Free Trade agreement between Australia and Hong Kong

ACTU submission to the Joint Standing Committee on Treaties into the Free trade agreement between Australia and Hong Kong

ACTU Submission, 2019
ACTU D. No 35 /2019

Introduction

The ACTU welcomes the opportunity to make a submission to this inquiry into the free trade agreement between Australia and Hong Kong (A-HKFTA).

The ACTU is the peak body for Australian unions. The ACTU and affiliated unions have had a long and significant interest in the trade agenda on behalf of our members and workers generally.

The A-HKFTA is a major undertaking with profound implications for the economies and societies concerned. Yet, as appears to be the way with all trade agreements Australia is involved in, the A-HKFTA has been negotiated and entered into with very little public scrutiny up to this point.

We should expect that trade agreements are subject to proper scrutiny and that unions and others in civil society, as well as business, have the opportunity for genuine input into the negotiations on behalf of those they represent. To date trade agreement negotiations are conducted behind closed doors and Australia lags behind other countries and institutions when it comes to public scrutiny. This whole process in Australia contrasts with the experience in the European Union, for example. The EU has recognised legitimate community demand for the negotiating papers and final text to be exposed to public debate.

Unions have concerns with a number of elements of the A-HKFTA but in this submission we will focus on key problems.

- Given the escalating events taking place in Hong Kong at the moment, the ACTU calls on the government to wait until the situation is satisfactorily resolved and the issues raised in this submission are addressed before proceeding with any further consideration of the enabling legislation of the Aus-HK FTA. It is important that we show solidarity with the protestors and our support for human rights, civil society and the rule of law in Hong Kong before we decide how to proceed with the FTA.
- The inclusion of Investor-State Dispute Settlement provisions. Lack of compliance with International human rights and labour rights law.
- Particular provisions circumvent Australia's high standards of occupational and business accreditation. This will create enormous risk to workers lives, community safety and consumer protection
- The lack of transparency and accountability in negotiations
- There has been no independent assessment concerning the economic costs and benefits

This is not an exhaustive list. We share the concerns expressed about the impact of the A-HKFTA in a range of other areas.

We endorse and refer the inquiry to the submissions of our affiliated unions, as well as AFTINET, for further treatment of these and other matters.

ACTU statement regarding escalating events in Hong Kong and the Australia-Hong Kong Free Trade Agreement

Given the escalating events taking place in Hong Kong at the moment, the ACTU calls on the government to wait until the situation is satisfactorily resolved and the issues raised in this submission are addressed before proceeding with any further consideration of the enabling legislation of the Aus-HK FTA. It is important that we show solidarity with the protestors and our support for human rights, civil society and the rule of law in Hong Kong before we decide how to proceed with the FTA

The ACTU notes the following;

- There have been many instances of police brutality and the right to freedom of assembly has been infringed – this is in breach of the UN International Convenant on Civil and Political Rights (ICCPR) to which Hong Kong is a signatory, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officers.

- Excessive force has been deployed against peaceful protesters including deploying tear gas – a young female protester had tear gas shot into her right eye and has been blinded.

- There have been reports of police acting as agent provocateurs, dressing as protesters and urging them to violence.

- Police and riot squads are carrying out actions without showing warrants or wearing any ID number on their uniforms.

- Freedom of press has also been compromised, with the Hong Kong Federation of Journalists having reported on hundreds of complaints of police violence used against them in an attempt to obstruct their work.

- Over 700 people have been arrested, the youngest being 12 years old, and because the government is characterising the protests as riots, they could face up to 14 years imprisonment.

The ACTU and our affiliates have good connections with civil society in Hong Kong and our direct advice from them is that due to the current situation consideration of the ratification of the agreement should not proceed. They think this stance would assist in de-escalation of violence and repression.

Of concern also is the approach taken to union leaders and members who have participated in pro-democracy strikes and actions by both the Hong Kong Government and employers. The approach taken by Cathay Pacific in relation to trade union leaders and their Cathay Pacific staff is a particularly high profile example of concern.

Background on ACTU position regarding Trade agreements

Australian unions are not anti-trade. We recognise the value of increased exports and greater access to overseas markets for Australian businesses. We welcome the opportunities for workers that come from participating in the 21st century global economy. The ACTU is a supporter of trade as a vehicle for economic growth, job creation and rising living standards. Having a strong export sector is imperative for Australia's prosperity.

