



CFMEU Submission

To

**The Finance and Public Administration
References Committee**

**Inquiry into
Commonwealth Procurement Procedures**

DECEMBER 2013

Senate Finance and Public Administration Committees

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Executive Summary:

There are significant opportunities for import replacement in Commonwealth Government procurement. If this occurs it will help develop and foster innovation in Australian industry which will make our economy, our regions and our communities more competitive and resilient.

Strategic Commonwealth Government procurement procedures can be implemented in a way which provides Australian taxpayers and the Government with real 'value for money'. This value for money outcome can be achieved through the pursuit of objectives which are considered legitimate under international trade agreements. If sustaining, maintaining and growing employment is a byproduct of meeting these objectives, all the more reason for them to be pursued. This particularly holds true if pursuing the objectives levels the playing field for Australian industry in Commonwealth Government procurement markets.

With the support of the Commonwealth Government the CFMEU, the AMWU, leading firms in the Australian industry (including *Australian Paper*, *Norske Skog*, *Visy*, *Kimberly Clark Australia*, *Amtcor* and *SCA Hygiene*), industry experts, industry associations and researchers formed the Pulp and Paper Industry Strategy Group which reported its 2020 vision in 2010. The vision is for the industry:

*'To be widely regarded as a uniquely sustainable, innovative, internationally competitive and profitable industry. Its communication, hygiene, packaging and renewable energy products provide skilled, secure jobs, while meeting the community's social and environmental expectations.'*¹

If Government procurement is conducted in a way which meets the community's social and environmental expectations, it can support Australian industries, Australian jobs and Australian communities and will assist the industry's vision in becoming a reality.

Government procurement arrangements and procedures require urgent reform. This submission outlines some of the current arrangements and procedures in Government procurement for office paper, communication papers, envelopes, tissue papers and speciality papers. It also provides limited comment on the market conditions for Australian building products competing against sub-standard imports in markets supplying major Commonwealth Government funded projects.

¹ Pulp and Paper Industry Strategy Group, 'Strategic Review', p xiii, 2010, (available online @ http://www.innovation.gov.au/industry/pulpandpaper/Documents/PPISG_FinalReportMarch2010.pdf)

A common theme in current Commonwealth Government procurement arrangements is that Australian industry is not provided with full, fair and reasonable participation due to a lack of recognition of the value associated with Australian made compared to imported products in procurers' value for money assessments. True value looks beyond invoice price and considers all financial and non-financial factors. True value procurement should be the goal of the Government. A number of recommendations for reform of current arrangements are made in this submission.

Economic Impact Statement:

The Australian Government, its departments, agencies and bodies are significant users of paper and paper products. For instance, departments and agencies use \$13 million worth of copy and office papers per annum and \$117 million worth of external printing papers (that is paper for publications, pamphlets, forms and brochures) per annum. Based on Australian industry's estimated market share for tissue papers our best estimates are that the Australian Government uses approximately \$100 million worth of this product per annum.

Although these figures represent just a fraction of both the Australian market and the overall production capacity of Australian industry, the industry has identified that the Australian Government buying more Australian made paper and paper products and using less imported paper and paper products is a key viability factor. This identification can be explained for two reasons, firstly because the Australian Government represents a significant market in its own right (indeed it is the largest individual procurer of office, printing and tissue papers in Australia) and secondly, because the Australian Government's procurement decisions can and should set precedents for wider Australian consumers.

Viability of the Australian pulp and paper industry is important. Leaving aside the recommendations in this submission made about building products procured for Major Commonwealth funded infrastructure projects, implementation of the recommendations related to paper procurement, based on it assisting in securing the viability of just two leading firms in the industry, results in:

Government revenue from direct and indirect taxation receipts received from associated production per annum	956.79 million
Welfare expenditure saved from the direct and indirect employment associated with production per annum	80.78 million
Total budgetary impact per annum	1.073 billion

In reality, the implementation of the recommendations in this submission would assist with the securing of viability of not just these two firms but other firms in and beyond the pulp and paper sector. Therefore, it is reasonable to assume the figures cited above will be significantly multiplied with implementation of the recommendations. This supports the many reasons that will be outlined in this submission for the recommendations made being implemented as a priority for the Government.

