested in short term benefits that will provide more votes at the next election and keep them in power so they can retain the perks of office.

The rot set in back when Bob Hawke was Prime Minister when he reduced the influence of the public service by employing ministerial advisers to formulate policy. While a permanent public service has its weaknesses it does allow them to take a

longer term view to issues. There is a further weakness in the current system in that the ministerial advisers are invariably young people with limited life experiences and are unlikely to be able to give expert advice.

What needs to be done?

The ChAFTA needs to be renegotiated. Firstly it should only be for goods produced in Australia or China. Secondly Chinese investment in Australia should be forbidden and there is a halt to all Chinese immigration and the withdrawal of visas to Chinese currently living in Australia so they have to return home.

A crucial aspect of this Agreement is that **if it is a bad deal we are stuck with it for ever** unlike an unsound government policy that can be varied at a later date. **We simply must get it right** and considering all the flaws outline in this critique we are far removed from achieving that.

Draconian as it may sound while the CCP is in power we have to reduce the number of Chinese living in Australia in that only those with permanent residency or citizenship can remain. The remainder would have to leave. This is the only way to prevent the CCP from subverting our democracy and over coming the incompetence of our politicians to protect us.

The ACTU promotes permanent migration over temporary migration with the likelihood of exploitation by the sponsor. This should become government policy.

Military Implications

Paul Monk, Fairfax Media, August 21, 2014, wrote a piece noting the striking similarity with East Asia today to the situation just prior to the start of the First World War. All that is required is the fuse to ignite a war. However when is the big unknown. This may well require the US to take a stronger stand against China.

Chinese still has extreme animosity towards Japan due to Japan's invasion of China 70 years ago and are extremely nationalistic, Mark Beeson, the Conversation, Sept. 14, 2015. This suggests China could take military action against Japan when it feels its military capacity is sufficient to defeat Japan and this could be the trigger.

The thinking of the Chinese president, Xi Jinping, is also a consideration and this is not encouraging. Paul Monk, Quadrant April 2013 states:

Xi Jinping, despite his genial smile, good English and familiarity with the United States, is no reforming liberal. Shortly after assuming the presidency, he took all members of his politburo with him to the bizarre museum the Party has built in Tiananmen Square—the museum of national humiliation and revival. He pointed out to them the exhibits showing the arrival of the Jesuits via Macao in the sixteenth century and how this had been the beginning of the infiltration and humiliation of China by the West. He pointed out the exhibits showing the Japanese invasion of China.....The Americans, he said, then

became the enemy. “Against this external enemy,” he told China’s inner group of top leaders, “we must stick together.”

This mentality does not bode well for the future.

For the reasons outlined above to befriend China at the expense of the USA is not an option. Also to try and sit on the fence is unwise if we want the US to come to our rescue if China was to invade us. Let’s also not forget it was the US forces that came to our rescue against the Japanese in the Second World War and the many US lives that were lost fighting for our freedom.

We should also look at the consequences of a war with China. If Australian companies build up activities in China and war breaks out, China would almost certainly confiscate these assets.

If the Chinese presence in Australia builds up to 5% or more of our population what would we do with them if war broke out? During the Second World War the few Italian and Germans in Australia were interned. But how could you intern 5% or more of the population? They could be repatriated back to China but if China thought it was a strategic benefit to not allow such repatriation we would be in disastrous situation. We could have 1,000,000 of the enemy in our midst possibly engaging in sabotage and what ever. This adds weight to the need to keep the number of Chinese in this country to a minimum.

Racism

Some will maintain this submission is racist but the real issue is the subversion of our nation by the CCP and to combat this requires being racist. I would prefer to be a racist than a traitor. This is a decision that all Australians need to make.

In regards to this I note the Abbott government is considering removing the race clause from the Constitution. This could have a disastrous consequence if carried out. Australians would have to watch in dismay at the Chinese take over of our country knowing they are powerless to do anything about it.

Assessment by Politicians

Every politician in both Houses should be directed to provide a written report on this submission either agreeing with the statements made or setting out what they believe to be flawed. These reports must be in writing and made freely available to the public so everyone knows how they stand on these issues.

Public Support

A poll in early September found there was 35% opposition to the ChAFTA and this was with the deceptions by the government, the bias and false reporting by the media

and support by leading luminaries who hadn't looked at the modeling. It would be interesting to see what the opposition was if this critique was widely disseminated.

Dissemination

If you feel this submission has merit please disperse it far and wide so every Australian becomes aware of the diabolical situation our nation is in.

This is a revised and expanded version of my original submission to the Senate Foreign Affairs Defence and Trade References Committee inquiry into the China - Australia Free Trade Agreement

Terry Croft

I am a graduate engineer and have no affiliation with any trade union. I have prepared this critique as my civic duty to highlight the flaws in the ChAFTA.

12th October 2015