We can believe in all these benefits of trade agreements, and at the same time have a rock-solid commitment to ensuring that other provisions of trade agreements do not jeopardise Australian jobs, undermine working conditions or compromise the ability of current and future Australian governments to exercise their sovereign rights to regulate in the public interest.

We should also expect that trade agreements are subject to proper scrutiny and that citizens and their representative bodies such as unions and others in civil society, as well as business, have the opportunity for genuine input into the negotiations on behalf of those they represent.

Unions should not be expected to be 'cheerleaders' for a trade agenda that does not delivery for Australian workers or the broader community. Where proposed free trade agreements, or provisions of those agreements, are not in the national interest and the interests of our members and workers generally, we will make the case for change. Parliament also should not simply be a

rubber-stamp for agreements already entered into and negotiated by the executive arm of Government. Unions are only in favour of trade agreements if there are overall benefits for all Australians.

Too often in our experience, the overall benefits of trade agreements are over-sold by governments and the downsides are dismissed.

For example:

- The Productivity Commission has found that predicted economic benefits from bilateral and regional agreements are often exaggerated and the actual economic benefits are likely to be modest, while such preferential trading arrangements 'add to the cost and complexity of international trade… with an emerging and growing potential for trade preferences to impose net costs on the community.'

Investor-State Dispute Settlement Provisions

The ACTU believes that trade agreements should retain or enhance the autonomy of the Australian Government to design and implement policies in the public interest across a range of areas that many trade agreements now encroach on. These include: the regulation of financial institutions and international financial transactions, climate change, government procurement, import regulation, quarantine and inspection regulations, biodiversity, food quality and security, media content and cultural industries, public ownership, public services, foreign ownership, research and development, transportation services, indigenous organisations and enterprises, the provision and regulation of essential services such as health, education, water, electricity, telecommunications and postal services, and the movement and employment of temporary migrant workers.

We therefore do not support trade agreements that lock member countries into investor-state dispute settlement (ISDS) provisions. These provisions mean that when Australian governments make new laws or policy in the interests of Australian people, foreign investors can sue our government in international tribunals if they consider those laws harm their investment or disadvantage them in some way.

These are the type of provisions that allowed Veolia to sue the Egyptian Government for increasing its minimum wage, and Phillip Morris sue over Australia's plain cigarette packaging laws (under the terms of an old FTA with Hong Kong), among a host of other examples. By 2015, there had

been almost 700 ISDS cases reported and that number has increased significantly since the 1990's[1].

There is mounting evidence and alarm from many experts, including Australia's former High Court Chief Justice French[2], that ISDS tribunals lack the basic principles of fairness and consistency found in domestic legal systems. There is no independent judiciary, and no appeal mechanisms or system of precedent. 'Judges' can preside over one case while acting as a paid advocate in another, even if claimants and clients overlap between the two cases – a clear conflict of interest. In Australia, as in most national legal systems, judges cannot continue to be practising lawyers because of the obvious conflict of interest.

The fact ISDS provisions are restricted to foreign investors means these clauses also discriminate against local businesses which can only access our domestic court system for any claims for compensation. This could then have an impact on relative access to finance and certainly violates basic principles of national treatment and competitive neutrality.

The myriad problems identified with ISDS provisions were well set out again in the JSCOT report into the China Australia Free Trade Agreement[3]. For example, the JSCOT report cited a now oft-quoted speech where former Australian High Court Chief Justice French expressed concerns about the impact of ISDS on domestic court systems.

In his speech, Justice French referred to the case of Eli Lilly, the US pharmaceutical giant that sued Canada under ISDS provisions after the Canadian Supreme Court ruled two of its medicine patents invalid. The Chief Justice quoted Professor Brook Baker of North Eastern University Law School's assessment of that case:

> *'After losing two cases before the appellate courts of a western democracy should a disgruntled foreign multinational pharmaceutical company be free to take that country to private arbitration claiming that its expectation of monopoly profits had been thwarted by the court's decision? Should governments continue to negotiate treaty agreements where*

---

[1] United Nations Conference on Trade and Development, "Record Number of Investor-State Arbitrations Filed in 2015," Geneva, 2 February 2016. http://investmentpolicyhub.unctad.org/News/Hub/Home/458

[2] French, R.F Chief Justice (2014), "Investor-State Dispute Settlement-a cut above the courts?" Paper delivered at the Supreme and Federal Courts Judges conference, July 9, 2014, Darwin http://www.hcourt.gov.au/assets/publications/speeches/current-justices/frenchcj/frenchcj09jul14.pdf

[3] http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/17_June_2015/Report_154

expansive intellectual property-related investor rights and investor-state dispute settlement are enshrined into hard law?'

