



**TEXTILE CLOTHING & FOOTWEAR
UNION OF AUSTRALIA**

Department of Foreign Affairs and Trade

**Australian Accession to the World Trade Organisation Government
Procurement Agreement**

**Submission of the
Textile Clothing and Footwear Union of Australia
February 2015**

Introduction

The Textile, Clothing and Footwear Union of Australia (TCFUA) welcomes the opportunity to make this submission to the Department of Foreign Affairs and Trade regarding the proposed accession of Australia to the World Trade Organisation Agreement on Government Procurement (GPA).

The TCFUA is an organisation of employees registered pursuant to the *Fair Work Act 2012* (Cth). Our membership consists of workers employed either directly or in connection with the manufacture of textiles, clothing and footwear in Australia.

The TCFUA is concerned about the implications of Australia's accession to the GPA on the TCF industry in Australia, and opposes accession for reasons outlined below.

The Commonwealth Procurement Rules (CPRs), as well as Australia's obligations under its bilateral free trade agreements, already restrict the ability of Federal and State Governments to introduce and adhere to ethical procurement policies and to preference local suppliers in awarding government contracts.

The TCFUA is deeply concerned that accession to the GPA will both erode the important exceptions that are available for Federal and State Governments to preference local purchasing, particularly in relation to small to medium enterprises (SMEs) and defence and constrain future Government decisions.

The TCFUA supports the submission made by the Australian Fair Trade and Investment Network (AFTINET), of which we are a member. This submission raises additional concerns, specifically regarding areas of interest to workers in the textile, clothing and footwear (TCF) industry.

The Impact of the Free Trade policies and the Global Financial Crisis on the TCF Industry

The impact of falling tariff rates, free trade policies without benefits to the TCF industry and increasing imports have led to a shrinking of the TCF industry and employment in the sector in Australia since the mid-1980s.¹

The global financial crisis (GFC) also had a devastating impact on manufacturing in Australia. The TCF industry weathered a substantial share of this downturn. TCF workers bore the brunt of businesses collapsing and moving offshore with millions of dollars lost in workers entitlements.

The impact of job loss and the loss of entitlements for workers extends to the families and the communities they lived in as well as the social and welfare services required to pick up the pieces.

Exploitative practices in the TCF Industry and need for Ethical Considerations in Government Procurement

The decline of employment in the formal TCF industry, and in particular the clothing industry, is well known. What is more often overlooked is the growth in the 'informal sector' of the TCF industry in

¹ TCFUA, Submission to the Victorian Government's Economic Development and Infrastructure Committee (EDIC), *Inquiry into Manufacturing in Victoria* (2010), 1.

Australia. This comprises the vast numbers of outworkers performing manufacturing work in the clothing industry.²

Many TCF workers in Australia are engaged as outworkers in notoriously exploitative working conditions.³ In the past, Federal and State Governments have implemented ethical procurement policies to support local manufacturing, and to prevent companies exploiting home-based outworkers from securing government contracts.⁴ Such ethical requirements should apply to government procurement decisions.

Equivalent standards and requirements should also apply to companies manufacturing overseas supplying to Australian Governments. It is important that companies do not gain advantage in the tendering process through access to markets where labour standards are low.⁵ A recent 2014 report on the garment manufacturing industry in Eastern Europe highlighted exploitative conditions, wages which are far below subsistence and poverty lines, and discrimination and harassment towards women. The countries examined in the Report included Bulgaria, Romania, Croatia, Moldova, Ukraine and Macedonia (FYROM).⁶ The poor labour standards, health and safety standards and environmental standards in China, as the largest global TCF producer, are well documented and are of serious concern. It is the low cost of labour and exploitative conditions, which underpins the inequity in the cost of production between Australia and China and other low wage countries. The rise of garment manufacturing in countries such as Bangladesh and Cambodia have seen commensurate rises in exploitation, unfair labor practices and serious health and safety breaches resulting in injuries and death of many thousands of workers.

Trade agreements should not undermine labour, environmental, or human rights standards, nor prevent governments from considering such factors in procurement decisions.

‘Value for money’ approach

In decisions on government procurement, Australia should act according to broad principles of value for money, as well as in accordance with strong ethical, and labour standards. It should seek to stimulate Australia’s economy, and encourage the creation of jobs, skill development and industry innovation.

The 2014 Senate Inquiry into CPRs highlighted the narrow interpretation that was given to ‘value for money’ in decisions on government procurement. It criticised the emphasis placed on contract cost in procurement decisions, overriding considerations of the effects of jobs, skills, and industry development.⁷

² TCFUA, Submission to the Department of Foreign Affairs and Trade, *Australia – China Free Trade Agreement* (30 June 2005), 10.

³ Ibid 11.

⁴ TCFUA, Submission to TCF Review, *Building Innovative Capability: Review of the Australian Textile, Clothing and Footwear Industries* (May 2008), 2.

⁵ Ibid, 21.

