

Joint Standing Committee on Treaties (closing date July 24)
Parliament House
Canberra ACT 2600
email: jsct@aph.gov.au

Senate Foreign Affairs, Defence and Trade Committee (closing date August 28)
Parliament House
Canberra ACT 2600
email: fadt.sen@aph.gov.au

23 June 2015

Dear Committee Secretariat

I do not support the China FTA because it allows Chinese companies to bring in their own workforce for projects over \$150 million with no requirement that jobs be offered to local workers first. This will do nothing to reduce our growing rates of unemployment. I am also very concerned that Chinese companies may be able sue our government if our laws adversely impact on their business.

The Memorandum of Understanding attached to the China FTA allows investors with projects of over A\$150 million with 15%-50% Chinese ownership to employ temporary migrant workers without testing if local qualified workers are available. This is a very low threshold that would include most construction and mining projects.

The project company can negotiate the numbers, occupations to be covered, English language requirements, qualifications and experience, and pay rates. This means that the minimum wage to be paid to the temporary migrant workers will be the subject of negotiation and may be less than the actual market rates paid to Australian workers in the industry. It also means that a large proportion of the workforce could be brought in by the investor at lower than market rates. Their employment would be totally dependent on that employer, they would be isolated from the rest of the Australian workforce and would be vulnerable to exploitation.

The agreement also allows Chinese investors to sue the Australian government for damages in an international tribunal if they can argue that a change in domestic law or policy harms their investment. But the exact criteria that could be used for such cases is not spelt out in the agreement, but left to be negotiated in three years, and will be incorporated in to the agreement without voting by Parliament. This means there is no definition of two of the most controversial aspects of ISDS, which are the definition of indirect expropriation and the definition of minimum standard of

treatment for foreign investors. These are provisions which foreign investors have often used to sue governments under other agreements.

Although there are “safeguards” intended to protect health, environment and other public welfare measures, similar “safeguards” have not prevented foreign investors from suing over such measures. The Renco [3] lead smelting company is suing the Peruvian government over a court decision which ordered it to clean up and compensate for lead pollution. The US Lone Pine [4] mining company is suing the Canadian government because the Québec provincial government conducted a review of environmental regulation of gas mining. The French Veolia company [5] is suing the Egyptian government over a contract dispute in which they are claiming compensation for a rise in the minimum wage.

The Australian Parliament is being asked to vote for the implementing legislation for this agreement without having the details of what these provisions may mean in the future. This is unacceptable.

Please stop the China FTA by recommending that Parliament vote against the implementing legislation.

Yours sincerely,

Tony Clunies-Ross