The JSCOT report for TPP12 also highlighted the concerns raised by the United Nations Independent Expert, Alfred de Zayas, about the inclusion of ISDS clauses in free trade and investment agreements, where he said:

> *"In the light of widespread abuse over the past decades, the Investor-State Dispute Settlement mechanism which accompanies most free trade and investment agreements must be abolished because it encroaches on the regulatory space of states and suffers from fundamental flaws including lack of independence, transparency, accountability and predictability."*

There is no immutable law that says ISDS provisions must be included in trade agreements. The Howard Coalition Government did not agree to include ISDS in the AUSFTA in 2004, and the Productivity Commission recommended against them in 2010, stating:

> *' In relation specifically to investor-state dispute settlement provisions, the government should seek to avoid accepting provisions in trade agreements that confer additional substantive or procedural rights on foreign investors over and above those already provided by the Australian legal system. Nor is it advisable in trade negotiations for Australia to expend bargaining coin to seek such rights over foreign governments, as a means of managing investment risks inherent in investing in foreign countries. Other options are available to investors.*[4]'

Similarly, in 2015 the Productivity Commission found that:

> *"The possible inclusion of an ISDS mechanism could similarly allow investors to bring claims for private arbitration directly against governments and potentially undermine the role of domestic courts and freedom of governments to regulate in the public interest.'*

Again, the Productivity Commission emphasised its previous recommendation in 2010 that the Australian Government seek to avoid the inclusion of ISDS provisions that grant foreign investors

[4] Op. cit, pp. xxxii,, xxxxviii, 271.

in Australia substantive or procedural rights greater than those enjoyed by Australian investors. It concluded once more that there was an absence of an identifiable, underlying economic problem on market failure grounds that necessitates the inclusion of ISDS provisions.

Many other countries have begun to question the use of ISDS provisions, including Germany, France, Brazil, India, South Africa and Indonesia. Both Germany and France are known to oppose the inclusion of such provisions in the TTIP, and Germany indicated it would not ratify the recently signed European Union-Canada agreement which contains ISDS clauses reportedly on the grounds that:

> "*It must not be that international investors have rights and influence before arbitration tribunals which national enterprises don't have in their own country*[5]"

Against all this evidence, this agreement contains an investor-state dispute settlement (ISDS) clause that will allow foreign investors to sue the Australian Government if changes to domestic law and regulations harm their investment. The ISDS clause does provide a specific safeguard in regard to tobacco regulation to avoid a repeat of the Phillip Morris ISDS saga, but this still leaves a wide range of policy areas open to challenge. The fact tobacco regulation had to be specifically excluded indicates that general safeguards for other health, environment, labour rights and public interest regulation are ineffective. They have not prevented past ISDS cases and are unlikely to do so in future[6]. Neither do claimed procedural improvements address the fundamental flaws that ISDS tribunals have no independent judiciary and no precedents or appeals.

Canada is an excellent comparator to Australia due to significant political, social and economic parallels between the two countries. A report published by the Canadian Centre for Policy Alternatives (CCPA) last week has revealed that Canada has paid out nearly $220 million in losses under the NAFTA investor-state dispute settlement mechanism (ISDS), and $95 million in legal fees defending against ISDS claims[7].

There have been 41 ISDS claims made against Canada, 23 ISDS claims made against Mexico and 21 made against the US. Canada has been sued 15 times since 2010. In the report, CCPA suggests

---

[5] See Productivity Commission, Trade and Assistance Review 2013-14, Productivity Commission, Canberra, 2015, p. 80

[6] For more on this, see (http://www.abc.net.au/news/2015-11-06/tienhaara-ttp-investment/6918810), and the AFTINET submission.

[7] https://www.policyalternatives.ca/nafta2018

that the Canadian Government's commitment to ISDS and compliance with the scheme 'encourages' investor-state claims against itself8.

