



**submission to the productivity commission
post 2005 textile, clothing and footwear
assistance arrangements**

MARCH 2003

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SUMMARY

The Textile, Clothing and Footwear Sector is at a crucial stage of development. The past ten years have seen substantial and destructive restructuring of the industry with massive company closures and huge job losses.

Continued closures and job losses will result in the industry losing its critical mass, a permanent loss of skills and an effective end to an industry that has formed a vibrant and critical part of Australian manufacturing for over a hundred years.

The Federal Government's decision on post-2005 tariff and industry assistance measures is crucial to the question of the industry's survival.

Any decision to further reduce tariffs beyond their current levels will result in further destructive company closures and job losses. Tariff reductions over the past decade have seen over 36% of jobs lost as cheap imports have flooded the Australian market.

The fundamental premise of previous tariff reductions has not eventuated. Our major trading partners have not reduced their tariff levels at the same pace as Australia, and importantly, there are a range of non-tariff barriers in place that make it difficult for companies to export.

The Australian TCF industry does have a viable future in the globally competitive TCF sector by focussing on innovation and exports and by investing in research and development. Many companies are already doing this successfully but require continued breathing space and support from Governments to ensure this strategy can be maintained long-term.

Government assistance through the Strategic Investment Program Scheme (SIPS) has been a vital and necessary component of the industry maintaining its critical mass and focussing on an export led sustainable future. Whilst the TCFUA supports an on-going direct assistance scheme as essential for the industry, there are many problems with the current scheme and it should not be seen as something to be traded-off for tariff reductions.

The SIPS scheme is not linked to employment levels and without such linkage its value to the Australian community is substantially limited. It is a scheme that was designed for the elite of the industry and therefore only a small percentage of TCF companies enjoy its benefits. Assistance is vital, but SIPS needs to be substantially changed so the majority of the industry can restructure their focus to remain competitive.

Any sober assessment of the TCF sector will acknowledge the unfortunate fact that more TCF factories will close due to the effect of cheap imports. For too long, TCF workers have borne the brunt of Government policies seeking to surrender Australian jobs in the name of so-called 'free-trade.' It is absolutely vital that paid training, specific to the TCF sector, is made available for TCF workers displaced by company restructuring. The previous TCF specific training program – the Labour Adjustment Program(1988-97), worked effectively as a method of providing an alternative career path for workers who would otherwise remain unemployed.

The TCF sector must ensure that its future is not overshadowed by problems that have blighted its image over the past decade. Tariff reductions have caused company closures, and in far too many cases workers have lost their entitlements because of fraudulent management practices. Corporations' Law has been inadequate and must be immediately changed to ensure that those workers who can least afford to lose their lawful entitlements are afforded some protection and that a scheme is legislated that guarantees workers 100% of their entitlements.

Tariff reductions have created cost pressures which have led to an explosion of home-based outwork where workers receive exploitative pay, work in unsafe conditions and undermine factory-based working conditions regulated by law. Government legislation is urgently required to stop these practices which undermine the image of the industry, badly affect those employers who are playing by the rules, and grossly exploit some of the most vulnerable workers in the country.

The international system of quotas will conclude in 2005. Combined with China's massive export growth, the implications for Australia will be significant. At the same time Australia is negotiating numerous bilateral trade agreements whilst simultaneously pursuing multilateral agreements based on overall tariff reductions. A coherent and strategic response is required to deal with these issues to ensure that the TCF sector is not sacrificed, or traded-off for supposed gains in other parts of the economy.

By global standards the Australian TCF sector is small but significant and forms an important and vital part of Australian manufacturing. To ensure that this continues, the review of post-2005 TCF arrangements must provide a coherent and sensible blueprint for the future that is grounded in facts and commonsense, rather than based on ideology.

WHAT THE TCFUA BELIEVES THE PRODUCTIVITY COMMISSION SHOULD RECOMMEND TO THE FEDERAL GOVERNMENT REGARDING POST-2005 ASSISTANCE ARRANGEMENTS.

1. That tariff rates for the TCF sector remain at their current (2003) levels until such time as it is proven to be in the interest of Australian workers, their families and communities to reduce them further. That no further review of tariff levels be considered until at least 2012.
2. That a direct assistance program be continued until at least 2015 with the same yearly quantum as the current SIPS scheme. That this new scheme begin in 2005 after a review panel (with participants from all sectors of the industry) reviews the current scheme.
3. That any new direct assistance program ensure that there is a direct link between payment of government funds and employment of Australian workers.
4. That any new direct assistance program be made available to a wider cross-section of the industry than the current SIPS scheme.
5. That the current SIPS scheme be amended prior to the introduction of any new scheme. That such amendments include de-linking of Type 3 grants from Type 1 and 2 grants, amending the definition of new equipment to accommodate nearly-new equipment, and dropping the \$200,000 expenditure threshold to a lower level.
6. That the current SIPS scheme be immediately amended to ensure that companies on the brink of insolvency do not receive unconditional taxpayer funds.
7. That the TCF sector should be consulted about the detail of WTO and Free Trade Agreements trade negotiations prior to their finalisation.

8. That the Federal Government commission research that provides a realistic assessment of the real costs of reductions in the TCF workforce. That this research examines all of the costs associated with job displacement, especially in regional and rural areas.

9. That further promotion of the WELL program be carried out by relevant federal government departments with a particular emphasis on promoting integrated delivery of language, literacy and numeracy skills with vocational education and training.

10. That training with high generic skills content be encouraged through promotion of training at AQF levels 3-4, and professional development of workplace trainers and assessors in the TCF industries in order to enable them to deliver portable, generic skills as well as have up to date technical competencies.

11. That a special TCF industry information and communications technology program be investigated to overcome the barrier of lack of IT infrastructure in TCF enterprises on which to train.

12. That a range of strategies be developed to support the implementation of the Recognition of Current Competence (RCC). These strategies include the dissemination of information to employers and employees on the availability of RCC; that plain-English resources be developed for the use of workplace trainers and assessors and that a funding model which supports the implementation of RCC be developed.

14. That the Federal Government re-introduce the TCF Labour Adjustment Program with the following features:

- the provision of up to 2 years training for workers who have been made redundant

- the provision of integrated training for workers with language, literacy and numeracy needs
- the provision of a wage during the training
- access to training should not be means tested
- a wage subsidy to employers who take on redundant TCF workers
- discreet funding for LAP liaison officer positions who can facilitate the process

15. That the Federal Government introduce amendments to the Workplace Relations Act 1996 that mirror the provisions of the NSW Ethical Clothing Trades Act 2001 and Victorian Outwork (Improved Protection) Act 2003.

16. That the Federal Government support the work of the Homeworkers Code of Practice Committee to encourage ethical sourcing and the work of this committee.

17. That the Federal Government support an Ethical Trading Initiative whereby Australian companies sourcing offshore and onshore and other Trans National Corporations meet international ILO core labour standards and establish methods to monitor and make transparent national and international contract chains in conjunction with existing and potential Australian and international voluntary and legislative frameworks.

18. That the Federal Government introduce an Ethical Procurement Code that ensures that all departments and agencies source TCF products from suppliers that provide to workers their minimum wages and conditions, and in addition, assists the awarding of these contracts to Australian companies.

19. That Workplace English Language and Literacy programs that provide integrated language literacy numeracy and vocational skills be targeted and expanded for TCF outworkers in each state.

20. That the government introduce programs that facilitate Recognition of Current Competence Programs for workers, including outworkers, to access the training agenda and encourage skills recognition.
21. That the Federal Government introduce a multilingual inspectorate unit specific to Award compliance for TCF Awards that will focus on the subcontract chain Award compliance and outwork work conditions.
22. That the Federal Government establish a national Outwork committee that includes representatives of the TCFUA to facilitate national outwork policy and implementation of relevant legislation and policy.
23. That the Government consider a taxation and social security amnesty for outworkers and focus compliance towards money laundering and tax evasion by TCF corporations.
24. That the Government ratify the ILO Homeworkers Convention 177 and its recommendations.
25. That the government introduce programs to promote occupational health and safety for outworkers in TCF industry including promotional and education campaigns directed at employers and outworkers.
26. That the Federal Government enter into discussions with state governments to promote a common approach to dealing with outworker exploitation.
27. That the Government support an education and consumer awareness campaign with relevant community, consumer campaigns, industry groups and the Textile, Clothing and Footwear Union of Australia, the FairWear campaign and the Homeworkers. The government should provide funds and resources to such groups such as the Code of Practice Committee to deliver a comprehensive education and information strategy.

28. That the Federal Government establish a TCF Industry Development Organisation with representatives from both the TCFUA and employer bodies.

29. That in relation to the protection of entitlements the Federal Government must immediately enact a scheme which requires employers to ensure that 100% of all employee entitlements must be secured and protected.

30. That the Federal Government should immediately amend the Corporations Act 2001 to vary the order of priority of payment to creditors in the case of insolvency to place employees before secured creditors. Such priority to employees would apply to 100% of all employee entitlements owed, including superannuation.

Tariffs should be frozen

The TCFUA believes tariffs post-2005 should be frozen at their current (2003) levels until such time as it can be proven to be in the interests of Australian workers, their families and communities, to reduce them further.

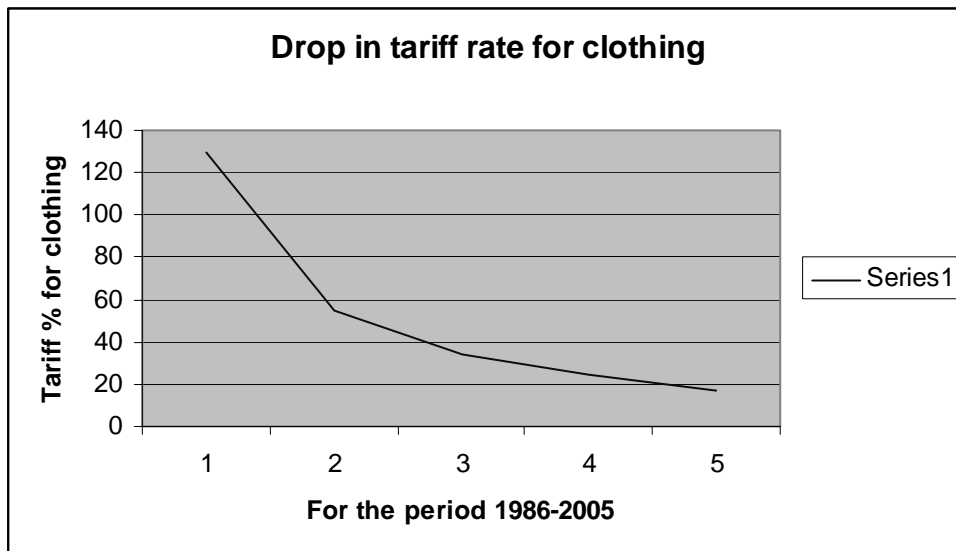
The TCF industry, including the TCFUA, is committed to developing a world-class TCF sector with an emphasis on manufacturing high-value added products that can be exported to the global market. The TCFUA wants an industry characterised by new product development, investment in new technology and continuous innovation. Further reducing tariffs in 2005 will hinder the development of the industry.

Those with an ideological desire to reduce tariffs regardless of the consequences to Australian workers need to be reminded that TCF tariffs have fallen dramatically since the mid-1980s.

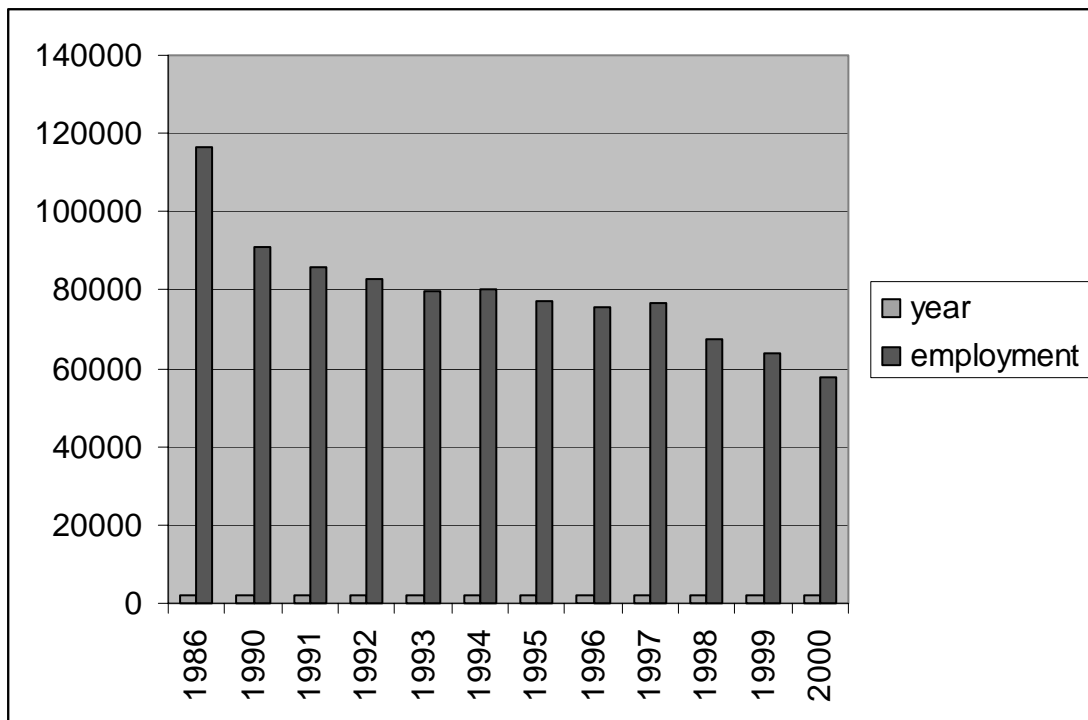
In 1986 the TCF clothing tariff was 130%¹. It is now 25%. This 80% drop in the tariff rate has come at a huge cost to TCF workers. From 1986 to 2001 TCF employment levels have halved from 116,000 workers to 58,500². It is hard to argue that falling tariff rates are not the major cause of this decline.

¹ IAC 1997 Report, Pg 394.

² ABS. TCFL Employment. ANZIC 4d by Financial Year.



Graph 1 shows how dramatically TCF tariffs have fallen in recent years³



Graph 2 shows the steady decline in TCF employment since 1986⁴

The falling tariff rate has caused a surge of imports from low-wage countries where labour standards are often non-existent. For the decade from 1991 the:

³ IAC 1997 Report, Pg 394.

⁴ ABS. TCFL Employment. ANZIC 4d by Financial Year.

- Import share of the clothing sector has increased from 18.5% to 45.1%
- Import share in footwear has increased from 36.4% to 64.9%
- Import share of the intermediate textile market has risen from 50.9% to 61.8% and the
- Import share of finished textiles has risen from 18.1% to 31.5%.⁵

What the above figures show is that employment has halved and imports have doubled during the period of dramatic falls in tariff protection.

It is highly likely, if not inevitable, that continued falls in tariff protection in the post-2005 period will result in a continuation of this trend. The problem for the TCF sector is that a decade and a half of closures, rationalisation and retrenchment has led to a situation where the critical mass of the industry is such that further closures may well result in parts of the industry being unable to source materials for continued Australian production. Each closure has a flow-on effect to other businesses in terms of loss of business and bad debt. The TCFUA believes that at some point the whole industry is under threat by a continuation of such trends.

The vast bulk of these imports are coming from China which now accounts for:

- 69% of all clothing imports
- 57% of all footwear imports
- 21% of all textile imports⁶

China is increasingly dominating global TCF markets and the problems experienced by the Australian TCF industry is being repeated around the

⁵ TCFL Forum Strategic Plan. July 2002.

⁶ TFIA Business Services, Quarterly Review, June 2002

world. The World Bank estimates that by 2010 China will account for 50% of world garment exports, up from their current level of 20%. ⁷

Unilateral reductions in Australian tariffs, especially given China's growing global dominance, will ensure continued and increased import penetration by China.

China's economy is growing at staggering rates. Its share of world trade has quadrupled since 1986, its exports rose by 23% in 2001, last year its growth rate was 8%⁸ Classical economic theory would suggest that such growth patterns will eventually lead to increased wages but China has a huge pool of cheap labor to utilize. Millions are moving from rural China to the cities and state-owned enterprises are shedding workers in large numbers. This explains why labor still only costs 60 cents an hour.⁹

Another factor contributing to China's massive export growth is that they have a fixed exchange rate. Normally such growth would be accompanied by a revaluation of the yuan, but as it is fixed to the US dollar this will not occur. China is also increasingly manufacturing more capital intensive products because of the savings available in the more labor intensive back-end operations that are part of any manufacturing process.

China's growing dominance also needs to be considered alongside the conclusion of the world-wide quota system in January 2005.

In 1974 a world-wide agreement was struck to remove quotas on TCF products by January 1st 2005. Australia unilaterally opted out of the Multi-Fibre Arrangement in 1993. Many low-wage countries have been able to access markets in the US and Europe by being given quotas under the MFA. When this process concludes in 2005 these countries will also be competing with China on an open basis in all export markets. Because of the size of the

⁷ The Economist. February 15th 2003.

⁸ The Economist. February 15th 2003.

⁹ The Economist. February 15th 2003. (figures quoted in \$USD)

Australian market and the fact that their industry was utilising their production in filling quotas under the MFA the level of import penetration from these countries has been low. Post-2005, Australia could see a flood of even cheaper imports by countries who are unable to compete with the volume of Chinese manufacturers but are trying to buy market share wherever they can.

The end of quotas in 2005 is a significant point in the history of world-wide TCF products. It contains many dangers for Australian manufactures, particularly if tariffs are further reduced at the same time.

Previous reductions in tariffs have resulted in a massive surge in the use of home-based outworking that is mostly unregulated, unsafe and pays extremely low wages (See section on Outwork) It is highly likely that continued tariff reductions will continue this trend.

The surge in imports because of tariff reductions has also resulted in many company closures. In Victoria alone, since 1996, the TCFUA has tracked the closure of more than 570 businesses.¹⁰ This trend has also been reported in other branches of the union.

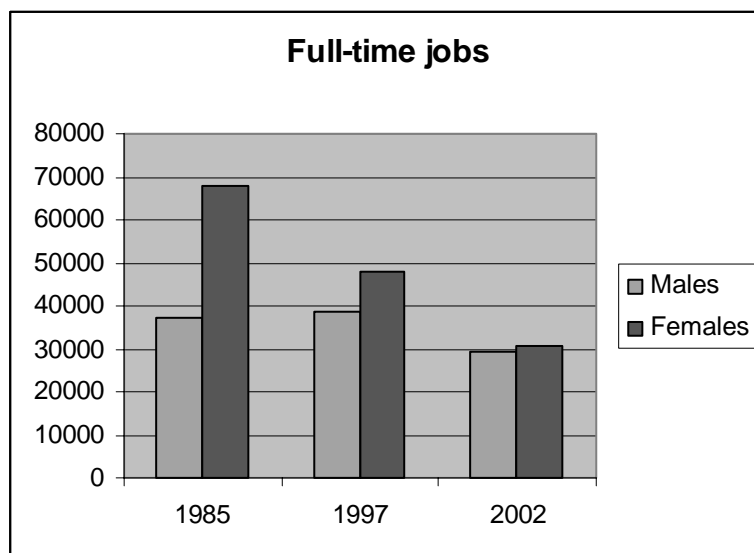
One of the major consequences of this spate of company closures has been that many workers have not only lost their jobs but have also lost their legal entitlements to holiday pay, long service leave and redundancy pay. Despite the introduction of the GEERS scheme (and its predecessor the EESS scheme) many of these problems still remain. (See section on workers' entitlements) These problems will continue as a consequence of TCF restructuring and need to be addressed as a priority.