⁶ Christa Luginbühl and Bettina Musiolek, *Stitched Up: Poverty Wages for Garment Workers in Eastern Europe and Turkey*, (2014), 7.

⁷ Senate Finance and Public Administration References Committee on Commonwealth Procurement Procedures (July 2014), 32-36.

The example of Rossi Boots mentioned in the Senate Inquiry provides a pertinent case study of the flaws with the current interpretation of 'value for money' in the CPRs:

[I]t has come to public attention that the Defence Materiel Organisation (DMO) rejected a tender for up to 100,000 pairs of work boots over five years from Rossi Boots of Adelaide. In the de-brief process the DMO were up front enough to tell Rossi executives that the decision was made on the basis of cost and awarded to an importer...

As Rossi Boots Chief Executive Neville Hayward told the media, all he wanted was a fair go, and it appears that the procurement system is almost designed to make Australian businesses and manufacturers disadvantaged in comparison to overseas suppliers.

Rossi's price was understood to be marginally higher than the winning tenderer, but not overly so. But Rossi offered additional "whole-of-life" benefits to the Commonwealth and to Australia due to a range of factors, including durability, whole-of-life support, employment of Australians supporting Australian families and the economy, tax payments by the company and employees, compliance benefits of the company meeting Australian standards for employment conditions, the environment, OH&S and industrial relations.⁸

Australia's procurement decisions should be able to rest on a broad definition of 'value for money', that takes into account the full cost and benefits of procurement decisions, including jobs, skills, industry and technological innovation, industrial capacity, and resulting economic and tax impacts.

SMEs and Government Procurement

Nationwide, small to medium sized businesses make up the overriding majority of the TCF industry.⁹ Under existing bilateral free trade agreements, Australia still has the capacity to preference SMEs. The TCFUA is concerned that such exceptions will be removed under the GPA.

Others may argue that removing the ability of governments to preference local SME suppliers may drive down the cost of government contracts. But such changes mask the real cost to the Australian community. This includes not only loss of jobs and business, but flow-on effects of unemployment in the community, including increased burdens on the welfare and health care systems, and the loss of industry innovation in the sector.

The 2014 Senate Inquiry into CPRs found that there was sufficient scope in the CPRs and the provisions of the AUSFTA, for the Government to allow for a broad interpretation of 'value for money', as well as to preference local small and medium-size enterprises. However, it found that in practice, government departments lacked awareness about these factors, and that the rules were ambiguous about how this should be applied in practice.¹⁰

Impact on Regional Australia

⁸ Senate Finance and Public Administration References Committee on Commonwealth Procurement Procedures (July 2014), 93 (Senators John Madigan and Nick Xenophon).

⁹ TCFUA, Submission to EDIC, *Inquiry into Manufacturing in Victoria*, above n 1, (2010), 2.

¹⁰ Senate Finance and Public Administration References Committee, above n 7, 32-36.

When considering the impact of government procurement decisions on industry, it is important to note that TCF is a vital industry for regional Australia. TCF industries in regional areas tend to be relatively more important to the local economy than in metro areas, hence the impact of structural adjustment in this industry tends to be more acute in regional areas.¹¹ People in regional Australia understand the difficulty of attracting new investment and that is why they are so keen to maintain existing jobs.

The Importance of Flexibility in Government Procurement

The TCFUA does not support Australian accession to trade agreements which restrict the ability of current and future Australian governments to make procurement decisions in the public interest. This includes the ability to implement national and state policies which support and encourage local employment and industry and skills development.

Bipartisan Australian Governments have declined to accede to the WTO GPA in the past in order to preserve the flexibility of governments in procurement decisions. Indeed, Australia's bilateral free trade agreements allow for latitude in preferential treatment of SMEs. It is in the interests of governments to allow for local preference, support and promote local employment and encourage industry innovation and ethical practices. It would be a mistake to reduce the flexibility of present and future State and Federal governments in this regard by binding Australia to the GPA. Past experiences have shown that the likelihood of Australia gaining added access to international procurement markets through such a treaty is small. It would be imprudent for Australia to accede to the GPA on the faith of such an outcome.

Principles for Approval of Trade Agreements

The TCFUA believes that the consideration of any trade agreement including in considering accession to the WTO GPA, Australia should ensure that trade negotiations are conducted through open, democratic and transparent Parliamentary processes. Regular public consultation should be conducted throughout negotiations, and draft texts and proposals should be made publicly available. Parliament should vote on the whole agreement, and the text of any Agreement should be published for public and Parliamentary debate before signing, to ensure that the Agreement is in the best interests of the nation.

Conclusion

The TCFUA is of the view that it would be improper for Australia to bind itself to the WTO GPA, which would constrain the Government's flexibility on procurement decisions in the future. The risks and future impacts on the TCF industry and broader Australian community resulting from accession to the WTO GPA outweigh any benefits of accession.

¹¹ TCFUA, Submission to EDIC, *Inquiry into Manufacturing in Victoria*, above n 1, (2010), 21.