Furthermore, in November last year an international investment tribunal has compensated a mining company that ignored Indigenous land rights in a case heard under the Investor-State Dispute Settlement provisions of the Canada-Peru Free Trade Agreement9.

The tribunal ordered the government of Peru to pay Bear Creek Canadian mining company $18.2 million in compensation and $6 million in legal costs because the government cancelled a mining license after the company failed to obtain informed consent from Indigenous land owners about the mine, leading to mass protests. A dissenting minority judgement about the costs noted that Bear Creek had failed to implement provisions of the ILO Convention on Indigenous Peoples to which Peru is a party, and which it had implemented through national laws.

This is a very dangerous precedent which may encourage other mining companies to use ISDS provisions in agreements like the A-HKFTA in the Australian context. The only total exclusion is for tobacco regulation.

The ACTU has a consistent position that ISDS clauses are a restriction on national sovereignty and the ability of governments to regulate to regulate in the public interest and impose an unnecessary cost burden on Australian taxpayers. They should not be included in any trade agreement that Australia enters into, including in this case, the A-HKFTA.

ILO Conventions must be included in trade agreements

The Australian Government should ensure that trade agreements include commitments by all parties to implement agreed international standards on labour rights, including the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work and the associated Conventions.

These include:

[8] http://aftinet.org.au/cms/node/1528
[9] http://icsidfiles.worldbank.org/icsid/ICSIDBLOBS/OnlineAwards/C3745/DS10808_En.pdf

- the right of workers to freedom of association and the effective right to collective bargaining (ILO conventions 87 and 98)
- the elimination of all forms of forced or compulsory labour (ILO conventions 29 and 105)
- the effective abolition of child labour (ILO conventions 138 and 182)
- the elimination of discrimination in respect of employment and occupation (ILO conventions 100 and 111)

Provisions on Temporary workers

Free trade agreements that deal with the movement of temporary overseas workers into Australia are critical issues for Australian unions and our members. Quite simply, this is because the fundamental issues at stake are about support for Australian jobs, support for Australian training opportunities, and support for fair treatment and decent wages and conditions for all workers wherever they are from.

We accept there is a role for some level of temporary migration to meet critical short-term skill needs, provided there is a proper, rigorous process for determining areas of genuine need and ensuring workers receive fair wages and conditions. But the priority must always be on maximising jobs and training opportunities for Australians – that is, citizens and permanent residents, regardless of their background or country of origin. Whether it is young Australians looking for their first job or older Australians looking to get back into the workforce or change careers, they deserve an assurance that they will have first access to Australian jobs. This is more important than ever at a time when unemployment remains stubbornly around the 6% mark and youth unemployment is in double digits.

Circumvent Australia's high standards of occupational and business accreditation

In the side letter pertaining to Professional Services it states;

"Australia and Hong Kong, China shall enter into discussions to explore ways to facilitate recognition of existing relevant professional experience for the purpose of the fulfilment of a Party's standards or criteria for the registration, authorisation, licensing or certification of service suppliers."

This provision will place undue pressure on the immigration department to seek ways to circumvent Australia's high standards of occupational and business accreditation. This will create enormous risk to workers lives, community safety and consumer protection

As has been noted by our affiliates in the case of electrical trades, the experience of the electrical industry is that trade agreements are facilitating unlicensed, unqualified workers being granted visas and performing high risk electrical work contrary to Australian law. Often the worker is also being paid their originating country wages and not Australian wages under the visas which have been created to satisfy the movement of natural person's chapters of trade agreements.

Public Services are not protected

Trade agreements should not undermine the ability of Governments to regulate in the public interest, particularly for essential services like health, education, social services, water and energy. Yet, the provisions in chapter seven of the Free Trade Agreement between Australia and Hong Kong, China (A-HKFTA) which govern cross-border trade in services could limit regulation across a broad range of service industries.

Despite repeated claims that free trade agreements, such as this agreement, do not affect public services it is clear that the intent is to expand market access and liberalise trade in services, the key policy ingredients required to advance privatisation. The definition of public services within the agreement, which mimics the GATS definition, is:

> **service supplied in the exercise of governmental authority** means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;
>
> (Chapter 7 Cross Border Trade in Services)

There are very few services in Australia that would meet this definition leaving nearly all public services open to deregulation and competition even though the privatisation of these services has been demonstrated to fail (VET and Health as clear examples).