Traditionally, the TCF industries have employed a high percentage of workers from non-English speaking backgrounds. As Australia rapidly expanded its migration program post-war the TCF industry took up many of these new arrivals.

¹⁰ TCFUA, Victorian Branch, Membership Data.

The current TCF skill base consists primarily of an ageing workforce, with a high proportion of workers from non-English speaking backgrounds and women.

- In 2002 women represented 59% of the TCF&L workforce down from 68% in 1985. Over the same period full-time employment for women declined by 47%, whilst for men it declined by 16%.¹¹
- The proportion of TCF&L workers from non-English speaking backgrounds is 41%, compared to 23% for 'all manufacturing' and 14% for 'all industries'.¹²
- The average skill and qualification levels are deemed low with 74% of the TCF workforce having no formal qualification.¹³



Graph 3 shows how females have borne the brunt of full-time job losses in the TCF sector.¹⁴

It is therefore no wonder that these workers find it difficult to find new work when their factory closes or downsizes.

¹¹ ABS. Labour Force Survey Data.

¹² ABS. Labour Force Survey. Unpublished..

¹³ ABS. 1996 Census Data

¹⁴ ABS. Labour Force Survey Data.

Women hardest hit

Full-time female employment has suffered the most since tariff rates began reducing in the late-1980s. In 1985 there were 67,000 full-time female jobs. This had reduced to 30,000 in 2002. Male full-time jobs over the same period fell from 37,000 to 31,000.¹⁵

Over the same period part-time female employment grew from 11,500 jobs to 13,000. Women fill 90% of all part-time positions.¹⁶

These figures show that the bulk of the full-time TCF job losses were female. Many of these women were older workers and from non-English speaking backgrounds. Women employed in the TCF sector are disadvantaged – they earn less money than men and they disproportionately fill the lower skill levels because many of their skills are not recognized. Generally women are also affected by factors such as limited travel options, lack of support in childcare and the pressure of domestic responsibilities. It is now clear they are also bearing the brunt of full-time TCF job losses caused by tariff reductions.

¹⁵ ABS. Labour Force Survey Data.

¹⁶ ABS. Labour Force Survey Data.

New jobs assumption flawed

A key assumption underlying the dramatic reduction in tariff rates over the past decade has been the belief that workers displaced by tariffs will be employed in new enterprises.

Classical economic theory holds that new jobs will be created from the wealth generated by what they believe is a more efficient allocation of resources. The reality is often far from the theory. The Industry Commission was forced to acknowledge the gap in its theory in its 1997 TCF Review. They stated, “In the short-term, finding alternative uses for some resources used in the TCF industries, especially low-skilled labor, can be difficult...”¹⁷

This shouldn’t be any surprise because earlier in the same report they state, “In general, TCF manufacturing workers tend to be lower paid and have less formal education than do employees in other sectors of the economy. They are also more likely to be older, female and born in non-English speaking countries than the workforce in all manufacturing or the economy as a whole.”

¹⁸ Is it any wonder that TCF workers find it difficult to find alternative work?

Sally Weller and Michael Webber conducted a longitudinal study into the employment effects of tariff reductions in the TCF sector. They found that, “The most immediate consequence of restructuring the TCF sector was unemployment. Of the 605 workers in this sample, more than a third were never employed again.”¹⁹

Another factor revealed by this study has been the duration and type of jobs created by TCF re-structuring. “The impact of redundancy does not end when workers are first re-employed, but reverberates through subsequent work histories. Many retrenched workers are led into intermittent and marginal jobs,

¹⁷ Industry Commission. 1997 Review of TCF. Page 327.

¹⁸ Ibid. Page 94.

¹⁹ Refashioning the Ragtrade. M.Webber and S.Weller. UNSW Press. 2001. Page 262.

an effect that is hidden from the traditional approaches that consider only the time to re-employment...most have found only part-time, low-paid or casual, intermittent work.”²⁰

The study also found that: “Before being retrenched, most of the workers in the sample held permanent jobs. Since retrenchment, 44% of the jobs with known employment status were casual; almost double the national casual employment rate.”²¹

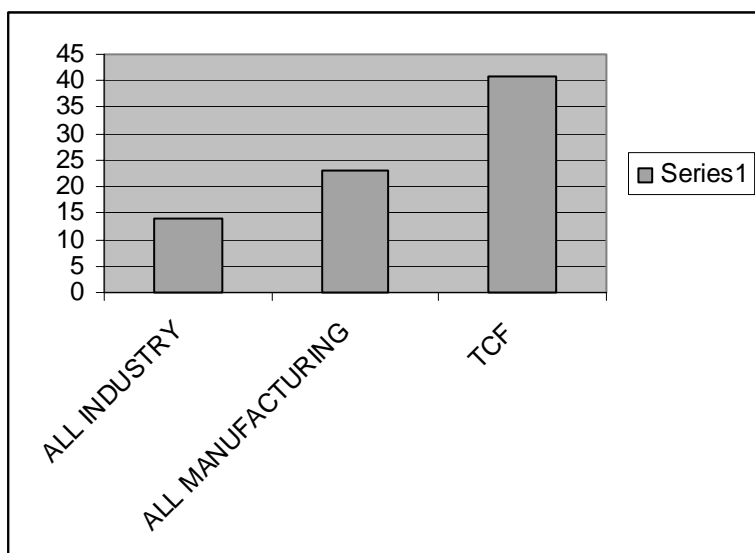
In 1997, and during this current review, the Productivity Commission will commission a number of consultants to do econometric modelling of various scenarios relating to a reduction in tariffs. A base assumption of this modelling is that all workers displaced from the TCF sector will find alternative employment.

All displaced workers from the TCF sector do not find alternative employment. This is especially the case in regional areas and metropolitan areas with high unemployment, when the workers are older and have poor English literacy. In other words when a factory closes many of the workers find it impossible to find adequate alternative employment.

It is necessary for the Productivity Commission to consider the human cost of their policy recommendations, to look beyond the raw statistics and to reject assumptions that bear no reality to the real world. The Productivity Commission needs to recommend policy which properly considers the social as well as the economic cost.

²⁰ Refashioning the Ragtrade. M.Webber and S.Weller. UNSW Press. 2001. Page 272.

²¹ Refashioning the Ragtrade. M.Webber and S.Weller. UNSW Press. 2001. Page 274.



Graph 4 shows the high percentage of TCF workers from a non-English speaking country²²

Regional Australia has special concerns

Post-war government policy saw many TCF businesses encouraged to set-up in regional Australia. Consequently there are still about 20% of TCF businesses concentrated in regional Australia.²³

The past decade has seen a reduction in many of these regional businesses, but in some areas they still account for a sizable proportion of local employment. For example in Geelong the TCF industry has an estimated turnover of \$440 million, employs over 2,150 people directly and a further 2,838 indirectly and accounts for 14.2% of Geelong's total manufacturing workforce. This is compared to the Victorian figure of 8.9% and the national figure of 7%. In Wangaratta the TCF industry employs 12% of the total workforce.

Whilst unemployment in many regional areas has reduced in recent years the unemployment figures do not take into account workers who have left these areas to travel to the city to find work. People in regional Australia understand

²² ABS. Labour Force Survey. Unpublished.

the difficulty of attracting new investment and that is why they are so keen to maintain existing jobs.

Unemployment is still high

Despite one of the longest periods of economic growth since the Second World War unemployment in Australia still remains very high. This is especially the case in areas where TCF employment is situated.

Australia's current rate of unemployment is officially around 6% of the workforce. This comes after nearly ten years of strong economic growth. In many of the regional and capital city areas where TCF employment is congregated this rate rises to ten percent of the workforce.

Unfortunately this doesn't even reveal the true extent of the problem. According to John Quiggin from the Australian National University there are approximately 400,000 Australian men of working age who are receiving disability or sickness benefits. This is about 6 per cent of the working age population compared with less than 2 per cent in the 1960s.²⁴

He says: "Since health has, in general, improved over that time, it is reasonable to treat the entire increase as disguised unemployment, reflecting the fact that, particularly for men over 40, even a mild disability is sufficient to render one unemployable. Rather than act to remedy this situation, the government has confined its efforts to harassing the victims, whom it is trying to force onto unemployment benefits with the associated breaching regimes and the spurious system of mutual obligation."

Quiggin concludes : "Taking all evidence into account it seems reasonable to conclude that unemployment in Australia is worse than at any time since World War Two, except for the trough of the recession 'we had to have.' He

²³ This is based on an extrapolation of the August 2001 ABS Labour Force Survey for Victoria.

believes that when the current economic growth period ends unemployment will inevitably rise.

The conclusion for TCF workers is that the prospect for alternative employment, if their factory closes, remains grim. This is especially the case if their industry is hit by slowing economic growth, reduced tariffs, a revaluation of the Australian dollar and continued expansion of Chinese imports.

Are we calculating all the costs?

The theory behind tariff reductions is based on the fact that workers will move to other jobs in the economy. As discussed earlier this is not always the case. When reductions in tariffs are considered by governments are the real costs of job losses calculated? Do they consider all the implications of this policy?

Elaborate economic modelling will spit out numbers proving the benefits of tariff reductions but when we enter the real world the following things need to be considered.

- The economic cost of a sacked worker being on unemployment benefits. What does it cost to pay welfare and what revenue is lost through less taxation?
- What spending power is lost to the economy overall by this reduction in income?
- What is the flow-on effect of job losses to other business through both the closures of businesses and the loss of spending power?
- Are there resultant social costs through people spending long periods unemployed? Are these social costs (sickness, depression, alcohol or other drug abuse) calculated as being a real cost to society?

²⁴ The Australian Financial Review 12th September 2002.

- Is the cost of lost skills ever calculated? If a worker has spent twenty years developing skills and these are no longer utilised is this considered an economic loss?
- When TCF factories close is there a calculation about the loss of business other businesses suffer as a result? Are the flow-on effects calculated for those companies who no longer supply or service machinery? Are the effects on their suppliers calculated?
- Is the cost to regional Australia of workers and their families having to move to seek other employment ever calculated?

Calculating the theoretical benefits of price reductions to consumers flowing from tariff reductions (price reductions which in reality do not occur) is only one side of the equation. To properly consider all costs of tariff reductions, we need to look at the actual effect of this policy.

Tariff and Non-tariff barriers

In 2002, the TCFL Forum commissioned a study into market access.²⁵ The report is based on the results of a national survey of TCFL companies. It highlights the barriers that Australian TCFL firms face in international markets. Its conclusion is that: “The main issue for Australian TCFL products in relation to trade liberalisation in the next decade is ensuring that Australia’s remaining trade barriers are only adjusted in acknowledgment of, and parallel with, international reductions of our trading partners’ trade control measures (both tariff and non-tariff barriers) and entering into beneficial preferential trade agreements with markets larger than our own.”

Tariff barriers discourage and in some instances prevent Australian TCFL companies from accessing many important international markets. The TCFL forum report identifies China and India as potential markets for Australian textiles. However, both these countries have high tariffs on a range of products including woollen yarn, woollen garments, nonwovens and carpets.

The TCFL forum report uses the Footwear industry to highlight the tariff barriers that Australian TCFL firms face. For example, footwear that has a protective metal toe-cap attracts a tariff of 60% when it enters Japan (outside Tariff Rate Quota (TRQ) allocation), 50% when entering Vietnam, 40% when entering Thailand and Papua New Guinea and 30% when entering Malaysia and South Africa. A different work-boot that also has a protective metal toecap attracts a tariff of 37.5% when entering the US. Australian companies have identified many other countries where export opportunities exist that are made inaccessible because of tariff barriers.

There are a range of tariff rates used by our trading partners to keep Australian goods from being competitive in export markets but Australia’s

²⁵ TCFL Forum. Market Access Industry Participation Program. July 2002.

policy of unilateral abandonment of protection for local industry means that Government is not interested in pursuing these concerns with other countries.

Non-Tariff measures

The very point of non-tariff measures is to create a trade barrier that is not easily recognizable, provable or obvious. What is clear about them is that they inhibit the free flow of goods between countries and make Australia's 'open arms' approach to imports even more damaging for local manufacturers because they do not have the same 'level playing field' to export to.

Quotas

The Uruguay round of trade negotiations agreed to phase out quotas by the year 2005. Australia doesn't have them and, in theory, should benefit from this, but the reality is different. Many in the industry believe that low-wage countries that have exhausted their quotas to other markets will effectively dump excess production or cancelled orders into the quota-free Australian market. As discussed above, the end of quotas may result in a surge of low-wage products flooding the Australian market to the detriment of Australian jobs.

Monopoly Measures

In some Asian countries effective monopolies have arisen through the use of tightly controlled distribution systems dominated by a number of family groups. This operates as an effective monopoly because these groups are vertically integrated and they trade amongst themselves to the exclusion of outside players, like the Australian TCFL exporters.

Technical barriers

There is an increasing level of regulation, especially in developed countries' markets, that results in increased costs for exporters and is, in effect, a non-tariff barrier to trade.

The US and EU are increasingly requiring more stringent environmental and chemical testing that may have more to do with trade barriers than environmental concerns. The North American Carpet and Rug Institute have developed testing and labelling programs to identify chemical emissions in order to preserve indoor air quality. Whilst it is hard to argue with such a testing regime, it is also hard to argue that it is not expensive to comply, and it impedes easy access to the US market.

The US customs is generally recognized for its stringent adherence to the most technical aspects of documentation. Their governments, at all levels, do the utmost to impose restrictions on imports.

Corruption

Corruption is a very real impediment to the free flow of trade. Whilst companies from countries with a high-level of corruption can easily access the relatively corruption-free Australia markets, Australian exporters are hindered in their export attempts in these same countries.

Arbitrary tariff rates, delays in clearances through customs, missing documentation, changed regulations....these are all minor examples of corruption which hinder the free trade of goods.

It is often necessary to bribe officials in order to make them perform the jobs they are paid to perform. Payments to ensure the safe transport of goods within countries, and the often overt pressure to pay 'unofficial agents' to assist exporters are just some of the myriad of ways that corrupt practices can manifest themselves in export markets.

All of these practices hinder the free flow of goods and are unfair for Australian exporters.

A recent international report has rated the top 100 trading countries in terms of their corrupt practices.²⁶

Australia is ranked 11/100 in terms of being corruption-free. We receive 8.5/10 points on this corruption scale. By comparison the countries who import the most TCF goods into Australia do not fare as well. China, which is Australia's major importer of clothing, is ranked 59th and receives a score of 3.5 on the same scale. India, another major importer, is ranked 71st and receives a score of 2.7. Nearly all of our major importers perform poorly in this test.

One of the consequences of these types of non-tariff barriers is for Australian companies to avoid exporting into these markets, whilst at the same time their share of the Australian market is under threat from companies who benefit from our corruption-free environment.

It is very difficult to quantify and measure corruption, but at the same time everyone acknowledges it exists. If you acknowledge its existence then you must acknowledge its effect on the free flow of goods and the damage it causes to the Australian TCF sector by being a barrier to a 'level playing field.'

Patent Infringement

Infringement of intellectual property rights is another example of where Australian TCF companies suffer in comparison to our major trading partners.

Australia has a patent system that allows protection for those who have invested the money into research and development. Many of our trading partners pay only lip service to such intellectual property rights.

It is one thing to have a patent system, it is another to have the civil court structure to deal with infringements in any serious or substantial manner.

²⁶ Transparency International. 'Corruption Perceptions Index 2002.'

Dumping

Anti-dumping action is a legitimate method of taking action against overseas companies bringing goods into Australia in an anti-competitive manner.

For many reasons – whether it be excess production or cancelled orders or hidden government subsidies, many goods are brought into Australia at a cost below their real cost of production.

In China, it is reported that the government, in order to gain much needed foreign currency provides tax concessions to companies who achieve certain export quotas. This means that it is worthwhile for them to export goods at cost or below cost in order to meet this export quota. This can mean that cheap clothing or textiles arrive here and undercut the local market price.

The USA takes more action than anyone regarding anti-dumping. Not only do they vigorously pursue anti-dumping actions but through what is known as the Byrd amendment, they give the duties imposed to the companies who took the action. The USA actively pursues anti-dumping actions to protect their local industries. In 2001 the USA was the number one country for taking anti-dumping measures.²⁷

The TCF sector is particularly vulnerable to dumping because so many of the imports come from China, a country that is particularly difficult to prove a case against, because a large proportion of the economy is still regulated and controlled by the central government. The TCF sector is also vulnerable in regards to fashion clothing because our season is at the tail end of the European season and it is a convenient place to off-load goods unsold overseas.

²⁷ Global Trade Protection Report 2002.

China, our largest importer, is, by far the country most often accused of dumping goods. In 2001, it had 48 cases started against it whilst the next biggest target was the EC with 28. In 2001, 10% of all anti-dumping cases involved the TCF sector.²⁸

²⁸ Global Trade Protection Report 2002.

SIPS and direct assistance

The TCFUA strongly supports the continuation of Government direct assistance to the TCF sector. Since 2000 the vast bulk of that assistance has been provided through the Strategic Investment Program Scheme (SIPS).

SIPS has provided necessary and crucial support to the industry during a crucial period of restructuring. It is absolutely vital that SIPS, or a similar program, continues to be provided over the coming years.

Whilst the TCFUA strongly supports the continuation of a SIPS-type program, we believe the Productivity Commission should recommend the following to the Federal Government:

- 1) A direct assistance Scheme should be maintained until at least 2015.
- 2) SIPS has major flaws that need to be addressed and a review of SIPS should be undertaken in 2004 so any new program for the post-2005 period can incorporate necessary changes.
- 3) SIPS is an elite program for a small percentage of TCF companies and in no way should be seen as something tariffs can be traded-off against.
- 4) There should be a direct link between direct assistance and employment.

September 2002 Review of SIPS

In September 2002 the Department of Industry, Tourism and Resources undertook a review of the SIPS scheme.²⁹

²⁹ Review of the Textile, Clothing and Footwear Strategic Investment Program Scheme. Department of Industry, Tourism and Resources. September 2002.

Many of the issues that the TCFUA believes are important to reviewing the SIPS scheme were raised in that review, but the review was very conservative in recommending any changes to the Scheme. Whilst it is understandable, in one sense, for the Government wanting the Scheme to be run over a number of years before embarking on massive changes, the TCFUA believes this is a strong reason for the scheme to be completely reviewed prior to any extension in the post-2005 period.

There are a number of issues that were raised and rejected in the Review that the TCFUA believes need further consideration prior to any overall review of the scheme. These include:

- Consideration of good quality second-hand equipment as part of the scheme;
- Removing or reducing the \$200,000 threshold;
- De-linking Type 3 grants from Type 1 and 2 grants
- Review of the innovation test to make it fairer and clearer, particularly in relation to the clothing sector of the industry.

Link to employment

The TCFUA's major concern with SIPS is that there is no linkage between a company receiving government funds and their commitment to maintaining, or increasing, their level of employment.

Companies can receive taxpayer funds to assist their business one day, and sack workers the next.

Whilst the TCFUA acknowledges that some aspects of the current Scheme may lead, in the first instance, to a reduction in employment levels (for example, Type 1 grants for new plant and equipment) there is nothing contained within the Scheme that encourages employers to maintain or

expand employment other than a general hope that the Scheme will result in the business growing and as a consequence employ more workers.

The TCFUA believes Australian taxpayers would support a linkage between Government funding and employment levels, and in fact would expect such a link to be in place.

