



19 December 2003

Mr David Salisbury
Director, Rail & Waterfront
Transport & Prices Oversight Branch
Regulatory Affairs Division
Australian Competition and Consumer Commission
GPO Box 520J
Melbourne Vic 3001

Dear Mr Salisbury,

Asia-Australia Discussion Agreement
Part X Investigation

The Food and Beverage Importers Association (FBIA) is an industry association that represents importers of food and beverages, both packaged ready for retail sale and bulk, into Australia. A list of members is attached.

Trade with China

The region covered by the Asia-Australia Discussion Agreement (AADA), especially China, is a very important, and growing, source of food imports to Australia. In 2001-02, total food & beverage imports from China amounted to \$229 million, an increase of just over 40 percent on imports in 2000-01. China is now approximately the sixth largest source of food imports into Australia.

Food is however only a small part of Australia's bilateral trade with China. In 2002 China was Australia's third largest source of imports, with imports rising by 25 percent to \$12.8 billion. Australia-China two-way merchandise trade has almost trebled since 1996-97 to be worth in excess of \$22 billion in 2002-03. With the signing of the Australia-China Trade and Economic Framework in October 2003, Australia's commercial relationship with China will expand even more rapidly.

Members' Concerns

Over 2003, members have expressed serious concern with shipping services from Northe East Asia, as they have been confronted, with little notice, with frequent,

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significant price increases, whilst at the same time seeing shipping services deteriorate. These price increases are noted in the Commission's Issues Paper. Whilst price increases are never welcome, the manner in which they have been made, with little notice, and the use of peak season surcharge are particularly concerning.

The tasks of moving food and agricultural products from field to plate are many and complex, involving agreements on quality, long-term supply arrangements and networks. Food importers generally enter into longer term supply arrangement with overseas parties to ensure continuity of supply and quality. At the same time, the food market in Australia is extremely competitive. What this means is that when faced with sudden price increases, importers can not quickly find an alternative acceptable source of supply and are not able to pass on such increases to their customers. The result is that the importer is forced to absorb the freight increases with obvious impact on profitability.

Over this period, the service standards provided by AADA members have deteriorated. Space on vessels has become difficult to secure, and it is common for containers that are being transhipped to be delayed in Singapore. Delays of up to 3 to 4 weeks have become common. Such delays make inventory management very difficult. This is of particular concern as out-of-stock situations can impose significant cost penalties on suppliers to the Australian retail market.

Assessment of AADA

Exempting shipping lines from the legislated prohibitions on anti-competitive behaviour through registration of agreements under Part X of the Trade Practices Act (TPA) is justified on public benefits grounds. These are said to offset the negative of losing price competition. Examples of such benefits, which it is claimed may not be provided in the absence of such agreements, are: the provision of high quality service, stable service delivery, and a stable commercial environment.

Based on our members' experience, none of these benefits are being delivered. The AADA does not benefit imports by improving supply chain performance and enhancing business efficiency. Adequate liner services are not being provided. At the moment, importers are suffering the negative impact of price arrangements under the AADA, without receiving the alleged benefits of such agreements.

Conclusion & Requests

Whilst, in our view, the anti-competitive detriment of the AADA is currently outweighing the public benefits it is supposed to deliver, we do not request that the AADA be de-registered. Rather, we are aware that there is to be a comprehensive review of Part X of the Trade Practices Act. It would seem to us that the future of the AADA should be considered in the context of the overall review of the effectiveness



and efficiency of Part X agreements. We would request that this review be undertaken as a matter of urgency.

Until that review is completed, however, provisions in the AADA allowing price discussions and setting should be revoked. Under the AADA, the lines should be restricted to discussions about capacity, demand for services and service standards.

Should you have any questions on our comments, please do not hesitate to contact us.

Yours sincerely,

A J Beaver
Secretary