Free trade agreements such as the AHKFTA utilise standstill and ratchet mechanism to ensure that the regulation of services is reduced over time – meaning governments could be restricted in introducing new regulations that may be essential in the future.

> 9. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures do not constitute

unnecessary barriers to trade in services, while recognising the right to regulate and to introduce new regulations on the supply of services in order to meet its policy objectives, each Party shall:

1. (a) ensure that any such measures that it adopts or maintains are:
    1. (i) based on objective and transparent criteria, such as competence and the ability to supply the service; and
    2. (ii) in the case of licensing procedures, not in themselves a restriction on the supply of the service; and
2. (b) *endeavour to ensure that any such measures that it adopts or maintains are not more burdensome than necessary to ensure the quality of the service.*

This may prevent governments from requiring minimum staffing levels and qualifications, or a proportion of qualified staff, in areas such nursing, childcare, and aged care, regardless of professional and academic evidence supporting these, such as minimum staffing ratios and qualifications in aged care. The Government is awaiting recommendations from the Royal Commission into Aged Care where it is increasingly obvious that tighter regulation is required. The government should not sign an agreement that places such regulatory changes at risk.

This is compounded by Article 7.3:

Article 7.3: Market Access

Neither Party shall adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire Area, measures that:

1. (a) impose limitations on:
    1. (i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;
    2. (ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
    3. (iii) the total number of service operations or the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test[1]; or
    4. (iv) 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; or
2. (b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

This could allow the flooding of the market in an attempt to undermine profitability. In example the Aged Care industry is witnessing a monopolisation of service providers as small operators are struggling to remain financially viable and are being purchased by multinationals who then fail accreditation assessments. This will be further exacerbated by FTAs such as this.

The agreement states that there can be no requirement for a local presence (office) for a service provider.

> **Article 7.5: Local Presence**
>
> Neither Party shall require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its Area as a condition for the cross-border supply of a service.

This severely restricts the public's ability to hold companies accountable for the provision of those services, or liabilities that might arise. It also enables tax avoidance strategies that see government funding for services being funnelled offshore for private profit rather than circulating within the domestic economy through profit shifting mechanisms. The Committee should consider Hong Kong's role in facilitating such practices.

The ability for companies to commence ISDS proceedings against Australian governments with regard to public services will have a chilling effect on regulation and the introduction of new government run and owned services.

The free market approach sees public revenue channelled into private profit. The Australian Federal Government should refrain from entering into trade agreements that promote privatisation and that lock in democratically elected governments at the Federal, State and local level to adhering to free trade principles that are clearly not in the public interest.

Cost Benefit Analysis – The need for independent assessment

There is a lack of economic modelling and analysis concerning the impacts of these agreements on Australia's economy. The government has clearly not conducted a full independent empirical assessment of the economic impacts. Unions are concerned that the appropriate cost benefit analysis and impacts are just not being done.

DFAT is essentially 'marking their own homework' – this is not acceptable.

Interestingly Hong Kong does not currently apply tariffs on goods and services imported from Australia so there are few gains to market access, aside from providing business certainty (DFAT 2019b:4-5).

Australia already has zero or low tariffs on many imports from Hong Kong and DFAT calculates that tariff reductions in the A-HKFTA will result in a loss to government revenue of $25 million over forward estimates (DFAT 2019b:12-13). However, there has been no Australian economic modelling of the specific impacts of the A-HKFTA on the Australian economy as a whole measured by GDP, despite advice from key bodies like the Productivity Commission and the Australian Competition and Consumer Commission that such studies should be done.

Charting a new course for Transparent and inclusive trade agreements

The A-HKFTA is a major undertaking with profound implications for both the Australian and the Hong Kong economy and society. It deals with a wide range of matters that are traditionally the preserve of national governments to determine through their own domestic, democratic parliamentary processes.

Yet the process to get to this point with a signed agreement being presented to the Australian Parliament for ratification leaves a lot to be desired. As appears to be the way with all trade agreements Australia is involved in, the has been negotiated and finalised largely in secret and signed with very little, if any, public and parliamentary scrutiny up to this point.