One proposal raised (and rejected) in the September 2002 Review of SIPS was the suggestion to de-link Type 3 grants from Type 1 and 2 grants under the scheme. The effect of this would be to put in place a type of production bounty that rewarded those companies employing Australian workers. The TCFUA supports this type of proposal but believes it would be better to review SIPS in its entirety and include the link to employment within a new Scheme.

Encouragement for firms employing Australian workers can also be provided through other employment related assistance. For example, companies could be rewarded by receiving a rebate for payroll tax paid, or they could receive a greater than 100% rebate for wages paid for taxation purposes. There are a range of methods available which could all be canvassed in a more thorough review of the scheme than was undertaken by the department. Such a Review would need to include representatives of the industry, including the TCFUA, so their concerns could be better represented in any proposals to Government than the rather narrow review undertaken by the Department in September 2002.

One of the other issues that needs to be addressed by any review of SIPS is to ensure that companies receiving taxpayer funds are behaving in an ethical and legal manner.

On the 19th April 2002 the Coogi Group (which went into Administration on the 3rd July 2002 and ceased trading in November 2002) received \$2.4 million under SIPS. Within ten days over \$800,000 of this money was disbursed to

pay for a rental on a property in Rodeo Drive, Los Angeles.³⁰ This was a deposit for a property that was never occupied by the Coogi Group. This payment of SIPS money was made despite it being on the public record in the AIRC that Coogi had serious financial problems in terms of non-payment of workers' superannuation, and in spite of the AIRC ordering Coogi to supply financial information to the TCFUA because of these concerns.

Payments like this undermine the SIPS scheme integrity in the eyes of the public and there should be immediate safeguards put in place to ensure it does not happen in the future.

Who gets SIPS money?

The current SIPS scheme is substantially biased towards large companies. This is of no surprise given that they were the only companies consulted during its development. The TCFUA also believes there is a bias in Government towards large TCF companies because they believe these are the only companies likely to survive into the future.

Such reasoning is wrong in principle and fact. Many small enterprises who have developed a particular niche and are flexible operators in an increasingly competitive environment are likely to survive into the future.

Small companies (less than twenty employees) constitute about 80% of TCF enterprises.³¹ Yet, in 2002/3, companies of this size only comprised 25% of the companies actually receiving SIPS funding.

It has been suggested to the TCFUA that any reduction in tariffs could be used as a trade-off for continued SIPS funding. Besides a range of other arguments, this would be manifestly unfair to the vast bulk of the industry.

³⁰ Ferrier Hodgson, s439A(4) Report by Administrators, 24 September 2002, pg 61.

³¹ ABS. Operations by employment size of the Manufacturing unit. 2000/01

In August 2000/1 there were 4904 Textile, Clothing, Footwear and Leather businesses. In 2002/3 only 365 companies (Australia-wide) received SIPS funding.³² Whilst there is no doubt those companies receiving SIPS are many of the larger employers in the industry, there can be no debate that SIPS is a program accessed by only a small minority of the industry. Any new scheme must address this disparity.

One of the reasons for only such a small percentage of the industry accessing the scheme is because of the size of firms in the industry. Small businesses do not have access to the resources to put in applications. SIPS requires a dedication to paperwork and form-filling beyond the resources of the average small business, many of whom are just struggling to stay alive in an increasingly competitive environment. Larger companies have their own employees, or consultants, (or both) focussing on obtaining SIPS funding. Smaller companies will never have this luxury, so the current scheme will always be out of reach.

The current SIPS scheme also has an in-built bias against smaller companies. To access SIPS, companies must have eligible expenditure in excess of \$200,000 in order to qualify for assistance. Many companies, who otherwise may meet the SIPS guidelines, cannot meet this threshold and therefore are excluded from the scheme.

As stated earlier there is also a large compliance cost for participants. The 2002 Departmental Review discussed this issue but rejected any changes. The TCFUA believes that there is an urgent need to address this bias in any new scheme.

³² Review of the Textile, Clothing and Footwear Strategic Investment Program Scheme. Department of Industry, Tourism and Resources. September 2002.

Clothing sector is disadvantaged.

A number of the aspects of the SIPS scheme discussed above essentially lead to a question about whether the clothing sector is being disadvantaged under SIPS. Clothing companies tend to represent a higher percentage of smaller companies than other sectors of the industry. These companies are not receiving the SIPS funding in proportion to their contribution to the industry.

It is a fairly obvious point to be made, but should be made nevertheless. The clothing sector is an integral and vital component of the future TCF industries in Australia. Just because it may not fit the current Government template for assistance does not make the arguments any less compelling for it to receive its due share of assistance.

The clothing sector, because of it being more labor-intensive, will benefit from changes to SIPS that reward companies who continue to employ Australian workers. This is also an important consideration in relation to the employment of women in the TCF sector. The majority of full-time female jobs in the TCF sector are found in the clothing industry. In 2002, the clothing sector employed 60% of females who had jobs in the TCF as a whole.³³ As discussed earlier the vast majority of full-time jobs lost in TCF since 1986 have been female jobs.

In 2001/2002 the carpet sector received about 16% of SIP funding whilst contributing about 5% of TCF employment.³⁴ The carpet sector does relatively well under the SIPS program because it is a capital intensive industry dominated by a small number of large players. The current guidelines for SIPS ensure it will continue to do well. The TCFUA supports continued assistance to the carpet sector at current levels because it means we are building a world competitive carpet industry. But it does raise a question about how the SIPS scheme has been developed. If you are going to develop a

³³ ABS. Employed persons by sex by full-time status by selected industry. August 2002.

scheme that rewards large capital intensive companies you are inevitably going to discriminate against the bulk of TCF clothing companies.

If this is the intent of current Government policy then the policy is wrong and should be changed. Likewise, if it is an unintended consequence of government policy, then it should also be changed.

The SIPS scheme should be designed for all TCF players, not just the big, capital intensive ones. If government assistance is designed to assist the industry to restructure then the whole of industry should have access to it because the whole industry is being asked to restructure.

Governments publicly declare a reluctance to 'pick winners' through government assistance but that is exactly what the current SIPS scheme is doing.

³⁴ ABS, Manufacturing Establishments Industry Class.2000/01

Lower dollar has assisted TCF

In the past few years the Australian dollar relative to the US dollar has been at historically low levels.

International TCF trade is mainly conducted in US dollars. The impact of this historically low valuation of the Australian dollar is two-fold.

Companies facing import competition have been shielded (through higher import costs) of even greater price competition than might otherwise have been the case. Similarly, companies who have been exporting goods have been assisted by their products being cheaper in overseas markets.

Whilst some, including Industry Minister, Ian MacFarlane,³⁵ have pointed to the fact that fluctuations in the Australian dollar may be greater than levels of tariff protection, the other side of that coin is to look at what the level of import penetration (and reduction in export volumes) may have been if the dollar had remained at a higher level.

The reality of financial deregulation is that governments have effectively withdrawn their ability to control the level of their currency. Whilst Mr. MacFarlane is right to point out the fluctuations are large, the conclusion of such an argument should be that governments should retain control over those policy instruments that remain. A policy to reduce tariffs further will mean the government would have relinquished all of the policy instruments at its disposal to protect Australian industry.

Whilst no-one can predict the future level of the Australian dollar it is recognized throughout the industry that the lower dollar has assisted local

³⁵ The Australian Financial Review. 10th February 2003.

manufacturers. Some assessment should therefore be made of the impact on the industry of a higher dollar.

The TCFUA has serious concerns that any reduction in tariffs post-2005, combined with a possible revaluation of the Australian dollar will adversely impact on the industry. The dollar has already risen from a low of 47.5 cents to the US dollar to its recent highs of 60 cents. It is yet to be seen what effect this will have on the TCF sector but it can only be assumed that increases in its value will make life harder for local TCF manufacturing companies.

Lower tariffs don't equal lower prices

A fundamental tenet of free-market economics is that lower tariffs benefit consumers by leading to lower prices for consumers. This is not the case.

The last Australian statistical study of this supposed linkage was done by Prices Surveillance Authority in December 1993. The PSA found that:

"The clear evidence...is that savings from tariff reductions have generally not been transmitted to the domestic market...While manufacturers have had to face greater competition with imports, retailers have gained the benefits of reduced protection, not consumers, through the exercise of their discretionary power in the market."³⁶

Anecdotal evidence in the past few years lends support to the PSA argument. There is clear evidence that some companies who have shifted production off-shore have pocketed their gains (or others have pocketed the gains) rather than passed them on the consumer. The TCFUA has monitored the products of a number of brand-name companies in large retail stores after they closed their local manufacturing sites and found that there is little, if any, price reductions for the consumer. It is suggested by some people within the

³⁶ PSA Monitoring of Prices of TCF, December 1993:44

industry that these gains are not being pocketed by either the wholesaler or retailer, but rather by the owners of the large commercial shopping centres whose returns from rent have skyrocketed in recent times.

Whoever is pocketing the gains from Australians losing their jobs, it is clear that the issue of consumer prices is an area of critical importance to any discussion about future tariff levels. What is also clear is that any trend of consumers not receiving the full benefits of savings will accelerate if more manufacturing is lost to Australia.

If local manufacturing is wiped out by Government policies then what brake will there be on importers not to charge higher prices? Domestic manufacturing plays an important role in providing benchmark pricing against dominant and monopolistic international players especially in technical and niche sectors of the market. If the Australian TCF sector disappears consumers will be double losers – not only will they not receive price reductions (and perhaps suffer the reverse) but they will be required to pay for the social and economic costs of dealing with thousands of workers unable to find viable alternative employment.

Multilateral, Bilateral and Unilateral

It is currently unclear whether the WTO Doha round of trade negotiations will proceed to a successful finalisation. There are many hurdles to completion of this round.

Perhaps because of this uncertainty many countries are pursuing bilateral Free Trade Agreements. Australia has recently signed an FTA with Singapore, is well advanced in negotiations with Thailand and will soon start the process with the USA.

These bilateral negotiations have the ability to substantially alter trade patterns. If the Rules of Origin in such agreements are inadequate the

Australian TCF sector could find itself flooded by goods nominally made in one country but actually made in another.

A Free-Trade Agreement does not mean that all trade will be unrestricted. Each country will negotiate the terms under which the Free Trade Agreement applies. In any free-trade agreement with the USA parts of the TCF sector may benefit from such an agreement whilst other sectors, like carpet, could be seriously disadvantaged unless adequate safeguard measures were put in place. Equivalent state-of-the-art carpet manufacturing plants in the USA will commonly produce 10 products, whilst those in Australia produce over a hundred because of the size of the local market.

The TCFUA has concerns about the Federal Government's willingness to discuss with industry those issues that will directly affect the outcomes of any such negotiations. In October 2002, the Federal Government announced that as from July 2003 the 50 Least Developed Countries (LDC's) would receive tariff and quota free access into Australia for TCF products. This policy is well meaning, but it was implemented without any consultation with either unions or employers. Without adequate Rules of Origin it could have implications far greater than anticipated. The TCFUA is concerned about such unilateral actions.

The TCFUA has reservations about the strategic wisdom of the Government undertaking further unilateral tariff reductions in the context of WTO and FTA negotiations.

Unfortunately, when it comes to manufacturing tariffs, the Federal Government appears willing to lead the world in tariff reductions in the forlorn hope that other countries will reciprocate by lowering their agricultural tariffs. Such a strategy is ill-conceived and naïve.

Manufacturing matters

Manufacturing is the main source of growth of productivity and living standards in the global economy. In Australia it accounts for 50% of all productive growth.³⁷ This means that 50% of the long run growth of living standards is generated by the manufacturing sector.

Manufacturing is the driver of new technology in Australia. 60% of all private sector research and development is conducted by the manufacturing sector. The TCF is an important part of Australia's manufacturing base. It contributes around 7% of total manufacturing employment and 4.4% of turnover.³⁸ It is also closely integrated with other parts of the economy through producer-user linkages. It not only supplies products directly to consumers but it also provides inputs to the production process of other industries, like the automotive sector.

The significance of these linkages is that every dollar of manufacturing output generates more activity and jobs than the output of other industries. As a result, manufacturing has multiplier effects 20-25 per cent larger than agriculture and mining respectively.³⁹ This multiplier effect is reduced by imports of manufacturing products so the effect of the reduction in local TCF manufacturing is significant to the Australian economy.

Manufacturing is closely linked with other sectors of the economy like services. Many activities that are classified as services – including transportation of raw materials and finished goods, engineering and computer support, accountancy and payroll were once undertaken within the manufacturing sector.

³⁷ Industry Commission, Assessing Australia's Productivity Performance. 1997.

³⁸ TCFL Forum. Strategic Plan. June 2002.

³⁹ ABS. Australian National Accounts. Cat. No 5246.0

When TCF factories close all these linkages affect other companies. This is especially the case in regional areas where the size of the local firm is often a very significant proportion of the local economy.

Reductions in tariffs and a phase-out of assistance to the TCF sector will result in the closure of more Australian factories and will continue the reduction in Australian manufacturing with all of the associated costs. One of the key costs of this form of 'restructuring' is in the deterioration of Australia's balance of payments.

Despite twenty years of financial deregulation Australia still suffers from a persistently high current account deficit. One of the reasons for this is that across the economy the story of the TCF sector has been copied – that is, a growth in exports but at the same time a massive increase in imports to fill the spot previously filled by Australian manufactured products.

The December quarter 2002 current account deficit was the highest ever.⁴⁰ It appears that twenty years of policy directed towards fixing it has done little or nothing to solve this problem. At the same time our foreign debt has ballooned. Since the mid-80s, trade as a percentage of Australia's GDP has grown from about 38% to about 46%⁴¹ yet this growth has equally come from both exports and imports. This trend will continue as long as we keep replacing locally produced product with imports.

International obligations

The TCFUA believes that Australia must participate in the fast growing international trade in knowledge-based products and services by focussing on those products with a higher value. This is the best way to ensure long-term sustainable jobs. This will require an industry strategy with an emphasis on realistic tariff rates, export facilitation and support for new technologies and

⁴⁰ The Australian Financial Review. 4th March 2003.

⁴¹ The Australian Financial Review. 3rd March 2003.

skills, changes in the work and management culture and targeted labour assistance measures.

At the same time there must also be a vigorous attack on unfair trade within our region and beyond, including scrutiny of practices which breach international and human rights conventions, such as the use of child labour and prison labour. Australia should promote 'fair trade' and aggressively pursue human rights and ILO international commitments. Australia has ratified over 50 ILO labour conventions and as the Productivity Commission Act 1998 requires the PC to have regard to the need for "Australia to meet its international obligations and commitments" therefore an examination of these should form part of the Productivity Commission's inquiry.

Labour standards should be linked to international trade agreements. Australia should also be ratifying and/or more strictly supervising existing international treaties and conventions such as:

- Universal Declaration of Human Rights;
- Freedom of Association and the Right to Organise;
- Equal Remuneration;
- Discrimination (Employment and Occupation)
- Workers with Family Responsibilities;
- Convention on the Rights of the Child;
- Convention on the Elimination of All Forms of Discrimination against Women;
- Homeworker Convention.

Governement Procurement Policies

A number of State Governments have recently introduced ethical procurement policies for their departments. These have focussed on the need for

governments to stop using companies who are exploiting home-based outworkers.

There is also the opportunity for Governments to implement procurement policies which support local manufacturing.

If all State and Federal Governments supported local manufacturing through the implementation of these sorts of policies it would provide a significant boost to local manufacturing.

Victoria has a procurement scheme, Victorian Industry Participation Policy (VIPPS) which attempts to support local manufacturers but does not go far enough in terms of giving local manufacturers a real advantage in terms to win contracts against imported products. The threshold level for triggering local content rules is too high, and the various arms of government often interpret the rules differently.

The Queensland Government's State Purchasing Policy is the best example Australia has of a Government attempting to utilize their substantial purchasing power to assist local industry. The Queensland Government spends \$5 billion each year on goods and services. Their State Purchasing Policy has three equally competing objectives, the most relevant being that purchasing should advance government priorities. "Each department/agency must seek to advance Government priorities. These priorities define the Government's commitment to advance, through it's purchasing, certain social, economic and environmental objectives."⁴²

By contrast the VIPPS asserts that all decisions "will be made solely on the basis of value for money".⁴³

⁴² What's new about the State Purchasing Policy?. Queensland Government Website.

⁴³ Victorian Industry Participation Policy. Victorian Government website.

A uniform local procurement policy implemented by Federal and State Governments that was meaningful for the whole sector would make a huge difference to the size and viability of the local TCF industry.

There are overseas examples, in particular New York City, where support is given for the local procurement of uniforms for firefighters, police officers and other City employees. Similar legislation has been passed in over 30 US municipalities in the past two years.⁴⁴

Government procurement and outwork

The TCFUA has increasingly found outworkers making uniforms and outdoor clothing that is part of government contracts and for government personnel.

Federal Army, navy and police uniforms as well as state departments covering hospitals, nurses, firefighters, ambulance and police uniforms, fire retardant garments, wet weather gear, general clothing such as shorts, pants, skirts, shirts and tee shirts can all be found being made by outworkers for low piece rates and under poor working conditions.

Federal and state governments are significant purchasers of TCF products and government procurement codes should be a priority.

The New South Wales and Queensland Governments have in place Ethical Procurement Codes for TCF products.

⁴⁴ Unite website. Press Release 14th March 2001.

TCF does have a future

The TCF sector has many problems, many of which form part of this submission and part of the TCFUA's argument as to the changes required within the industry.

Much of the public image of the industry is created by 'bad news' items – company closures, loss of entitlements, exploitation of outworkers. The TCFUA takes full responsibility and makes no apologies for being the major instigator of these stories in the media. Whilst the issues and problems remain, the TCFUA will continue to highlight them in order to achieve public awareness and changes to government policy.

But just because these issues are often highlighted in the media doesn't mean this isn't another side to the TCF sector – the 'good news' side. Of course the media aren't as interested in these stories – the small companies exporting their fashion designs to the world, the supplying of high-technology fabric and garments around the world and the integration of TCF companies into other manufacturing sectors like automotive.

Government policy since 1997 and the introduction of SIPS has focussed on Australia developing an innovative industry focussing on research and development, penetrating niche markets and exporting to gain a viable base to survive.

The TCFUA support this strategy, but also recognizes that it isn't going to happen overnight and that the Government must continue to support the industry whilst this reorientation occurs.

If exports are the only measure of success then the statistics since 1997 are disappointing. But the Productivity Commission needs to look behind the figures to gauge the true picture.

From 1990 to 2001, TCF&L exports grew by 48%, but most of this growth occurred in the period prior to 1997.⁴⁵ The following factors need to be taken into account when analysing these figures:

- SIPS, although announced in 1997 did not effectively start until 2001. Real benefits from the scheme will not flow for a number of years.
- The size of the sector has dramatically reduced since 1997. As discussed earlier the number of employees has been dramatically reduced as well as the number of companies. Although the raw figures remain static the amount of exports per company has risen.
- Export orientation for the TCF sector is relatively new and export growth and markets will take time to develop.

Government policy and intent for the TCF sector to export its way out of trouble is a worthwhile government objective, but it will not happen overnight. The TCF industry, prior to recent reductions in protection, had no history of actively seeking exports. It will take time and resources to make this happen, and in the context of other issues discussed above (China's growth, end of quotas, higher Australian dollar, world economic growth slowdown) finding new markets and growing exports cannot be expected to happen immediately.

This does not mean that the TCF should not continue this focus. Export growth and adding higher value to Australian TCF products is absolutely essential to the industry's long-term survival, but it needs to be done within a context of continued support and recognition that maintaining a critical mass of industry is the only way this will occur.

⁴⁵ ABS. TCFL Exports, ANZIC by Financial Year.

It is also necessary for the industry to recognize that to remain viable it must attract new employees with the appropriate skills, and one of the key elements of this is to ensure that wages of TCF employees increase. TCF workers are already at the low end of the wages scale compared to the rest of manufacturing, and in the past decade this disparity has increased even further.⁴⁶ The TCFUA recognizes that a strategy focussing on increasing the value-added component of manufactured goods is a key element in trying to raise wages. The future of the industry lies in a higher wage, high skill, innovation focussed industry. Strategies based on short term cost cutting and low wages are as doomed as the companies which employ them. The TCFUA hopes that employers in the industry will likewise recognize the benefits of increased wages to the industry.

Another area that needs urgent attention when looking to the TCF's future is the area of health and safety. The current TCF industry can be a dangerous place to work. Its OH&S practice is poor and this is reflected in the rate of insurance claims. Despite a decrease in textile employment the amount of claims for injury has increased. The textile industry represents 2.6% of manufacturing industry workplaces yet accounts for 5.7% of total claim payments.⁴⁷ For too long TCF workers have been poorly paid and have worked in dangerous and unsafe conditions. It is to everyone's benefit that this change.

The TCF sector is very diverse. The TCF&L Forum noted problems the industry had with collection of data and a lack of cohesion. The industry will continue to undergo significant change because of local and global pressures, and will be at the forefront of issues to be decided through multilateral and bilateral trade agreements. The establishment of a government, employer and union organisation, like the one recently established in New Zealand, would greatly assist the industry in achieving its objective of becoming a globally competitive industry.

⁴⁶ TCF&L Forum Strategic Plan. June 2002. Page 32.

⁴⁷ WorkSafe: Reported (Standard) Claims, Textiles Industry – 2000/01

Workers' entitlements lost

Since the mid-1970s the TCFUA, more than any other union in Australia, has had to deal with regular company closures. This is a direct result of government policy to reduce tariffs. Unfortunately, in far too many of these closures, the workers who have just lost their job also learn that the money they thought would be available to tie them over until they found new employment has been stolen by their employer.

To the shame of previous governments, both Labor and Liberal, nothing was done about this problem until recently, and the Howard Government changes do not go far enough. Prior to last election the Howard Government promised to enact reforms to Corporations' Law to give workers priority over other creditors but these changes have not eventuated.

The high profile closure of National Textiles, where the Prime Minister's brother was Chairman, saw the first government assistance for recovery of workers' entitlements. This ad hoc bailout led to the introduction of the EESS scheme, which was then replaced by the GEERS scheme.

Why EESS didn't work

The *Employee Entitlements Support Scheme (EESS)* was introduced by the Federal Coalition government with effect from 1 January 2000. More recently in September 2001 the federal government announced the establishment of the *General Employee Entitlements Redundancy Scheme (GEERS)*. A third scheme, the *Special Employee Entitlements Scheme for Ansett Group Employees* was announced in response to the insolvency of the Ansett Group of companies. The three schemes are administered through the Department of Employment and Workplace Relations.

The EESS is applicable to employees whose employment was terminated between 1 January 2000 and 11 September 2001 due to the insolvency or bankruptcy of their employer.

The GEERS is applicable to employees whose employment was terminated on or after 12 September 2001, due to the insolvency or bankruptcy of their employer.

Although GEERS provides enhanced benefits for employees who are terminated in the context of their employer becoming insolvent, the TCFUA views both GEERS and its predecessor EESS as fundamentally flawed schemes. Neither EESS or GEERS satisfies the primary objectives of securing and protecting 100% of entitlements for workers in the TCF industries and for these funds to be available to employees in a timely manner.

In the experience of the TCFUA, the EESS was a minimalist scheme providing a totally inadequate level of payments to our members in the event of redundancy arising from company insolvency. The wide flaws in EESS means the TCFUA believes the operation of an improved GEERS should be made retrospective to 1 January 2001.

General Employee Entitlements And Redundancy Scheme (GEERS)

Under GEERS, there is no longer the assumption which underpinned EESS that the state governments will contribute 50% to the funding of the scheme.

Benefits Payable

GEERS makes payments for:

- . unpaid wages
- . unpaid annual leave including annual leave loading.
- . accrued long service leave
- . unpaid pay in lieu of notice.
- . up to 8 weeks redundancy pay.

A cap will apply in that \$75,200 will be the maximum annual wage rate at which benefits will be calculated.

Problems of GEERS

Despite the increase in payable benefits from the EESS to GEERS many of the limitations and problems which characterized EESS are equally applicable to the GEERS, including:

Tax payer funded

- The philosophical and practical basis of GEERS is that of a totally tax payer funded scheme with nil contributions by employers or industry. The TCFUA considers that this framework sends a wrong and inconsistent message to employers who seek to use employee entitlements for other core business purposes i.e. to satisfy other liabilities at the expense of making sufficient accruals for ongoing and contingent employee entitlements.

No payments for superannuation

- The table of benefits does not include payments for unpaid or insufficient payment of compulsory employer superannuation contributions as per the Superannuation Guarantee Charge and the various TCF awards. The loss of superannuation includes both monthly contributions and the interest forgone. Nor does GEERS appear to make payments where an employee has made voluntary superannuation contributions and these have not been remitted by the employer to the relevant industry fund (ARF). The TCFUA is of the view that unremitted voluntary superannuation retains the characterization of wages and should be payable as such by GEERS. The TCFUA had some minimal success on this point in its facilitation of claims under the previous EESS.

No payments for RDO's

- The table of benefits appears not to include payment for hours worked in order to accumulate RDO's. The TCFUA views such entitlement as being equivalent to unpaid wages and should be claimable as a benefit under the Scheme.

Not a 'top up' Scheme

- GEERS does not operate as a top up scheme in addition to any partial dividend paid by an insolvency practitioner. For example, if the insolvency practitioner makes a dividend to a member of 8 weeks severance, then even though the employee may have an entitlement of say 35 weeks severance under a Certified Agreement, GEERS will not pay any extra payment for severance.

Cap of 8 weeks severance/redundancy

- Cap of payment of 8 weeks total in respect to severance/redundancy entitlements. For the majority of our members the redundancy entitlement is often the most significant component of any termination payment. Many of the Certified Agreements entered into by the TCFUA provide for greatly enhanced severance and redundancy entitlements from between 2.5 and 4.0 weeks per year of service. These entitlements have particular cogency in the TCF industries where it is often difficult for members to find alternative employment quickly after termination.

Payments re: accrued sick leave

- GEERS, on the face of it, makes no payment for accrued sick leave. It is unclear how GEERS will view an entitlement to the pay out of accrued sick leave as part of enhanced severance/redundancy provisions under a Certified Agreement.

No payments for unremitted union fees

- GEERS does not make payments for union fees deducted by employers on employees behalf, but not remitted to the TCFUA. Unremitted fees can amount to tens of thousands of dollars and should be covered by the GEERS.

Application of the insolvency test

- The test for eligibility for payments is that a worker's employment has been terminated due to the insolvency or bankruptcy of their employer. DEWR state that eligible claimants must be someone:

*Whose employment has been terminated by their employer or Insolvency Practitioner in lieu of their employer on or since 12 September 2001 because the employer has become insolvent or has otherwise been placed under external administration, and there has been a Commencement of Employer Insolvency (whether before or after the termination) or in the case of a termination by a receiver where there is no Commencement of Employer Insolvency but the company has ceased to carry on business because of the insolvency; and who is owed certain entitlements by the former employer.*⁴⁸

- The definition of *insolvency* provided by the DEWR is:

*the inability to pay debts from own assets as and when they fall due.*⁴⁹

- In practice, the way this insolvency test is applied by the DEWR in the context of the GEERS is that an insolvency practitioner (administrator,

⁴⁸ DEWR web site, GEERS Operational Arrangements, 19 June 2002, para. 5.1.

⁴⁹ DEWR web site, GEERS Operational Arrangements, 19 June 2002, para 17.

liquidator, receiver and manager, controller) must have been appointed to the insolvent company on or around the time the worker is terminated for the employee to be eligible for payments.

- The union has seen several examples of where clearly insolvent companies have simply ceased trading, leaving employees owed tens of thousands of dollars in unpaid entitlements. In some of these cases the insolvent company has arranged its affairs whereby assets are stripped and reappear under the control of another corporate entity (see case study of Merlo Hosiery). These workers are ineligible to receive payments under GEERS.

Timeframe for payments

- The time frame for payments to employees remains a major concern. Since the advent of the GEERS in September 2001, the TCFUA's experience is that it takes a minimum of 6 months before GEERS is in a position to make payments to the insolvency practitioner. We understand that part of the delay relates to the process whereby schedules of employee entitlements must be verified by the insolvency practitioner and where GEERS engages an independent accountant to audit some or all the employee records. In some cases the union and the insolvency practitioner do not have sufficient information to fully reconstruct the entitlements schedule of individual employees. This problem is greatly exacerbated where company records are inaccurate, incomplete or completely in disarray at the point where an Administrator, Receiver/Manager or Liquidator is appointed.
- The long time frame for GEERS payments is unacceptable in terms of advancing payments to redundant employees within a reasonable time of the insolvency. The union does not have confidence that the way the

scheme has been managed until now will result in timely payments to employees in the future.

Scheme claimant driven

- The GEERS, as was EESS is employee or claimant driven, in the context that an individual employee must complete an individual claim form and lodge it with the Scheme. A large percentage of the membership of the TCFUA do not have English as a first language and many have difficulties in correctly completing the claim form.
- The TCFUA, once it is notified of an insolvency affecting its members takes responsibility for assisting members to complete the Claim Forms, calculating a Schedule of employee entitlements and confirming these with the relevant insolvency practitioner. In the majority of cases the union checks claim forms and then forward them to GEERS. The experience of the TCFUA is that GEERS appears to apply a policy whereby the DEWR does not acknowledge in writing to the union receipt of the Claim Forms, the progress of the Claims, when payments are to be made to the insolvency practitioner or when claims have been rejected. GEERS will communicate with the TCFUA only by telephone and usually only when an inquiry has been directly raised by the union.
- The result of this approach is that the TCFUA must initiate on a continuous basis contact with GEERS as to the status and progress of claims and must rely on it members and in some cases the insolvency practitioner to advise it of when payments are made or when claims are rejected. Invariably, the affected member(s) will seek further assistance from the union to check the correctness of payments or advice as regards avenues of appeal where claims are rejected. In the view of the TCFUA the administration of the Scheme could be greatly

enhanced by GEERS accepting the role of unions in facilitating claims on behalf of its members and communicating in writing to the union (as well as the individual employees) on a regular basis as to the progress and status of such claims.

Administrative Scheme only – limited review rights

- GEERS is an administrative arrangement under the auspices of the DEWR. It is not a comprehensive statutory framework with full review and appeal rights. Because GEERS is not a statute based scheme the level of scrutiny of its operations, administration and decisions is limited. The DEWRS describes its appeal process as follows:

DEWR will include the reasons for the decision and information on how to have the decision reviewed when it gives applicants advice about a decision connected to GEERS.

Applicants can appeal to DEWR if they disagree with any decision under GEERS. The appeal will be considered by a more senior officer in the Department than the officer who made the original decision. Apart from this opportunity to seek a review, the decision of the Commonwealth in relation to eligibility and amount will be final.⁵⁰ [TCFUA emphasis]

⁵⁰ DEWRS website, *GEERS Operational Arrangements*, 19 June 2002, at para 12 (Appeal Process).

Snapshot of redundancies and lost entitlements since 1997

The following is a short list of case studies of companies that closed in Victoria since 1997. (More case studies are contained in the Appendix) Some of the closures occurred whilst there was no Government scheme and support for sacked workers, whilst some occurred during the operation of the EESS scheme, and some under the GEERS scheme.

The TCFUA has experienced the same problems in NSW, Qld, SA and Tasmania. These case studies are only a small example of the problems experienced by sacked workers in the TCF sector.

The list is sobering and should cause the Productivity Commission to remember that for each company that closes because of government policy there are huge implications for the workers involved. Included amongst this list are personal case studies of workers who lost money.

Kalco Pty Ltd (IN LIQUIDATION)

ACN: 005 960 645

(Formerly trading as Foxman Gowns)

- Clothing manufacturer located in St Kilda
- Award respondent (*Clothing Trades Award 1982*) No EBA
- Company ceased trading and placed into liquidation in 1996 after the sale of its business to a related party. Pitcher Partners Accountants appointed Liquidators.
- 3 members
- total employee entitlements – \$27,834.71 (inclusive of 2 weeks annual leave, 5 weeks notice & 8 weeks severance for each member). Excluding superannuation.
- Liquidator had no funds to make a dividend to employees.

- TCFUA initiated legal proceedings against directors personally on behalf of members for the amount of the employee entitlements outstanding. Could not proceed to court because of prohibitive costs of further legal action. TCFUA sought investigation by ASIC. Rejected.
- Liquidation finalised on 30 August 2000.
- 3 members lost total employee entitlements of \$27,834.71

DanApparel Pty Ltd (IN LIQUIDATION)

ACN: 060 606 591

- Clothing manufacturer located in Collingwood
- Award Respondent (*Clothing Trades Award 1982*). No EBA
- Company ceased trading in 1996
- TCFUA obtained injunction from Federal Court re: assets & information on employee entitlements on 30 August 1996.
- Liquidator (PKF Chartered Accountants) appointed on 10 September 1996
- 39 employees owed total of \$574,155.39. Entire amount lost.
- Liquidator only had sufficient funds available to make a minimum dividend to employees (total of \$5,000 for unpaid superannuation)
- Liquidator recommended that Gianni K (company in the name of the owner's daughter) be proceeded against to obtain \$81,000 as preferential payment.⁵¹ Recommendation not agreed to by employees & TCFUA unable to fund legal action to obtain judgment monies. Some doubt remained that Gianni K actually retained the money in any event.
- Liquidation finalised in January 2000

⁵¹ Source: PKF Chartered Accountants, Report to Members & Creditors, 14 November 2000



Hello, my name is Dorothy May Harry. I am 45 years of age. I previously worked at Castlemaine Woollen Mills, United Carpets, Rocklea in Bendigo and currently work at Victoria Carpets in Castlemaine.

United Carpets which was located in Castlemaine went into receivership in the late 1990's; carpet yarn and fabrics were produced there. I was employed at this site for 24 years in that time I worked many types of spinning and twisting machines.

There were about 100 workers that lost their jobs; this caused hardship for many people. I did not receive the money that was owed to me when the factory closed. I also lost superannuation money that had not been paid by my employer.

Braybrook Manufacturing Pty Ltd (IN LIQUIDATION)

ACN:

- Clothing manufacturer. Award Respondent (Clothing Trades Award). EBA in place being the Braybrook Manufacturing Pty Ltd – TCFUA Certified Agreement 1998 (c No 31076 of 1998). Made reference to 'industry standards' and the establishment of a designated trust account for the purpose of contributions re: redundancy
- Closed September 1999
- Liquidator appointed (Brooke Bird & Co) on 7 September 1999.
- 68 members
- Vast majority of the employees at Braybrook Manufacturing had previously been employed by Pelaco in the manufacture of shirts. Unknown to employees at the time, Pelaco sold the business to Braybrook Manufacturing Pty Ltd in 1990. Pelaco continued to be Braybrook's major

customer. In 1999 Pelaco Brands made decision to produce shirts offshore.

- Average length of service of employees with the company was 18 years. Several workers had 37 -38 years service.
- Directors of company directly blamed government policies and reduction in tariffs eg Myers buy from the cheapest supplier, in places such as China and Indonesia.
- Employees total entitlements \$1,270,678 inclusive of:
 - annual leave \$86,343.57
 - leave loading \$ 4,575.31
 - average bonus \$6,060.70
 - Long Service Leave \$249,583.63
 - redundancy (2wks per year) \$800,914.74
 - notice \$123,210.28
- Employees received partial distribution of funds from company. First dividend paid on 3 November 1999 in regard to LSL, annual leave and redundancy. Second dividend paid in April 2000.
- Estimated shortfall in entitlements of \$600,000 to employees.



Hello, my name is Margaret Gartside. I am 48 years of age. I have worked at Castlemaine Woollen Mills, United Carpets and Victoria Carpets. I have worked in the industry for 32 years.

United Carpets made carpet yarn, blankets and furnishing fabric. They went into receivership five years ago. I did various tasks including twisting, winding, packing, over-locking on the blankets, attaching satin binding and running machines.

There were approximately 90-100 workers at the time the factory closed. We all lost a lot of money as there were no redundancy payments also no superannuation or tax payments paid for a period of time. We did receive annual leave and long service leave.

It took 18 months before I got another job; the weekly wage was at a lower rate than the previous job.

Bedico Trading Pty Ltd (IN LIQUIDATION)

ACN: 062 776 925

(Formerly trading as Fabric Dyeworks)⁵²

- Textile dyeing house located in Coburg
- Closed March 2000
- Administrator (Pattisons Business Advisers & Insolvency Specialists) appointed 24 February 2000.
- One of the reasons given by the Directors as to why the company had been placed into voluntary administration was *'The slow down in the months of March 1999, April 1999 and May 1999 due to the excessive imports that came in for the Summer season'* and *'The ATO in November 1999 issued a Section 218 Notice on the six major debtors of the company. Since then those customers have been and continue to pay all monies in respect of outstanding invoices directly to the ATO which provided no ongoing cash flow to the company'*. The Administrator confirmed that these were two of reasons for the financial collapse of the company.⁵³
- 61 workers/members terminated on 16 March 2000
- 61 employees for total employee entitlements of \$612,688 (approx) inclusive of :
 - superannuation (1/11/98 to 25/2/00) \$171,112

⁵² Bedico Trading Pty Ltd purchased the business from the Administrator of fabric Dyeworks (Aust) Pty Ltd in or around September 1997. Source: Pattisons, Report to Creditors, 15 March 2000, p7

⁵³ Source: Pattisons Business Advisers & Insolvency Specialists, Report to Creditors, 15 March 2000

- | | |
|---------------------|-----------|
| - notice | \$ 99,126 |
| - severance | \$179,347 |
| - rostered days off | \$ 22,899 |
| - annual leave | \$ 41,720 |
| - LSL | \$ 98,484 |
- In addition, TCFUA had filed proceedings with the Federal Court re: employees on WorkCover at time business was purchased – claim for unpaid superannuation worth approx. \$40,000.⁵⁴
 - Administrator sought to trade the business on for 6 weeks whilst a purchaser was sought.
 - However, ATO used s218 orders to garnishee monies from debtors of the company. ATO refused to withdraw these notices. As result, Administrator ceased trading the company on 16 March 2000 & terminated all employees. (ATO had collected \$198,000 via s218 notices in the previous 6 months. Normally under Corporations Law these payments would be treated as preferential and recoverable. ATO believed that based on Federal Court authority⁵⁵ that the effect of s218 order was to make ATO a secured creditor).
 - Company placed into liquidation on 23 March 2000.
 - Claims lodged with newly established EESS administered by the DEWRSB.
 - EESS payments to employees for entitlements totalled \$160,018.45. At date of Administrator's appointment, employee entitlements calculated to be \$619,994.74 including unpaid superannuation contributions of \$170,987.87. Employee entitlements paid to the value of 26%.⁵⁶

Coogi Australia Manufacturing Pty Ltd

⁵⁴ Source: Pattisons Business Advisors & Insolvency Specialists, Report to Creditors, 15 March 2000, p11

⁵⁵ See Commissioner of Taxation v Macquarie Health Corporation Limited & Ors (1999) 17ac1c FCA

⁵⁶ Source: Pattisons Business Advisors & Insolvency Specialists, Administration Update for Creditors, 15 April 2002, p2

ACN 091 080 894

- Manufacturer of high value knitted clothing for small domestic and significant export market
- TCFUA lodged dispute with AIRC in February 2002 in relation to extensive superannuation arrears and stand-downs
- In March 2002 the Australian Retirement Fund entered into terms of settlement with Coogi for the repayment of approximately \$750,000 for unpaid superannuation contributions
- In March 2002 the AIRC made orders giving the TCFUA access to certain financial information about the Coogi group
- On April 19 2002 Coogi received \$2.4M money from SIPS.
- On 3rd July 2002 Administrators (Ferrier Hodgson) appointed to 6 companies within the group.
- In August 2002 ASIC commenced investigations of Coogi
- In late November 2002 the Deed Administrator ceased trading.
- Employees owed \$3.7m in entitlements
- Employees apply for GEERS, as of March 2003 none have received payment
- At time of writing unclear how much of remaining monies owed to employees will be paid from sale of assets.