The secrecy of the detail of these negotiations has meant that the occasional unauthorised leaking of text documents has been the only way stakeholders have gained access to documents that should have been the subject of open debate in the parliament and in the community throughout negotiations.

Only now, after the A-HKFTA agreement has been signed, does this Inquiry provide an opportunity for Parliament to properly scrutinise an agreement that has been years in the making.

If the experience of past trade agreements is any guide, the scope from here on for meaningful changes to be made to deficiencies with this agreement is limited. In the end, Parliament only votes on the implementing legislation, not the whole text. Essentially, it becomes an all or nothing proposition at that point in terms of ratification of the agreement

The negotiating process for an agreement that Australia has already signed up to cannot be undone. What is done in that sense is done. However, the fact the A-HKFTA has been put together without a proper transparent and inclusive process for public input into negotiations should give this Inquiry and Parliament even greater cause to ensure the agreement is now subject to comprehensive scrutiny.

To this end, we call for an independent, external inquiry into the costs and benefits of the A-HKFTA. This inquiry should also take a lead role in advocating for reforms to the treaty-making process and future trade agreement negotiations to set a new standard both for the conduct of negotiations and for the process by which Australia enters into such agreements. The existing, flawed and inadequate process that we have seen with the A-HKFTA and other agreements does not have to be set in stone forever more.

The need for a more open and democratic process for trade agreements is more important than ever now because they are no longer simply tariff deals; increasingly they deal with an expanding range of other regulatory issues which would normally be debated and legislated through the democratic parliamentary process, and which have deep impacts on workers' lives.

In summary, we submit the following recommendations should be made for all future trade agreement processes:

- Prior to commencing negotiations for bilateral or regional trade agreements, the Government should table in Parliament a document setting out its priorities and objectives. The document should include independent assessments of the projected costs and benefits of the agreement. Such assessments should consider the economic, regional, social, cultural, regulatory and environmental impacts which are expected to arise.

- There should be regular public consultation during negotiations, including submissions and meetings with stakeholders. The Australian government should follow the example of the European Union and release proposals and discussion papers during trade negotiations.

- The Australian Government should follow the example of the European Union and release the final text of agreements for public and parliamentary debate, and parliamentary approval before they are authorised for signing by Cabinet.

- After the text is completed but before it is signed, comprehensive, independent assessments of the likely economic, social and environmental impacts of the agreement should be undertaken and made public for debate and consultation and review by parliamentary committees.

- An enquiry should review the text of a trade agreement which has been released before signing with the independent assessment of its costs and benefits, and make a recommendation to Parliament.

- Legal experts agree that the Executive power to enter into treaties is a prerogative power which can be abrogated or controlled by legislation. There is no constitutional barrier to Parliament playing a greater role in the treaty decision-making process. After release of the text and before signing, and after a review of the text and the independent assessment of the costs and benefits of the agreement, Parliament should decide whether the Cabinet should approve the agreement for signing.

- If the agreement is approved by Parliament, and approved for signing by Cabinet, Parliament should then vote on the implementing legislation

Conclusion

Given the escalating events taking place in Hong Kong at the moment, the ACTU calls on the government to wait until the situation is satisfactorily resolved and the issues raised in this submission are addressed before proceeding with any further consideration of the enabling legislation of the Aus-HK FTA. It is important that we show solidarity with the protestors and our

support for human rights, civil society and the rule of law in Hong Kong before we decide how to proceed with the FTA

The ACTU believes that trade agreements should ensure that provisions of trade agreements do not compromise the ability of current and future Australian governments to exercise their sovereign rights to regulate in the public interest.

Furthermore, there has been no independent Australian economic modelling of the specific costs and benefits of the Aus-HK FTA on the Australian economy. Nor have there been any independent studies of the health, environmental and gender impacts of then in Australia.

There are also no commitments at all to implement internationally-agreed labour rights.

Furthermore, some provisions will place undue pressure on the immigration department to seek ways to circumvent Australia's high standards of occupational and business accreditation. This will create enormous risk to workers lives, community safety and consumer protection.

As a consequence, the ACTU recommends that the enabling legislation for the Free trade agreement between Australia and Hong Kong not be passed.

address

ACTU

Level 4 / 365 Queen Street

Melbourne VIC 3000

phone

1300 486 466

web

actu.org.au

australianunions.org.au

ACTU D No.

No. 35