Tadbury Australia Pty Ltd**ACN: 085 474 086**

- Clothing manufacturer located in Moorabbin. Same Director as Tadbury Pty Ltd.
- Tadbury Australia Pty Ltd took over running business previously conducted by Tadbury Pty Ltd. All employee entitlements assumed by Tadbury Australia Pty Ltd.
- Closed in late 1999, employees terminated without payment of entitlements

- After the TCFUA filed a dispute in the AIRC re: concern for employee entitlements. TCFUA obtained an order against Tadbury Australia Pty Ltd from Commissioner Smith on 9 September 1999 for the establishment of a trust fund into which accrued entitlements would be paid on a monthly basis.
- Tadbury ceased to trade on 28 October 1999. Tadbury went into administration shortly after on 28 October 1999. Administrator appointed (Bryant & Bryant Accountants). At point of administration Tadbury had yet to make payments into the joint trust fund.
- However, in 2000 reports that company was continuing to operate a greatly reduced level at different premises in Wheelers Hill.
- 18 members owed entitlements of approximately \$1.3 million.



Hello, my name is Milica Ludas, I am 48 years old. I started my working career 10 years ago at a clothing factory called Banksia Rose. This job was only seasonal work paid at casual rates. I worked here for 12 months and then moved on to other casual work at Safeway supermarket because it was more consistent hours of work.

I was very pleased when in February 1996 I was able to get full time work at Maison de Couture which was located in Hepner Place in Geelong. There were 20 workers there. I worked here for 4 years as a presser then in September 2000 the factory closed down.

The boss had not paid our superannuation for over 2 years. Many of us lost money as we had been asked by the boss some weeks earlier to work for half our pay to help him, we had difficulty understanding because most of us were

from non-English speaking backgrounds. When we finished working there we did not get the money we should have.

I put in a claim to the Employee Entitlements Support Scheme but it was rejected because the company had been deregistered. I suffered illness due to the stress I went through.

I got a full-time job at Candy footwear through the help of my daughter, I am still working there and have done for 2 years.

Diamondquest Pty Ltd (IN LIQUIDATION)

ACN: 069 125 613

(Formerly trading as Camel Textiles)

- Fabric Dying/Textile manufacturer located in Tottenham.
- Award Respondent (Textile Industry Award 1994). No EBA
- On 12 November 1999, the TCFUA filed a dispute notification with the Australian Industrial Relations Commission re; redundancy & non payment of notice.
- Administrator (Andrew Dunner & Associates) appointed on 23 November 1999.⁵⁷
- Petition to Wind Up in Supreme Court listed for 8 December 1999 by Sumikin Bussan International (Australia) Pty Ltd.
- 25 employees for total employee entitlements of \$115,871.70, inclusive of:
 - wages/unpaid superannuation \$6,881.30
 - annual leave \$46,894.13
 - LSL NIL
- - notice & redundancy \$62,096.27⁵⁸
- On 14 February 2000 creditors approved that the company be placed into liquidation.

⁵⁷ Source: Andrew Dunner & Associates, Circular to Creditors, dated 24 November 1999.

⁵⁸ Source: Andrew Dunner & Associates, Report by Administrator, dated 10 December 1999

- On 14 February 2000 business of Diamondquest sold to Supreme Dyeing Pty Ltd (ACN: 091 570 571) for the amount of \$2,9228,500 Supreme Dyeing Pty Ltd took possession of the business on 23/2/00. Supreme Dyeing becomes employer of former employees of Diamondquest. Conditions of sale provided that Supreme Dyeing took on liability for accrued employee entitlements with the exception of annual leave which was to be paid out by Diamondquest.
- TCFUA files dispute in AIRC re: proposal by Andrew Dunner & Associates to stand down employees for 6 weeks whilst sale of business to Supreme Dyeing finalised.
- Matter re: stand downs resolved.
- Supreme Dyeing Pty Ltd became insolvent in early 2001. Administrator (Sims Lockwood) appointed to Supreme Dyeing Pty Ltd in April 2001. Employees owed entitlements, no funds available to Sims Lockwood to pay them. Employees forced to seek partial payment of entitlements through EESS.

Delmarco Nominees Pty Ltd (IN LIQUIDATION)

ACN 005 010 319

As Trustee for the 'Delmarco Family Trust'

(Formerly trading as 'Volume jean Co')

- Clothing manufacturer located in Huntingdale.
- Company ceased trading in November 2000. Administrator (Dye & Rennie, Chartered Accountants) appointed on 13/11/00. Company placed into liquidation on 8/12/00.
- 11 employees owed total entitlements of \$61,421.60 (inclusive of unpaid wages, superannuation, annual leave and termination & redundancy pay)⁵⁹
- amount also owing for unpaid superannuation
- EESS claim forms lodged in December 2000.
- EESS payments made in July 2001.

⁵⁹ Source: Dye & Rennie Chartered Accountants, s439A(4) Report to Creditors, 29 November 2000

- Employees received between 15 – 25% of what they were owed (excluding super)

See Appendix Three for more case studies of closed companies.

Retrenchment in the TCF Industry – why we need a Labour Adjustment Package.

The negative effects of retrenchment on workers are broad and widely documented. Such effects include the obvious economic problems unemployment brings such as inadequate income, debt, mortgage and loan foreclosure, eviction and also include feelings of boredom, depression, social dislocation, impaired mental health etc.

It has been suggested by counsellors that workers who are retrenched experience a 6-8 week period coming to terms with the loss before they can effectively engage in seeking alternative work.⁶⁰

Work often constitutes the means by which a person defines their identity, this is realised not only by the type of work performed but the sense of well being which ensues from feeling that one is making a contribution to society and being involved in a group.

Job loss, especially when it is sudden, immediately removes this avenue through which people feel part of the work community, this in itself produces feelings of isolation. Moreover, without paid employment, people do not have the fiscal means to engage in activities which would have the effect of ameliorating such feelings of social dislocation. Hence, retrenched workers, despite having ample time to engage in activities which would generate feelings of self worth, have reduced capacity to do so due to lack of fiscal resources.⁶¹

In addition to feelings of anger, frustration and worthlessness, retrenched workers typically experience financial difficulties which further impacts on their psychological and emotional health. Redundancy payments, when made, provide short-term security, however in a lot of cases retrenched workers are

⁶⁰ Refashioning the Ragtrade. M.Webber and S.Weller. UNSW Press. 2001. Pg 229

often forced to sell property in order to get by. This is particularly the case in situations where workers who having received little or no warning that their job was threatened have invested in property and other assets and are hence over committed financially. As social security payments are governed by means tests, a number of these workers were deemed ineligible for welfare payments, hence, having no access to basic financial advice, such workers proceeded to fritter away their assets before being eligible to claim unemployment and other benefits.

These financial problems brought about by a lack of information, which is a particular issue for migrant workers who face language and cultural barriers, is common among retrenched workers and is one of the many issues that could be addressed and remedied by a labour adjustment program.

Retrenchment and Labour Adjustment

The TCFUA is strongly in favour of a sectoral approach to labour adjustment. It has been the experience of the union that workers who face retrenchment readily take up assistance when it is specifically tailored to meet their needs.

The fact that a disproportionate number of workers in the TCF industry are from non English speaking backgrounds fortifies rather than weakens the argument that a labour adjustment program should be specialised.

There is no doubt that retrenchment marks the beginning of a period of instability in a person's life, yet the trauma associated with retrenchment can be mitigated by comprehensive and well managed intervention packages. Early intervention programs have the effect of placing retrenched workers in structured and supervised programs without delay, thereby circumventing the negative effects of retrenchment which are most immediate: feelings of isolation, depression and boredom.

⁶¹ Ibid, pg 229

Early intervention can also provide workers with essential financial advice thus avoiding the situation where workers make decisions which have long-term adverse consequences due to lack of basic information. Moreover empirical and anecdotal evidence has resoundingly indicated that intervention packages significantly improve retrenched workers' employment opportunities as well as making the transition from long-held, so called "permanent" jobs into other jobs and industries much easier. Debate, however, has centred on how Labour Adjustment Packages (LAPs) are targeted to deliver the most efficacious outcomes for the relevant workers.

A comprehensive longitudinal study into the recent TCF-LAP has provided a useful critique of intervention packages in the TCF industry highlighting the essential benefits of government assistance as well as identifying some of the limitations⁶². This research has also revealed a number of interesting trends about the interplay of such factors as age, gender and ethnicity, and retraining and employment opportunities. The most relevant of these findings are reported here and provide a useful basis upon which to frame future assistance packages.

Labour market programs can be targeted in 3 ways. They can be directed at personal characteristics such as age, gender, or length of employment; specific locations where unemployment and social displacement is high; or at groups of workers who share some common experience. The TCF-LAP favoured the last approach which is commonly referred to as the sectoral approach.

The notion of providing a specific labour adjustment program or adopting a sectoral approach was not without controversy. Economic liberals argued that TCF workers would be employed in other industries without difficulty basing their view on the glib notion that migrant workers, who compose a large proportion of the TCF industry, worked in a number of other industries. This

⁶² Refashioning the Rag Trade. M. Webber and S. Weller. UNSW Press. 2001.

view represents an over-simplification of the many complex factors associated with retrenchment failing to acknowledge the practical implications of loss of employment, namely potential relocation, and skills development, on top of the impact of retrenchment on a worker's psychological and emotional health.

A recent project devised to assist 500 workers made redundant from the Bradmill Undare Group confirmed this notion.⁶³ Assistance provided was broad-ranging but catered to the specific needs of the workers, rather than relying on generic programs designed for job seekers. The specific elements of this program will be described in further detail later, yet it is necessary to highlight in the context of this debate that the program was extraordinarily successful; 80% of workers were placed into new jobs within 6 months of retrenchment. Had paid training been available to these workers many would have taken it up.

The sectoral approach to the recent TCF-LAP (1988-1997) included the following:

- 12 months of retraining;
- an additional 12 months of English language training for workers who were assessed as being disadvantaged by poor literacy;
- a TCF Special Allowance for the duration of retraining
- a wage subsidy paid to employers who hired eligible workers for vacant jobs;
- a relocation allowance.

Another key feature of the program was the policy of employing of union based liaison officers from the industry to help implement the provisions, to act as advocates and to provide information about LAP at factories, CES offices and community agencies.

Findings from Weller's 4 year study, (n=605), indicated that employment and training opportunities for retrenched workers were enhanced by the TCF-LAP.

⁶³ Life after Bradmill. Final Report by project officers. 2002.

Three quarters of the retrenched workers involved in Weller's study had taken up the opportunity to retrain. There was also a positive correlation between retraining and re-employment. Weller's study revealed that workers who took up retraining were much more likely in the long term to find another job than those who did not retrain. If workers who did not retrain were unable to find employment within 2 years it was unlikely they would ever work again. By contrast the rates of re-employment for the workers who did participate in retraining were still increasing even 4 years after being retrenched.⁶⁴ Weller reported that the workers who participated in retraining were much more optimistic about their job prospects than those who didn't retrain. The fact that the workers who retrained were assiduous and ultimately successful in their job seeking after a long period out of the work force could be considered as an important flow on benefit of retraining.

Weller's report also revealed that the group that was most likely to participate in the LAP were women from non-English speaking backgrounds (NESB). The training allowance provided was not means tested hence workers who participated in retraining received 50% of a machinist's wage irrespective of their spouse's income. This represented a departure from other labour market interventions by not relying on the notion that married women are dependent spouses, and as such constitutes a progressive feature of the TCF-LAP.

The TCFUA strongly advocates for future retraining program to incorporate income support that is not means tested. It has been the experience of the union that workers who face retrenchment are interested in training but driven by economic need concentrate their resources on finding another job rather than exploring training options. Retraining that is accompanied by a special allowance has the effect of increasing access and equity. The fact that NESB women, who represent the most marginalised part of the labour market, were the predominant group to take up the assistance provides testament to this claim.

⁶⁴ Refashioning the Ragtrade. M.Webber and S.Weller. UNSW Press. 2001. Pg 251

Another finding of Weller's research was that workers who participated in retraining were better placed to obtain jobs outside the TCF industry. Some 71% who retrained left the TCF sector compared to 60% who did not retrain.⁶⁵ Given the fact that the TCF industry has continued to decline since the time of the TCF-LAP reported on in Weller's study, the case for providing retraining that facilitates the movement of workers into other industries becomes more compelling.

The TCF-LAP was also instrumental in enabling workers to participate in accredited vocational courses that ultimately resulted in their overseas qualifications being recognised in Australia. This meant that workers with qualifications gained abroad could be supported in higher level study. One woman in Adelaide qualified as a teacher, her occupation before migrating from Poland, while a Vietnamese Australian man as part of LAP completed the necessary examinations to practise medicine. Other workers used LAP to complete a Year 12 certificate and went on to tertiary study. The TCF industry is largely comprised of NESB workers, many of whom obtained professional qualifications in their native country that are deemed irrelevant in Australia without the required bridging training. A pivotal focus of LAP could be facilitating this process of recognition of prior learning.

One of the limitations of the LAP was the separation of general retraining and retraining in language literacy and numeracy (LLN). The most vulnerable workers, that is those who faced language barriers, generally participated in pre-vocational training (especially in English language) for the duration of the training period. This meant that their progress throughout the program was modest and in fact fewer than half of the workers who retrained made the transition into mainstream vocational training.⁶⁶ Progress to accredited

⁶⁵ Refashioning the Rag Trade. M.Webber and S.Weller. UNSW Press. 2001. Pg 256

⁶⁶ Refashioning the Rag Trade. M.Webber and S.Weller. UNSW Press. 2001. Pg 237

vocational courses was inhibited by the fact that workers felt secure and more confident in a learning environment with workers who shared their background and thus had similar needs.

The TCFUA has been a vocal exponent of the benefits of an integrated approach to competency-based training in the TCF industry. When the TCF Training Package was recently reviewed, the TCFUA argued strongly that LLN skills should not be dealt with in discreet modules but rather integrated into all aspects of vocational competencies. This approach was adopted and formed an integral part of the TCF Training Package review. Following the introduction of the Training Package the TCFUA has been funded to develop and deliver integrated support materials for the TCF Training Package. These resources integrate language literacy and numeracy skills with the vocational competencies and in doing so have afforded NESB workers, a group who have historically been screened out of the training agenda, with the opportunity to improve their LLN while gaining a relevant industry certificate. The notion of integrated training has recently been at the forefront of debates around training programs in the vocational stream. Current thinking regarding vocational training models espouses the view that an integrated training approach constitutes best-practice.⁶⁷ On account of this the TCFUA recommends that future LAPS in addition to providing basic initial training and advice in job seeking and financial management, provide training that is integrated. Not only is the integrated model deemed best-practice, but the delineation of vocational and language training that characterised the recent TCF-LAP had the effect of reducing participation in accredited training for those workers who were from non-English speaking backgrounds.

The findings of a recent case study alluded to earlier, of the retrenched workers from the Bradmill Undare Group forms the cornerstone of the recommendations the TCFUA is making for a future LAP. Over 500 workers were retrenched after the business went into receivership in 2001. A project funded by the Administrators saw over 80% of workers placed into new jobs,

⁶⁷ No Sweat. A guide to best practice outworker training delivery. ALMITAB. 1998

an exceptionally high rate for the TCF industry. Key points arising from the project were that:

- targeted assistance is far more effective than general assistance;
- it is vital to access workers prior to them leaving the workplace;
- the people delivering the assistance must be known to the workers and be trusted by them;
- the providers of the assistance need to be located near the workplace but not be in the workplace;
- non-English speaking workers are reluctant to approach Centrelink and training providers;
- if workers are not provided with income assistance they are unable to consider re-training options as they are driven by the need for immediate income;
- an integrated advocacy approach is required, in effect a one-stop shop which provides and identifies what workers require and helps them navigate existing services and find out what assistance is available.

Any future plan for the TCF sector post-2005 should take the results of the Bradmill project and the TCF-LAP plan into account. Retraining and specific assistance significantly increase the probability of workers gaining employment.

A labour assistance program that provides, among other things, retraining in literacy, information technology (IT) and vocational skills development will be essential for the on-going health and performance of the TCF industries and workforce. This must be administered in an on-the-ground approach, through various community groups so that marginalised groups of workers such as home-based outworkers would also be encouraged to take up the training. The TCFUA should be resourced to provide advice, support and participate in monitoring processes that would ensure the program's resources are targeted most effectively.

The stakeholders would formulate strategies to engage with and maintain means of contact with home-based outworkers and retrenched workers, particularly women as they compose such a large proportion of this group, and workers with language difficulties. They would develop, in networked consultation, training and development strategies to be implemented through the TCFUA, community-based women and migrants' groups, and training providers. These strategies would be linked to wider training and skills development agendas of governments and the TCF industry.

Vocational Education and Training (VET) and skills formation

There is almost universal recognition from all those in the TCF industry of the importance of skills in ensuring the industry's long term viability and competitiveness. A key factor in industry success is the capacity of workplaces to adapt to a changing work environment through the introduction of new technology, skill development and work organization. Education plays an integral role in workplace change and innovation by both empowering workers and by building broader skill bases in areas such as language and literacy skills.

The TCFL Forum Strategic Plan proposes the establishment of a “strategic national framework for training and education” in order to take full advantage of the market opportunities the TCF industry has at its disposal. Skills in IT, marketing, management, new technologies and product knowledge will be crucial to the prospering of the industry, as will generic skills like team work and communication.⁶⁸ An adaptable and sophisticated skills base can only be built through tripartite arrangement which sees the employers and the union developing and implementing training, and governments supporting it through appropriate programs.

Critical areas identified that require attention include:

- access to training by outworkers (see section on outworkers)
- increasing the uptake of training among small business employees
- integrating language, literacy and numeracy education with vocational training
- providing re-training opportunities to retrenched workers (see section on LAP)

⁶⁸ TCFL Forum Strategic Plan, *Global and Growing: Blueprint for a Positive Future*, Department of Industry, Tourism and Resources, June 2002.

- focusing on so-called ‘generic skills’ delivery within current training and the provision of meaningful pathways
- attracting young people into the workforce.

There is also an ongoing need to promote the national Training Package and best-practice training model as well as support and encourage innovation within the training system. The lack of Information and Communications Technology infrastructure within the industry is an urgent issue, as is building management capacity to deal with the demands of the changing market.

The education and training system is required to meet both industry needs and those of the individual learner. Consequently, for the recommendations made in this submission to have an impact, there needs to be a high level of collaboration between employers, the union, Registered Training Organisations (RTOs) and government training authorities. Success also depends on the ability of the industry to embrace change and grapple with difficult issues such as the industry’s image and the changes in work practices resulting from the impact of economic internationalisation and transition into a knowledge-based economy.

The delivery of training to outworkers and the language, literacy and numeracy needs of the rest of the TCF&L workforce are high priorities, and underscore the need for further promotion of integrated training and professional development of trainers and assessors. The WELL program has had some success in delivering positive outcomes for enterprises that participate within it such as better teamwork, the introduction of new technology and the success of quality systems, but has thus far not been integrated with vocational training. Integrating the two together would maximise the educational outcomes for the program participants.

Integrated training has been identified as the ‘best-practice’ model of delivering training to people with language, literacy and numeracy needs. It is based on elements integral to the training context such as existing and

potential skills of the employees, organisational and technical systems, technical language and the language of the workplace, cultural factors and issues of access and equity⁶⁹. Integrated training involves the delivery of regular AQF certificates with a particular emphasis on LLN and other generic skills.

The skills identified by TCFL Strategic Forum Plan as necessary for the transition into a high knowledge internationalised economy, such as communication, customer service, team work, research and development and information and communications technology skills, are a priority for the industry and need to be addressed through emphasis on AQF levels 3-4, alongside integrated delivery. This involves the need to provide pathways for both new entrants and the existing workforce. It also forms part of the strategy aimed at attracting young people into TCF&L careers, a major concern given the industry's ageing workforce.

All these priorities are underscored by an ongoing need to promote the Training Package to industry, feed back industry's input to improve its content and ensure skill shortages and gaps are addressed. The professional development of both institute and workplace-based trainers and assessors is crucial to achieving quality training outcomes for participants. Changing the industry's culture to encourage employers to invest in training and employees to participate within it is a continuing challenge.

New Apprenticeships

There is no doubt that New Apprenticeships have increased entry-level training for new and existing workers, in particular within the textile production sector. However, the trends identified by numerous reports such as the

⁶⁹ Definition taken from *No Sweat: A report on outworkers and vocational education and training*, ALMITAB, 1998.

Schofield NCVER reports⁷⁰, and the Victorian TCF&L Industry Advisory Body's *Research Into The Factors Affecting Up-take and Completion Rates of New Apprentices in the TCF&L Industries*⁷¹ question the real value of some of this training in terms of addressing skill shortages and long-term TCF&L skills formation. Far too much training is concentrated in the AQF I–II areas with not enough training occurring at the higher levels.

Similarly, the small business take-up of this scheme is fairly low due to the costs associated with developing training resources and infrastructure under the new Training Package. Larger companies have the economies of scale necessary to adapt the Training Package to their needs at no extra cost: small business does not currently have this capacity. Other factors influencing the take-up of New Apprenticeships include fear of red tape; the time required for off-the-job training; and a general scepticism towards the ability of RTOs to deliver relevant and flexible training.

For the New Apprenticeships that do exist currently within the industry, it appears that the states' training infrastructure has been inadequate in supporting and monitoring the impact of this growth. The role played by the National Apprenticeship Centres (NACs) needs to be examined. As they are funded according to the number of New Apprentices they sign up, NACs often fail to examine the employer's capacity and commitment to training in great enough detail, leading to poor learning outcomes for the apprentice or trainee in question, even if they do manage to complete. Nor has the scheme had the desired effect of bringing young people into the workforce – for example in Victoria, the majority of the apprentices/trainees are above the age of 30, with a number having had previous industry experience prior to commencement.⁷²

⁷⁰ Schofield, K., "Quality in Context: Reflections on factors impacting on the quality of apprenticeship and traineeship training", in Smart, N. (ed.) *Australian Apprenticeships :Research Readings*, NCVER, Adelaide 2001.

⁷¹ Jane Bartier Consultancy, *Research into the factors affecting up-take and completion rates of New Apprentices in the TCF&L industries*, Victorian TCF&L IAB, Melbourne, February 2002.

⁷² 45.9 per cent of all New Apprentices are aged 30 or over according to data provided by the Victorian Office of Training and Tertiary Education.

On an optimistic note, the introduction of the Australian Quality Training Framework (AQTF) should have a positive impact on the quality of training provided. In particular, it will stop enterprises without the necessary training infrastructure and relevant expertise from being able to access government funds, while it will require other RTOs to improve quality standards.

There is ample evidence to suggest that trainees and apprentices need to be targeted with an information campaign about their training options as many do not even know the name of the certificate they are studying. For many of them, taking on an apprenticeship/traineeship is a condition of their employment or it enhances their chances of keeping their employment.⁷³

There is much evidence to suggest that the New Apprenticeship Scheme has been widely used as a labor subsidy in the TCF industry, with little to no training value to those participating in it.

The information currently available about New Apprenticeships is inadequate in terms of explaining what New Apprentices should expect, and their rights and obligations. A greater emphasis on training pathways needs to be placed in the information provided to employees so that the message about the value of training becomes ingrained.

The professional development of workplace trainers and assessors in particular is crucial to the success of the New Apprenticeships scheme in providing new and existing employees with portable skills and meaningful training pathways. Concerns raised in the IAB research mentioned above include the capability of workplace assessors to assess their peers uniformly, and the fact that many employers, employees and training providers questioned the portability of the skills acquired.

There is an inherent tension between the ability of a Training Package to be customised to a particular workplace, an aspect that many employers applaud, and the transferability of the skills attained under that customised

training. The teaching of generic skills, or the underpinning skills and knowledge as they are referred to under the Training Package, is crucial to the portability of the qualifications attained. Many employers, having trained their own employees under the system, expressed concern about hiring staff trained in another workplace as in their opinion there is no uniformity of standards.⁷⁴ These concerns mandate that for the Training Packages to be implemented with the full confidence of the industry, the professional development of workplace trainers and assessors must be ongoing and concentrate on equipping them with a diverse set of skills, both technical and generic.

In terms of skills shortages experienced by the TCF&L industry that could be filled by New Apprenticeships, the areas of TCF Mechanics, Sewing Machinists, Cutters and Textile Technicians stand out as areas into which young people in particular need to be attracted. Work needs to be done on promoting these careers through the various states' VET in Schools programs. More broadly, we need to change community perceptions about the TCF&L industry.

It is expected that within the next three years the departure of a number of experienced sewing machine operators and cutters will leave skill gaps in the clothing sector. Alongside this the need for TCF mechanics remains high, while the need for textile technicians and technologists has increased as many companies look to innovation in order to remain competitive. Other trade areas such as electricians and fitters will be required to service the burgeoning number of small enterprises. Due to the current unpopularity of the TCF&L industries as a career choice for young people (with the exception of clothing design), the exit of experienced human resources presents a challenge for the industry.⁷⁵

⁷³ 21 per cent of apprentices/trainees surveyed for the Victorian TCF&L IAB research cited above were existing workers who said enrolling in training was a condition of their ongoing employment

⁷⁴ 11 per cent of all employers questioned the portability of skills attained, with 65 per cent of RTOs expressing similar concerns, Jane Bartier Consultancy, op.cit., p.12.

Concurrently, the industry will start relying even more on professional occupations such as salespeople, marketing and warehousing personnel, who will all require high-level skills in information and communication technologies and supply chain management.

Factors in developing the skill base

The state of the industry and its relatively poor public image makes it difficult to attract new entrants, with the exception of clothing design which remains a popular choice for both school leavers and predominantly middle-aged women returning to the workforce. The industry's poor image partly stems from its large unregulated outworker component, which is in part being addressed through the work of the *Homeworkers' Code of Practice* scheme, a joint union and employer initiative. The Victorian Government *TCF&L Strategic Audit* notes that 'the increase in outsourcing, homeworkers and part time or casual labour, the reduction in unionisation and the ageing of the workforce are all reasons for reductions in training within firms.'⁷⁶ Compliance with the Award and accreditation under the Code of Practice should aid the industry in regaining a positive image through sound employment practices.

In addition, pathways programs need to be developed between VET in Schools and trade and post-trade qualifications, which emphasise the options available in some of the burgeoning TCF&L sectors, and thus make it attractive for new entrants and young people.

In terms of existing workers, there needs to be a co-ordinated effort to not only encourage people into training, but also processes need to be developed by which workers can have the skills they already possess recognised. The process of Recognition of Current Competence (RCC) has the capacity to challenge attitudes to training by making workers realise that they already

⁷⁵ *TCF Action Agenda Forum Workshop Report*, p.8

⁷⁶ *TCFL Strategic Audit*, p.18

possess skills which can lead to nationally recognised qualifications.

Currently, RTOs argue that the cost of preparing assessment materials and of OH&S assessment being linked to workplace equipment is a barrier to RCC uptake, unless the employer is accessing the New Apprenticeships scheme.

Outwork in the TCF industry

Outwork (also referred to as homework or home-based work) in the clothing industry is by no means a new phenomenon. It is widely accepted that outwork has been a feature of the clothing industry for the last thirty years.

However the nature of outwork, the conditions under which it is performed and the role it represents in the clothing industry have changed considerably since the 1960s and 1970s when public consciousness was first raised about the issue of home-based work and the oppressive conditions outworkers were subjected to.

While outwork was a feature of the clothing industry back in the 1960s, it was marginal to the clothing industry. This is not the situation today. In 2003 outwork is by no means peripheral to the clothing industry, the industry in fact is structured around outwork.

The TCFUA estimates that there are around 329,000 outworkers involved in the industry nationally. This figure does not include children and other family members involved in the production. There have been approximations made that one in every four families rely upon their children's assistance to complete their work at particular peak times. This means an estimated 82,000 children would be working involved in outwork. The TCFUA believes that this figure represents the number of workers in Australia who form the casual pool of labour who engage in outwork and form part of the growing pool of labour available to perform outwork.

Why has the number of outworkers increased?

Research done by the TCFUA in recent years has verified that the number of outworkers in Australia has risen sharply over the last ten years.⁷⁷

⁷⁷ The Hidden Cost of Fashion, TCFUA 1995

This dramatic increase in the number of outworkers over the last decade has corresponded with government policy to reduce protection in the TCF industry. The significant reduction in tariff levels in the late eighties impacted on the clothing industry in a variety of ways. One major consequence was the closure of a number of factories which were unable to tolerate the import competition which ensued following reduced domestic protection. The other effect of tariff reduction was the decentralisation of the production process with a reliance on subcontracting.

In the climate of reduced protection many companies restructured through reducing their labour costs and developing a flexible workforce - the new flexible worker as part of the low cost labour strategy had to be temporary, outsourced and home-based. Thus as the industry underwent restructuring, the number of outworkers exploded and they continue to constitute around 80% of workers involved in the clothing industry today.

International garment industry advisors, such as David Birnbaum,⁷⁸ argue however, that industry has failed to consider the Full Value Cost Analysis and therefore, the focus on labour rates and low cost options per unit is a false economy. He claims that industry should be considering the macro costs relating to the country in which the products are made. They should consider indirect costs such as samples, locating and ordering fabric, trims, specification sheets required, pre-production arrangements, quality levels, standards and lead times etc, that is, all the steps before cutting the garment. Birnbaum argues that "The lowest cost garments do not come from places with the lowest wage rates"....and that " There exists no direct correlation between labour rates and manufacturing costs".⁷⁹

⁷⁸ Birnbaum David, Birnbaums Global Guide to Winning the Great Garment War, Third Horizon Press, Hong Kong 2000.

⁷⁹ Birnbaum, pg. xix.

Which sector of the industry involves outwork?

Although the significant downturn in the TCF industry, on account of tariff reductions, resulted in many companies moving offshore, companies involved in the manufacture of women's fashion have largely remained in Australia.

The women's fashion sector is characterised by fast changes in style from season to season, short runs of as little as 50 to 100 garments at a time, and involves the need to be responsive to consumer trends, for example: colour selection and the availability of a range of styles at any one time. Shorter production runs and quick response are an inherent feature of this sector of the industry, making it ideally placed for local production. Although some parts of women's fashion has moved offshore, this section of the industry is least vulnerable to import competition.

Outworkers' working conditions

The TCFUA has been involved in a number of in-depth studies investigating the conditions outworkers typically work under and the arrangements which characterize home-based work. The first of these studies, in 1994, was in the form of a national information campaign on outwork. This research, which is reported in 'The Hidden Cost of Fashion,' detailed for the first time the nature of outwork in the Australian TCF industry. Subsequent to this the union conducted a national multi-lingual phone information service for outworkers and employers in 2000.⁸⁰ And finally, the union supported research conducted by Melbourne University academic, Dr. Christina Cregan, who undertook a comprehensive study on outwork over a three year period. The preliminary findings of this study were released in 2001 and 2002 and affirm anecdotal evidence collected and reported by the TCFUA over the last nine years.⁸¹

⁸⁰ Homeworkers Code of Practice Committee 'Changing Fashion....the story of the No Sweatshop Label.' Melbourne, 2001.

⁸¹ Cregan. C 'Home Sweat Home':Preliminary Findings* of the first stage of a two-part study of outworkers in the textile industry Melbourne, 2001 and 'In the dark world': Outworker Narratives, Melbourne, 2002.

The most salient of these findings are reported here including a selection of statements by outworkers. Findings resulting from the research indicated the following:

- outworkers work for very low wages, Cregan's study revealed that the average hourly rate was between \$3 and \$4, this represents a huge deviation from the Award rate of \$12.93 an hour;
- outworkers work on average 12 -18 hours a day 7 days a week during peak times;
- outworkers are often not paid for work they have done or, upon completion of the order, their boss pays them less than the piece rate originally agreed to;
- work is seasonal, outworkers often work through the night to complete orders during busy times, while at other times they had no work for weeks on end;
- outworkers pay for their own equipment such as sewing machines, needles and cotton, while they also absorb costs for power, lighting heating, machine maintenance and travel costs incurred through collection and delivery of orders to factories;
- outworkers receive no sick leave, annual leave, superannuation and overtime rates of pay;
- outworkers commonly work in garages and sheds that have poor lighting and ventilation, this causes eye problems and bronchial conditions resulting from exposure to dust
- outworkers commonly suffer from overuse injuries sustained due to long hours, poor working conditions and lack of information about basic occupational health and safety (work stations are often not properly set up as the majority of outworkers have no information about ergonomics);
- outworkers rarely receive worker's compensation for work-related injuries;

- outworkers are often victims of occupational violence and sexual harassment;
- children are frequently enlisted to help finish work when orders are urgent – this is an unfortunate consequence of the extreme pressure placed upon outworkers.

The following comments by outworkers reflect a number of the points raised above.

“I have worked for one employer for 12 years. One day he closed shop, and told me that there wasn’t any more work. I found another factory to work for, but after eight weeks the outworker boss disappeared. He simply wasn’t at the address that he had previously worked from. I didn’t receive any paper work from him. I have no way of getting back the \$3000 I am owed.”⁸²

“A number of callers reported that when they had asked for higher pay, they had been told that there were hundreds of other people waiting to take their job.”⁸³

“I have worked as an outworker since 1982. I have always worked. For the last 10 years I have had pain in my hands. Four years ago I developed neck pains. I started working for a new employer three years ago. I don’t think he is paying workers compensation insurance and I don’t know what to do, because I don’t think I can go on any more.”⁸⁴

“My boss sacked me after I had worked for him for 15 years. He sacked me because I had become slower due to pain I was experiencing in my shoulders. He had never paid worker’s compensation insurance, and I had to go on disability benefits after being sacked because I couldn’t work any more.”⁸⁵

“I am a single mother with three children. I cannot work in a factory because my English is not good enough to find a job and I need to look after my children. Because of this I have to work at home with low pay, long hours and sometimes no pay at all. I hardly get to spend any time with my children because I have to work such long hours. I’m worried that I will never learn English because I hardly ever get to leave my house. I don’t know how my situation will ever improve.”⁸⁶

⁸² Changing Fashion...The Story of the No Sweatshop Label, Homeworker Code of Practice Committee, Melbourne, 2001.

⁸³ Changing Fashion..The Story of the No Sweatshop Label, Homeworker Code of Practice Committee Melbourne 2001.

⁸⁴ Changing Fashion

⁸⁵ Changing Fashion

⁸⁶ Changing Fashion

"We came to Australia to try to make a better life for our children. Now we have no choice but to ask our children to help sew because otherwise we will have no way of paying the bills. Often we have to work late into the night to finish the work. My daughter is a good student, but I worry that her study will be affected because she is tired the next day, and doesn't have time for homework and play like her school-mates."

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Why are outworkers' conditions bad?

There are a range of complex and intertwined factors which lead to the exploitation of outworkers in the clothing industry. Relevant to this discussion is the profile of the typical outworker. Outworkers are typically refugee and migrant women from non English speaking backgrounds (NESB). Historically the Greek and Italian immigrants of the 1960s constituted the outwork community, while the recent arrival Vietnamese, Chinese, and Middle Eastern communities currently comprise the outwork workforce. It is no coincidence that the majority of outworkers are recently arrived migrants. This group is particularly vulnerable to exploitation as they have limited proficiency in English and little or no understanding of the legal system or their industrial and broader rights. This renders them open to exploitative practices and it is for this reason that they are often targeted by unscrupulous employers.

In the context of this discussion it must be emphasized that immigrant women have few other avenues of work available to them. The reality for immigrant women, in particular those newly arrived, is that they need to earn money. This need has become even more pressing in light of recent government policies which preclude migrants from accessing welfare and other government services during their first two years of living in Australia. Sewing at home becomes the only viable option as it enables them to earn money while looking after their children. Furthermore they can perform the work with little or no expertise in English. In any case workers who have repeatedly approached factories seeking work have been consistently met with the

⁸⁷ TCFUA outwork statement 2001

employer telling them, "I'll give you work if you get your own machine and work at home."

In addition to language and structural barriers, those who arrive in Australia with professional skills and qualifications rarely succeed in having them recognized – hence they resort to outwork as a means of survival.

Another factor which has contributed to the systemic exploitation of outworkers is the concentration of ownership in the retail sector in Australia. In 1990 the Industries Tripartite Overseas Mission, after having visited a number of countries, revealed that retail concentration is highest in Australia. The direct impact of such concentration on the market and on the supply chain is that these retailers are able to set terms which wholesalers and other suppliers have little choice but to meet.

Manufacturers fulfilling contracts for retailers are pressured into production strategies which can deliver the lowest prices with the most flexible production and delivery schedules. The retailer sets a retail price and then a wholesale price. The wholesale price is paid to the manufacturer/fashion house who then gives the work out to the makers based on the wholesale price they received from the retailer, hence the price is not determined by the manufacturer's production costs, including labour costs, but is fixed by the retailer.

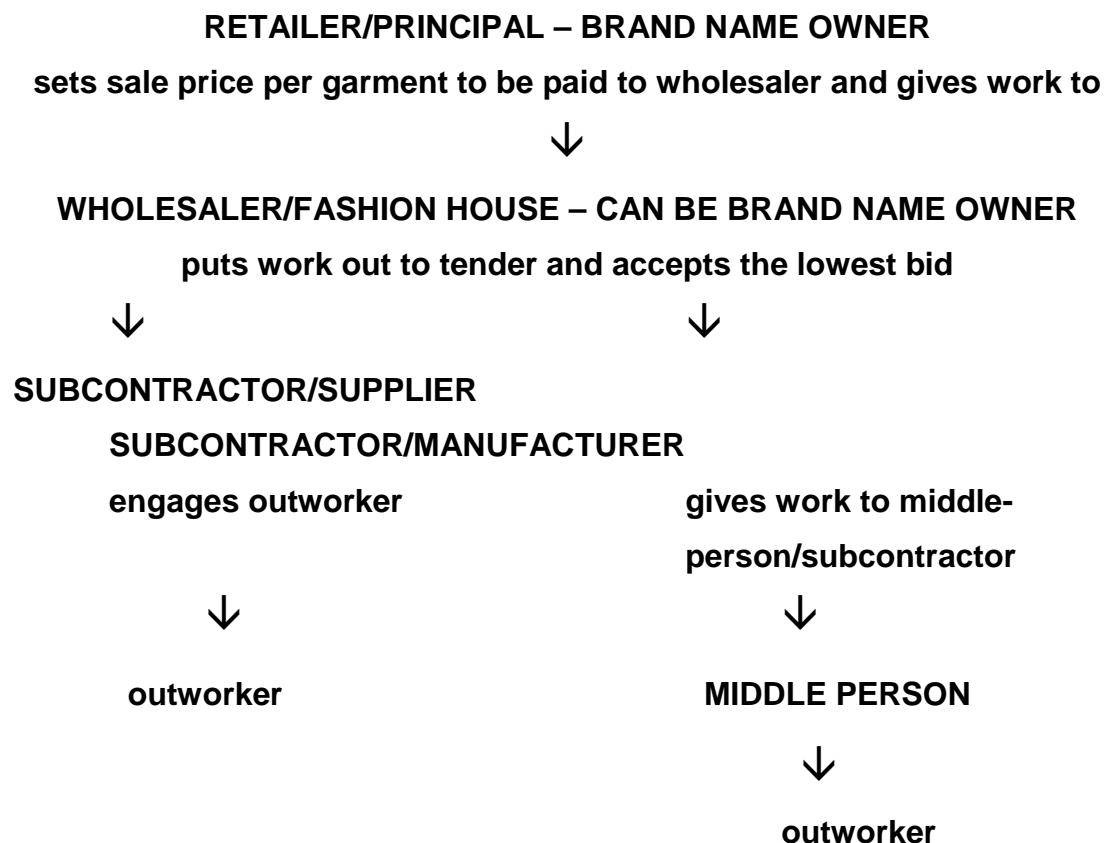
Contracts to complete the work are usually procured through a highly competitive bidding process. Makers and owners of small factories describe a system of group meetings at manufacturers/fashion houses premises where the aim at these meetings is to reduce the cost of making the garment (cutting, sewing and finishing) as much as possible, the outcome being that the work is given to the lowest "successful" bidder. If the end price, after a round of bidding, leaves a maker with not enough to cover the cost of garment construction, they either cut their profit or reduce the sewing piece rates made to outworkers doing the work for them. The latter is invariably the consequence of this process. Hence outworkers are left with increasingly less

money for their work and this payment bears little or no relation to the actual skill and labour time required for them to perform this work.

This situation is compounded during less busy periods. Outworkers commonly report having periods where there is no work and when work becomes available they know they cannot get the price they were receiving before. They state that makers exploit these breaks in work availability to force their payment down further.

This bidding process has had the effect of eroding sewing piece rates over time. Outworkers who have been working since the late 80s and early 90s often talk about the drop in piece rates they are receiving. Many state that they are getting 50% less for the same shirts and skirts they were making 5-6 years ago.

The complex production chain outlined below demonstrates how work is contracted out from the retailer down to the outworker.



This convoluted production chain means that outworkers commonly do not know the name of the company or business they are working for, or even the full name of the person giving them the work. The combination of this in addition to the price squeeze continually placed on manufacturers by retailers, the seasonal nature of their work and the fact that the majority of outworkers have little knowledge of English or their legal rights, means outworkers are an invisible, captive and tractable workforce. And these factors have enabled a culture to develop in the industry which could best be described as one of extensive and blatant disregard for the law.

Strategies to regulate outwork

The TCFUA has been active in reaching out to home-based outworkers through a range of strategies that have been put in place since 1994. The strategies detailed in this submission while having contributed to the visibility of outworkers, as well as raising government awareness of the plight of outworkers, unfortunately, have not delivered them wage justice.

Ethical Agreements with Retailers

The union's commitment to developing the Homeworker's Code of Practice with industry manufacturers, retailers and employer organisations, has been a key strategy in the campaign for improving the ability for outworkers to receive fair remuneration and safe work conditions in performing their work.

The Homeworkers Code of Practice was introduced in 1996 facilitated by the Senate Inquiry into Outwork being conducted at the time (a further explanation of the Code is attached in appendix three of this submission). The Code is an Industry Code which aims to set industry ethical standards in relation to the supply chain and labour standards. The Code is managed by a joint Employer – Union Committee that has worked to put in the place the mechanisms for the Code to operate namely: the Product Sewing Time manual and No Sweatshop Label which are the tools of the Accreditation

system. The code relies on voluntary participation and since 2001 when the Accreditation system was launched, only 4 companies have become accredited. Prior to the accreditation system being in place there were 140 signatories to the Code. In December 2002, 30 Retailers signed on to the new national retailers section. These companies are mentioned in appendix three. The voluntary approach to ethical practices has been of limited success thus highlighting that if codes are to be efficacious, they need to be legislated. It is the view of the TCFUA that the Code alongside the Award and a legislative framework, is pivotal to strategies aimed at regulating the industry. Further information is available on the Code web site at www.nosweatshoplabel.com

Award Protection

Another integral component of the campaign has been to address the rampant non-compliance with the law. The union has been involved in industrial advocacy, has prosecuted companies for Award breaches in relation to outwork, and has initiated test cases for outworker Award underpayments. Despite the fact that outwork is governed by clauses in The Clothing Trades Award, the majority of companies habitually abrogate their legal responsibilities.

The key 'outwork' clauses are Clauses 46, 47 and 48. These three clauses set up a regulatory scheme which:

- establish some entitlements which relate specifically to outworkers;
- establish a record keeping and enforcement regime which ensures that award compliance or non-compliance can be tracked from the top of the contracting chain;
- exclude the operation of award clauses which have no application to outworkers;
- establish a simple mechanism for enforcement of outstanding payment for work performed and:

- establish a registration system which is processed by a Board of Reference of the Industrial Relations Commission.

The outwork clauses were designed to cover all the possible work arrangements through which work is distributed from respondent manufacturers to outworkers. In particular:

- clause 46 relates to situations where a respondent employer distributes work to an outworker through a maker or sub-contractor;
- clause 47 relates to situations where a respondent employer gives work directly to outworkers; and
- clause 48 sets up a registration system in which respondents who wish to use outworkers apply for registration and a Board of Reference is responsible for processing the application and issuing registrations.

The TCFUA (Victorian Branch) has examined ways to address the issue of award non compliance particularly regarding clauses 46,47 & 48 without facing lengthy waits to get to court and huge legal bills. A bulk prosecution system was developed and over the last 5 years legal proceedings for breaches to clauses 46,47 & 48 have been initiated. This prosecution style has been successful because the union has been able to ensure that the period from inspection time to the lodgment date occurs within a short time frame.

Training

Over the past few years the TCFUA (both in NSW and Victoria) has also been the conduit for developing and delivering integrated vocational training for home-based workers. The integrated model of training reflects an approach which integrates language literacy and numeracy (LLN) with vocational competencies from the recently revised TCF Training Package. This has enabled outworkers to participate in training which is pitched at their language level while affording them the opportunity to gain a relevant industry certificate. This integrated model of training while accessing a group of

disadvantaged workers who have never had access to the training agenda, has also provided a vital link between outworkers and the union. Through the training the union has been able to consult with and involve outworkers in the campaign aimed at improving their working lives.

Public Awareness Campaign

Without doubt the most successful part of the campaign has been realised in the partnerships forged with community and church organisations to establish and maintain the FairWear campaign. This coalition has served as the cornerstone of the public awareness and media campaign which has exposed the flagrant exploitation in the clothing industry. Public consciousness has been raised about the fact that “A Made in Australia” label on a garment does not guarantee Australian wages and conditions but increasingly means that the garment was made by an outworker working under sweat shop conditions.

The multi-pronged strategy to this day has not directly improved outworkers’ wages and conditions. Not all aspects of these strategies have been fully implemented or come to fruition, and in many circumstances the advances made by the union have been met with serious obstacles and lack of will by some parties to support change. Lack of a consistent national approach has been one factor that has hindered the progress of such strategies.

Government policy on outwork

National

The Senate Economics Committee conducted a national inquiry into Outwork in the Garment Industry over 1996. The findings of this inquiry had the potential to contribute to the development of national outwork and industry policy and further debate on outwork. But regrettably, they have fallen short of

providing answers to this complex issue and instead have placed greater emphasis on long term voluntary action by companies in the industry.

The TCFUA would like to draw attention to several points the Senate Inquiry raised since they are of significance in the context of present and future national policy on outwork.

- It was established by the inquiry that homeworkers are employees.
- It was acknowledged that the use of children in production in homework is unacceptable and would be eliminated if their parents received their rightful wages and conditions.
- A social security amnesty be enacted for homeworkers
- The Labour Adjustment Program be extended to assist outworkers.
- Funding from the TCF 2000 package allocate funds for projects to assist homeworkers.
- All government departments sign the homemaker code of practice.
- The homemaker code of practice be adopted by all participants involved in garment retail and manufacturing.
- The committee will review the government's position in relation to the ILO homework convention in 12 months.
- The uptake of the homework code of practice be reviewed in 12 months in line with enacting legislation if the voluntary process fails to develop.
- The committee also notes that the Workplace relations Act will curtail powers of inspection (right of entry provisions) by the union and expresses concern that changes to these laws will have an adverse affect on the conditions outworkers will be employed under.⁸⁸

Government failure to act upon the outwork inquiry recommendations reflect the absence of national policy and any government initiatives of relevance in assisting this group of workers.

⁸⁸ Outworkers in the garment industry, Senate Economics Committee Parliament of the Commonwealth of Australia, Canberra 1996.

The Government's failure to ratify the ILO convention 177 and its recommendations on homework also reflects a lack of commitment in addressing outworkers' needs. To date four countries have ratified the Convention including Ireland, Finland and in 2002 Albania and the Netherlands.

State

State Government responses to the outwork situation are in marked contrast to the Federal Government. In state industrial relations legislation, outworkers have long been deemed employees in South Australia, New South Wales, Queensland and most recently in Victoria.

Following a pay equity inquiry conducted by Justice Glynn in 1997-1998, the NSW Government response has been to develop an extensive whole of government approach to the issues affecting outworkers in the "Behind the Label" strategy.

This broad approach has incorporated government policy and programs including: outwork training programs, workcover, community and industry information, assistance in the development of the Code Product Sewing Time Manual, a specific industrial relations inspectorate, and amendments to the Industrial Relations legislation. This culminated in the Ethical Clothing Trades Act 2001.

This most recent legislative initiative has improved on the outworker definition as an employee and includes the capacity for outworkers to recover monies up the contract chain. It has also resulted in the establishment of an 'Ethical Clothing Trades Council' of which government, retailers, manufacturers, union and community representatives participate to oversee the implementation of the legislation, broader outwork policy and the Code for Retailers. This initiative has provided an excellent model for legislation and the Victorian Government has recently passed similar legislation, the Outworkers

(Improved Protection) Act 2003. Similar legislation is also being considered in other states and territories.

Global Trends in outwork

Homework has emerged as a major feature of the global economy. The International Labour Office (ILO) has documented home-based outwork in Australia, Europe, North and South America, New Zealand, Canada, Africa and throughout Asia.

The profile of homeworkers is similar across the world. They make up a significant part of the informal global economy which is based on gender and racial discrimination and reinforces the reality that homeworking exploits people who have difficulty working in the open labour market.

As transnational corporations seek advantage in a labour intensive industry by searching for the lowest possible labour cost, homeworking is being identified as being at the bottom of the supply chain in regions across the world.

With increasing sourcing of imported garments from countries such as China, India, Sri Lanka, Vietnam, Cambodia and the Philippines by Australia's major retailers there is an urgent need to extend accountability down their supply chain for all workers producing garments for the Australian market.

Appendix One

The people who wear the cost of government policy

It is very easy for government to make decisions that effect average Australians when these people are just statistics to be quoted rather than seen as real people with real concerns.

The TCFUA would urge the Productivity Commission to look beyond their economic theory and consider that their recommendations will affect a lot of workers, their families and their communities.

For the benefit of the Productivity Commission members who are unlikely to have met or dealt with any of the people who wear the real hardship and cost of their policy recommendations, the TCFUA have collected a handful of personal case studies. These people were interviewed by the TCFUA in February 2003. Their words have been written up by the TCFUA but are a factual representation of the interviews that were conducted.

It must be remembered that the eleven case studies represented here are eleven of over 30,000 similar case studies in the past decade.

Anne Marie Gatt

Hello, my name is Anne Marie Gatt. My date of birth is the 8th of November 1959. I have worked in this industry for a number of years. Previously I worked at Anderson Hosiery Mills as a cutter and packer.

At Gala Fashions I worked in dispatch, cutting and also preparation of work for the workers. There was a period of time prior to the closure where the

workers were stood down due to lack of work. I left Gala Fashions in June 1996, at this time I did not receive my entitlements.

The factory closed in the November of the same year, even though I had still not received my entitlements I was not eligible to access the GEER scheme. As a result I lost money. I now work in another industry in a part-time capacity.

George Sammut

Hello, my name is George Sammut. I have worked in the footwear industry most of my life. There was a factory in Collingwood called Verona I worked there for 22 years, and then it closed down in 1996. I lost a lot of money because the company did not pay us for our long service leave, annual leave and the superannuation had not been paid either.

This caused problems for people because they had no job and no money. I felt very hurt after giving so much time to the company, to be treated so badly.

I have worked at a number of factories since then, I am currently employed at Ludas Pty Ltd sorting wool.

Robyn Dickson

Hello, my name is Robyn Dickson. I live in Geelong and I am 35 years old. I have worked in a number of factories in the industry. In the early 80's I worked at Allerton shoes then in 1988 through to 1989 I worked at John Redpath Fabrics in Breakwater .In 1990 to 1992 I worked at Classweave Pty Ltd in North Geelong and currently I am working at Godfrey Hirst Carpets where I have been employed since 1992.

John Redpath Fabrics closed in 1989. I worked there for nearly two years I was a mender and weaver there. We made curtains and fabric. Ten workers were left at the time it closed. We had to chase the employer for the money

that was owed to us, after 6 months of waiting and fighting we finally got our money.

Lindsay Cook

Hello, my name is Lindsay Cook, I am 53 years old. I have worked in two textile factories, Fabric Innovations in Lara and Classweave in Geelong. Both of these companies closed down. The most recent being Classweave and that is the one I wish to talk about.

I worked at Classweave for 6 years on afternoon shift in the finishing department. I really enjoyed my job there; we made fabric for making blinds. I was a Stentor operator which is like a dryer. I was also a leading hand.

The company downsized over a period of 3 years, but I did not realise it would be closing until just before it happened. In October 2001 the factory closed its doors. All together there were approximately 160 workers.

I have been unsuccessful in finding employment since I was made redundant, this has caused great hardship. I have listed my name with all the labour hire firms in Geelong which have told me that my age could be a problem.

Maurice Ruffles

Hello, my name is Maurice Ruffles I was born on the 6th April 1952. Over the years I have worked in a number of footwear factories eg: Anna Fiore, Clark Shoes, Surefit to name a few and I am currently working at Harold Boot Co.

I worked at Surefit in Bayswater, for 3 years as a clicker. We made children's and teenagers shoes. There were 40 workers but over a 1year period the company downsized until its closure in September 2001.

I lost some of my superannuation money also other money that was owed to me because I was not getting the right rate of pay as a clicker. The money I did get took a long time from when I finished at Surefit.

Slavka Risteska

Hello, my name is Mrs Slavka Risteska. My birthday is the 28th October 1952. I worked at Vincena (Gala Fashions) which was a clothing factory, I was a plain machinist and we made ladies clothes. The factory closed down in 1996, I eventually got my money through the GEER system but it took a long time.

I was lucky to get another job quickly at Pescasa in Thomastown, which is also a clothing factory as a friend put in a good word for me. Unfortunately this factory is also going to close at the end of March 2003.

June Ambler

Hello, my name is June Ambler my date of birth is 25/6/65. Over the years I have worked at various shoe manufacturers. I enjoyed working in this area.

I was employed at Sure-fit for 4 years as a process worker. I worked with 30 other people there until it closed in 2001. I was really angry to find I had lost most of my superannuation contributions.

I am now employed on a part-time basis in the cleaning industry.

Rafella Spina

Hello, my name is Raffella Spina. I was born on the 27th January 1948. I worked at Solidare Clothing from 1975-1985, I was a machinist using various machines eg: plain, overlocker and hemming.

In 1996 I started working at Gala Fashions, we made ladies clothes. I then was injured at work and continued on Workcover. During this time the factory closed down which was in 2001.

The company had not paid my superannuation for nearly 2 years which I lost, I received my payment of the money owed to me through the Geer scheme, but not until January 2003.

Minh Nguyen

Hello, my name is Minh Nguyen. I was born on the 17th of August in 1952. I worked at Sleepmaster which is a textile factory in Bayswater. I worked here from 1994 and finished in October 2002. This factory has downsized over a period of time, due to this I was made redundant.

I have had 3 casual jobs since I was made redundant all have been agency work, which range from 1 week to 1 month and were at Blackburn, Clayton and Croydon South. Travel has been a major factor for me. It has been a real problem trying to get employment.

My wife also works in the TCF industry and she is very concerned for her job security.

APPENDIX TWO

The following statements from outworkers were made as Statutory Declarations for claims under the award. Because of the issues of intimidation and fear within the industry the workers do not wish their full names to appear. These Statutory Declarations provide an insight into the range and scope of problems experienced by outworkers in the TCF sector.

Statutory Declaration

I, Gail
of Cranbourne in the state of Victoria
do solemnly and sincerely declare as follows:

I answered an advertisement in the local paper for a machinist. Within an hour of talking to a woman called T of W P/ L she brought round the first lot of work for me to do. The work was wraps and gowns for hairdressing salons. T stated that she pays \$2.80 a wrap and \$4.00 for gowns. I was required to sew the edges and sew on a neck band to light, shiny cotton and plastic coated fabrics. On or around the 11 July I began doing the work.

T never provided me with much detail about the construction and the first sample was cut wrong so it took extra work to get it right. She or her husband Arvid would pick up the work and told me everything was ok, meaning my sewing work was fine. I would ring when I completed the work and Arvid would usually collect it. I would work up to 10 hours, 6 days a week, then I thought it was strange when they didn't pay me. When I asked about it they said give them an invoice and they will pay me. I provided an invoice but they still didn't pay me. I had asked them how many wraps they expected for me to do each day but they never responded. Even at the rate they were supposed to pay I calculate I would have been earning only \$2.26 an hour.

The work I did was for W P/L and the T's label a hairdressing supply company.

T would walk into my house and state "I want these done quickly". I met their demands, timelines and am confident about the quality of my work and yet they still refused to pay me. I asked about payment for the work I had finished in the first two weeks but it did not come. I started to feel that they would never pay me for my work.

I have asked T on at least 3 occasions for the money owed for the first lots of work totalling \$271.60. I then informed Terri that with the next lot of work she had given to me I would return it when I was paid for my work. She has not sent the money.

I cannot understand why they won't pay me and feel that I have been treated unfairly. I just want what I am entitled to. I contacted the union and discovered that I was not being paid anything near the Award hourly rate casual of \$17.24 and was being ripped off.

I make this declaration in the knowledge that I completed and performed all of the work provided by and under the specifications and instructions of W P/L.

I claim the amount of \$2068.80 being for this work completed and to the best of my knowledge the correct payment under the Federal Clothing Trades Award.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

Statutory Declaration

I, Thi

Of Preston **in the state of Victoria**

Do solemnly and sincerely declare as follows:

I began working for F P/L in July 2001. I answered an advertisement in the Vietnamese newspaper for a machinist. I rang and spoke to S, she asked me to come look at the work. I went to her shop and she showed me the headbands she wanted made. She told me that she would pay 40c a headband this included, sewing the band, turning it out, taking a plastic flower off a bunch and gluing it on to the band and then spraying glitter on the band.

I did not accept this price, I said it was too low for all the work needed to be done. Later S called me and said she had a big order and would pay me 50c for each finished band. I agreed to do the work and see how it would go, this lot of work was for 372 baby bands.

I went to collect the work from S; she told me that she needed the work very quickly. I had to have all my family help me. She said I needed to finish it quickly or else I would not get paid.

S came and picked up the first lot of work from my house and then I started the next lot. She told me that it was very good quality work and she said she would pay me in 2 weeks. I asked her about the first payment since it was already longer than 2 weeks, she said she would pay for all the 2 lots of work together. I finished the second order and returned the completed work to her.

I called her to find out when she would pay me. I called hundreds of times and went to her shop in Brunswick many times. I asked her to pay me for my

work. She told me that she would pay me when Myer had paid her. I assume that's where the work went. Later S told me she doesn't know when the company will pay her because the work was bad quality.

After calling many times and going to the F shop many times and one day I went and S gave me a letter stating that she had deposited \$100.00 into my account of the amount of \$960.85 owing to me. The letter dated 24 January 2002, stated that she was deducting 5c per item because of poor quality. She still owed me \$860.85 but she now claimed she owed me \$729.60. Even being paid 50c for each band meant I was only making about \$3.00 an hour and now she was saying that she had to deduct money for poor quality. I felt insulted that she had only paid me \$100.00 and now saying she owed me less.

I kept ringing her but she never answered the phone. On the 6/3/02 I deposited a cheque from F for \$68.75 which was cleared. I kept going to the shop, and then she gave me two cheques one dated 11/3/02 and the other dated 25/3/02 both for the amounts of \$396.05. I asked her to make sure that there was money to cover the cheques or else I would have to pay a fee to the bank. She said of course there would be money. I banked the first cheque and then later got a notice from the bank that the cheque had bounced. I never banked the second cheque because I didn't believe that there was any money and I did not want another bank charge.

I kept going to ask for my money then on the 2nd of May I again went to the F shop. S told me she hasn't had the money because she hasn't received money from the companies she gives the work to but I noticed she had done work refurbishing her shop. She told me that she had nearly lost her business and that she was lucky to still have it. She said she would pay me in 2 weeks. I asked her to write down when exactly she would pay me because I didn't believe her. She wrote something on the paper then told me to leave because I was wasting her time. I shouted at her I must know exactly when

she will pay me the money for my work. She then said she was going to call the police, I said good call the police I want them to know about my situation but she never called them.

She then told me I had to leave the shop and that she would either lock me in or out of the shop. I was standing at the doorway, she pushed me out of the door causing me to fall and hid my head and knee as I fell, she then locked the door.

I had to go to the doctor to check my injuries, I felt very shocked and angry at how she treated me.

I have worked hard to do her work, she told me my work was of good quality and then later said it wasn't so she could pay me less. She has only paid me \$168.75 for work totally \$960.85. I was only earning a few dollars an hour and she couldn't even pay me this money.

She makes profit from outworkers and sells her baby bands to big companies but she won't pay her outworkers. It's not fair. I need this money to live to pay my bills and for food. I just want to get paid for my work.

I make this declaration in the knowledge that I completed and performed all of the work provided by and under the specifications and instructions of S.

I claim the amount of \$ 792.10 being the piece rate price promised to me and in addition I claim the payment of \$2392.00 for this work completed being to the best of my knowledge the correct payment for casual work under the Federal Clothing Trades Award.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria

rendering persons making a false declaration punishable for wilful and corrupt perjury.

Statutory Declaration

I, Soula

Of Keilor in the state of Victoria

do solemnly and sincerely declare as follows:

I began working for S and C at D Pty Ltd in 1983. They operated this business from their house in North Altona. I have always worked as a machinist from home. Since 1986 C told me they had another business and to contact them at Y. I received work initially from C then mostly from S, but also from C occasionally. I was under the understanding that C's company Y was my employer.

I was paid by the piece that is for each completed garment I was paid a set price. I would work an average of 80 hours a week, I had no choice because the piece rate was so low and the factory always had a lot of work.

I usually made women's fashion wear and in particular the labels Portmans, Sussan, Katies and Target.

I have never received any annual leave, leave loading, sick pay, long service leave, public holidays but I did receive superannuation when it became compulsory.

I was sacked on the 3rd May 2000, I believe it was because I put in a work cover claim. The company had never paid any work cover premiums and therefore were very angry with me. I just want what is fair I worked hard for this company, but they haven't paid me what I am entitled to.

C from Y wrote to me in August 2000, stating that they had work for me and that I was never terminated, but never offered me work. I have had 3 operations on my shoulder and wrist and I am still incapacitated.

I always worked hard and gave them my best and I feel like I have been cast on the junk heap and treated with no respect. It is insulting to work so hard and long for a company and to be treated this way.

I only ask that I get my legal entitlements and that this company doesn't get away with ripping off outworkers like me.

I make this declaration in the knowledge that I completed and performed all of the work provided by and under the specifications and instructions of S and C D.

I claim the amount of \$15,170.00 for unpaid long service and annual leave. I also claim monies for unpaid overtime for this work completed over the current 6 year period according to payment under the Federal Clothing Trades Award.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

Statutory Declaration

I, Lam

of Doncaster 3108 **in the state of Victoria**

do solemnly and sincerely declare as follows:

I worked for R Fashions from 28/1/2000 to 28/2/2000. I returned a lot of 196 vests on 17/2/2000 that I from R said that she would pay me \$4.00 for each garment.

On 21/2/2000, I completed another lot of 63 jackets priced at \$7.00 each. In total they still own us are \$1225.00. All the work we did is for the label PERVERT.

I worked with my daughter V for 12 hours a day 7 days a weeks. It worked out that we only got paid \$2.20 an hour, but even that, they still did not pay me for hard work my daughter and I have done for them.

We worked a total of 32 days each for this company to get the work completed and have received \$1065.00 for 768 hours work.

Two weeks ago on Tuesday 25 April I went to the factory to pick up the payment for our work. But when I arrived at the factory no one was there and the shopkeeper downstairs from the factory told me that the factory had moved but I couldn't find out where I had moved to.

I have never received any payment for annual leave, superannuation, public holidays or a casual loading for my work.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria

rendering persons making a false declaration punishable for wilful and corrupt perjury.

APPENDIX THREE

This is a continuation of case studies of TCF companies closed since 1997.

Benmore Pty Ltd (Deed of Company Arrangement)

ACN: 004 552 176

(Formerly trading as ‘Geoff Riddel’/‘Nadelle Fashions’)

- Clothing manufacturer located in Fitzroy
- Award Respondent (*Clothing Trades Award 1999*). No EBA.
- O’Keefe, Walton, Richol Chartered Accountants appointed Administrator on 20 December 2000.
- 18 employees owed total entitlements of \$137,831 inclusive of wages, annual leave, LSL, notice, redundancy & severance & superannuation). Initial estimate by Administrator of employees receiving 89% of their entitlements⁸⁹.
- Deed of Company Arrangement (DOCA) approved by creditors on 25/1/01.
- Deed Administrator paid superannuation (100%), annual leave (100%) and LSL, notice & redundancy (75%)
- All employees lodged EESS forms.
- EESS paid approximately 45 to 50% of balance of LSL, notice & redundancy in mid 2001.
- Overall (via dividend and EESS) employees received approximately 82% of entitlements (approximately \$113,021.42). Amount of \$24,809.58 (approx.) not recoverable.

⁸⁹ Source: O’Keefe, Walton, Richol Chartered Accountants, s439A Report to Creditors, 19 January 2001

- DOCA effectuated on 15/4/02. Deed Administrator had filed documents confirming that Directors of company had complied with all obligations of the DOCA.⁹⁰

Supreme 3 Ltd (ACN 087 964 556) (IN LIQUIDATION)

Supreme Dyeing Pty Ltd (ACN 091 570 571) (IN LIQUIDATION)

Supreme Knitting Mills (ACN 068 628 302) (IN LIQUIDATION)

- Clothing manufacturer
- Award Respondent
- Closed March 2001. Sims Lockwood, Administrator appointed to each company on 3 April 2001. Sims Lockwood appointed as Liquidator on 2 May 2001.
- Supreme Dyeing – 40 employees
- Supreme 3 Ltd – 42 employees⁹¹
- 37 members
- Entitlements lost
- Employees eligible for EESS
- All outstanding superannuation lost. No funds for Liquidator to make any dividend to creditors at all.

Awyon International Holdings Pty Ltd (IN LIQUIDATION)

(ACN 092 261 544)

- Clothing manufacturer
- Award Respondent and enterprise agreement (Sportsgirl) by transmission.
- Closed March 2001. Sims Lockwood, Administrator appointed on April 2001. Placed into liquidation on 2 May 2001.

⁹⁰ Source: O'Keefe, Walton, Richol Chartered Accountants, telephone advice 25/2/03

⁹¹ Source: Sims Lockwood, Schedule shown to creditors at Creditors Meeting held 10/4/01

- Estimated total of employee entitlements including outstanding wages, annual leave & severance and redundancy - \$2,257,511.
- Employees eligible for EESS. Received \$383,320 gross in compensation for outstanding entitlements i.e. 17% of their claims. Funds distributed to employees on 2 Nov 2001.⁹²
- 56 members
- Entitlements owed - \$1,617,008 (TCFUA has judgement debt for this amount).
- All outstanding superannuation lost. No funds for Liquidator to make any dividend to creditors at all.

Hubert Textiles Pty Ltd (formerly t/as Australian Textile Printing Co.)
(SUBJECT TO DEED OF COMPANY ARRANGEMENT
(ACN 005 916 718)

- Textile manufacturer
- Award Respondent and enterprise agreement
- Ceased trading in September 2000. HLB Mann Judd appointed Administrator on 12/09/00. Deed of Company Arrangement entered into on 17/11/00.
- 28 members
- 39 employees
- Total employee entitlements \$826,065 (approx.) inclusive of severance, sick leave, LSL, notice, annual leave and RDO's.⁹³
- Deed Administrator made dividend to creditors in May 2001. Dividend rates were:

- Wages and superannuation	100.00%
- Annual Leave	100.00%
- Long Service Leave	100.00%
- Redundancy Entitlement	48.8271%

⁹² Source: Sims Lockwood, Report to Creditors, 6/12/01

⁹³ Source:HLB Mann Judd Chartered Accountants, Report to Creditors, 29 September 2000.

- EESS not a top up scheme. Therefore balance of severance/redundancy and notice not payable and non recoverable for employees.

Mondo Victoria Pty Ltd (IN LIQUIDATION)

ACN 071 240 054

- Clothing manufacturer
- Company closed. Liquidator (PKF Chartered accountants) appointed 13 September 2000.
- 21 employees
- 9 members
- Total employee entitlements (including super) – \$132,227.45 comprised of:

- superannuation	\$60,607.58
- wages	\$ 4,146.00
- annual leave	\$17,563.67
- notice	\$16,308.40
- severance	\$33,601.20
- Total amount owing to members (excluding super) - \$62,552.80
- Employees eligible for EESS payments.
- EESS payments made 3 April 2001.
- EESS payment – total amount paid - \$25,887.00

Maison De Couture Pty Ltd t/as Maison De Couture

ACN 074 589 049

- Clothing manufacturer in Geelong
- Award respondent (*Clothing Trades Award 1999*). No EBA
- Company closed and ceased trading 12/4/00. No insolvency practitioner appointed.
- 20 members
- total employee entitlements (excluding super) - \$155,256.19
- Company deregistered on 11/10/00

- No further action taken by ATO re: super
- EESS claim forms lodged with DEWR on 23/01/0

Helen Rologas Fashions Pty Ltd (IN LIQUIDATION)

ACN: 007 136 558

- Clothing manufacturer in Clayton South
- Award respondent (*Clothing Trades Award 1999*). No EBA.
- TCFUA brought action in September/October 2000 in the AIRC for non payment of super, annual leave and other entitlements. TCFUA sought orders for trust fund from AIRC on 3/10/00.
- Company later ceased trading on the afternoon of 3/10/00 and an Administrator (Bent & Cougle Chartered Accountant) appointed on 4/10/00. Bent & Cougle appointed Liquidator on 31/10/00.
- 14 employees for total employee entitlements of \$127,826.55 inclusive of:

- Superannuation	\$15,661.25
- Ann leave & LSL	\$49,105.30
- Redundancy & notice	\$63,060.00 ⁹⁴

- Liquidator made dividend as follows:
 - superannuation (100%) on 21/12/00
 - leave entitlements (67.75 cents in the dollar) for each employee⁹⁵
- EESS claims lodged 16/10/00.
- EESS payments made in April/may 2001.
- EESS payments capped because of restrictions under EESS guidelines. Employees lost a percentage of their notice and redundancy entitlements.

Silven Pty Ltd (DEED OF COMPANY ARRANGEMENT)

⁹⁴ Source: Bent & Cougle Chartered Accountants, s439A(4) Report to Creditors, 20 October 2000

⁹⁵ Source: Bent & Cougle, Chartered Accountants, correspondence to TCFUA, dated 2 January 2001

ACN: 006 318 190

(Formerly trading as 'Blossom Road')

- Clothing manufacturer
- Award respondent (*Clothing Trades Award*). No EBA
- Administrator (Sims Lockwood) appointed on 22 December 2000.
- 6 employees made redundant on 22 December 2000. Their total employee entitlements of \$54,299.28 inclusive of:
 - superannuation \$ 2,369.44
 - LSL \$18,356.67
 - notice \$12,540.81
 - redundancy \$21,032.36⁹⁶
- Deed of Company Arrangement (DOCA) approved on 24 January 2001 & executed on 14 February 2001. DOCA obligated Directors to pay \$6,000 per month to Administrator until total amount of \$52,369.43 paid.⁹⁷
- Employees paid 100% of entitlements in December 2001 (12 months after made redundant). No requirement to lodge claims with EESS.

Good Looking Shirts

- Clothing manufacturer in Sunshine
- Award respondent . No EBA.
- Company closed and made all employees redundant with no notice or payment of entitlements. No insolvency practitioner appointed despite correspondence from company accountants that Liquidator was to be appointed.
- 10 workers

⁹⁶ Source: Horwath Melbourne Chartered Accountants (formerly Sims Lockwood), correspondence to TCFUA, dated 25 February 2003.

⁹⁷ Source: Sims Lockwood, Statement of Details of Proposed Deed of Company Arrangement Pursuant to Section 439(4) (C) of the Corporations Law dated 17 January 2001.

- total employee entitlements – \$260,000.00 (including \$ owed to outworkers), plus superannuation.

Merlo Hosiery Mills Pty Ltd (IN LIQUIDATION)

ACN:

- Clothing/hosiery manufacturer in Preston
- Award respondent (*Textile Industry Award 2000*). No EBA
- Company ceased trading on 26 February 2001.
- 12 members, approximately 16 workers
- total employee entitlements (for known members) - \$126,000 (approx)
- workers made redundant without any payment of notice or entitlements
- Liquidator (MGI Meyrick Webster) appointed by Supreme Court on 13 June 2001. No funds available for any dividend.
- EESS claim forms lodged September 2001
- DEWR rejected claims in early 2002 on basis that it was not satisfied that the employees were made redundant as a result of the insolvency of the company
- Review of Decision filed by TCFUA in Sep 2002. In November 2002, the DEWR replied that the union should seek further advice from the Liquidator. Liquidator confirmed previous advice that it considered the company may have been technically insolvent since 30 June 1999. By February 2003, TCFUA had again written to the DEWR seeking that payments be made to affected employees. It is now 2 years since these workers were made redundant and have sought payment of their entitlements.

Sure-Fit Pty Ltd (IN LIQUIDATION)

ACN: 006 562 769

- Footwear/components manufacturer in Bayswater

- Award Respondent (*Footwear-Manufacturing & Components-Industries Award 1979*). No EBA.
- Administrator (Pitcher Partners) appointed on 23 August 2001. Prior to Administrator being appointed, Industry Funds Credit Control (on behalf of the Australian Retirement Fund) has issued legal proceedings in relation to significant amount of unpaid superannuation.
- 27 employees owed total of \$117,555.16 inclusive of:
 - annual leave \$ 5,742.06
 - notice \$37,637.81
 - redundancy \$72,633.66
 - long service leave \$ 4,530.18
- outstanding superannuation owed - \$81,502.12
- total employee entitlements, including superannuation - \$199,057.28⁹⁸
- One of the key reasons given for the failure of the company was that '*The company faced a high level of competition locally as well as overseas. Some major competitors were selling footwear for as little as \$5.00 a pair which the company could not compete*'.⁹⁹
- Company placed into liquidation on 19 September 2001
- Liquidator paid \$81,513.09 to the ATO re: unpaid superannuation on 20 February 2002
- After Liquidator indicated there would be delay in the realisation of debts owed to company and the subsequent payment of employee entitlements, EESS forms were lodged in July 2002.
- Liquidator made payments for annual leave (100%) notice (100%) & LSL (100%) on 18 September 2002.
- EESS made payments for redundancy in October 2002. Maximum payment was between 2 to 4 weeks for each employee, depending upon length of service.

⁹⁹ Source: Pitcher Partners, Accountant Auditors & Advisers, Section 439A Report, p3. According to the Administrators this was one of the stated reasons given by the Directors as to the failure of the Sure-fit company. This issue of the dumping of shoes for the price of \$5 onto the market had also been raised at the first creditors meeting held on 30/8/01.

Vincena Pty Ltd (IN LIQUIDATION)

ACN: 087 993 315

(Formerly trading as 'Gala Fashions (Vic)')

- Clothing manufacturer located in North Coburg.
- Award Respondent (*Clothing Trades Award 1999*). No EBA
- B.K.Taylor & Co appointed Liquidator to the company on 10 December 2001
- 5 employees for total employee entitlements of \$49,348.89 inclusive of:
 - wages \$889.20
 - annual leave \$8,501.05
 - notice \$9,179.00
 - redundancy/severance \$16,464.80
 - LSL \$14,315.02
- superannuation contributions owed to the Australian Retirement Fund of \$19,800 (approx. 20 months contribution).
- Insufficient funds available to Liquidator to make nay dividend to employees.
- Claim Forms lodged with GEERS scheme in January 2002
- 3 employees received payments from GEERS in September 2002. 4th employee received payment in January 2003. Fifth employee who had resigned prior to Liquidator being appointed and was owed LSL received no payment either through Liquidator or GEERS.

International Footwear Components Pty Ltd (ADMINISTRATOR APPOINTED)

ACN: 058 224 721

- Footwear manufacturer located in Thomastown

- Award Respondent (*Footwear-Manufacturing & Component-Industries Award 1979*). No EBA.
- Administrator (Bent & Cogle) appointed on 29/11/02¹⁰⁰
- Employees remained in employment until 20/12/02 when Administrator ceased trading the company as it could not sell the company's business as a going concern.¹⁰¹
- 22 employees for total employee entitlements - \$142,691.64 inclusive of:

- annual leave	\$51,699.74
- notice	\$18,111.11
- redundancy	\$72,880.67
- superannuation owing \$ 5,264.00
- Administrator paid all outstanding superannuation, wages and annual leave on 20/12/02.
- Administrator estimates that balance of entitlements (notice and redundancy) will be paid end February/early March 2003 eg Administrator's dividend will cover employee entitlements in full (100%)

¹⁰⁰ Bent & Cogle Chartered Accountants, Circular to Creditors, 29 November 2002.

¹⁰¹ Bent & Cogle Chartered Accountants, Notice to Employees, 9 December 2002