Terms of Reference:

Commonwealth procurement procedures

The following matter was referred to the Finance and Public Administration References Committee for inquiry and report by the first sitting day in March 2014:

The current ratio of Australian goods and services versus imported goods and services utilized by the Commonwealth through procurement procedures, with particular reference to:

- a. *the current policies and procedures for procurement in Commonwealth departments and agencies, including:*
 - i. *the current effectiveness of procurement policies and procedures,*
 - ii. *the effectiveness of any policies or procedures designed to preference Australian goods and services, and*
 - iii. *the operation of procurement divisions of departments and agencies, including oversight and scrutiny, cost, and requirements relating to transparency and information-sharing;*

- b. *the current policies and procedures for procurement for major Commonwealth-funded capital projects currently underway or foreshadowed in the budget, including:*
- i. *the current effectiveness of procurement policies and procedures for these projects,*
 - ii. *the effectiveness of any policies designed to preference Australian goods and services, and*
 - iii. *the transparency and accountability of project management;*
- c. *the economic, social and environmental benefits of utilizing Australian goods and services; and*
- d. *Any related matters.*

The committee agreed that submissions should be received by 31 December 2013.

Introduction:

The Construction, Forestry, Mining and Energy Union (CFMEU) consists of three Divisions, namely the Construction and General Division, the Forestry and Furnishing Products Division and the Mining and Energy Division. We are the major union in these industries, representing over 110,000 workers nationally. We welcome the opportunity to make this brief submission and thank Senators Madigan and Xenophon for moving that this important inquiry be held, as well as the Senate for agreeing to hold it. This submission will concentrate on Federal Government procurement of paper and paper products. This submission will also provide limited comment on the current domestic market environment for building products procured for major Commonwealth-funded capital projects. In addition to providing this submission, the CFMEU supports the Australian Council of Trade Unions (ACTU) submission.

There are significant opportunities for import replacement in the areas of Government procurement of paper and paper products, as well as in procurement by builders engaged in construction of major Commonwealth-funded capital projects. These opportunities should be seized upon.

Any import replacement is good for the Australian economy and good for Australian jobs. The Industry Capability Network (ICN) estimates that the retaining of every \$1 million in the

Australian manufacturing industry generates \$713,400 worth of gross value added, maintains six full time equivalent jobs and saves \$64,900 worth of welfare expenditure.²

These ICN figures outlining the benefits of supporting local manufacturing translate directly to the pulp and paper industry. For example, the Western Research Institute (WRI) states that for every \$5 ream of paper produced by *Australian Paper*, the community benefits through the return of \$1.81 in direct tax revenue to Government from the associated economic activity.³ Our calculations show that the rate of return in direct taxation for every roll of toilet tissue is approximately \$00.7.

Bearing this in mind, a straight 'value for taxpayer money' proposition would see the Australian Government preference the procurement of Australian-made products unless it was clear that:

- The imported product was still cheaper than the locally made product taking into account return to the Government in tax receipts and saved welfare expenditure associated with local manufacture; and
- The analysis of non-financial considerations still determined that the imported product provided better 'value for money' than the Australian-made product.

The CFMEU advocated for Government reform of procurement procedures in the lead up the 2013 Federal Election. In letters to all major political parties we called for a renewed focus on the importance of manufacturing stating:

"A strong manufacturing industry is essential to resilient communities and a diversified economy but manufacturing has suffered a very difficult period particularly since the Global Financial Crisis and continues to face many challenges. Election commitments should be made which build upon recent Anti-Dumping and Australian Industry Participation reforms. The CFMEU calls for the following..."

...Government Procurement and Local Content: A policy for Government to not procure imports where there is an Australian supplier able to provide the goods unless the import represents genuine value for money to the taxpayer in comparison to the Australian-made product, taking into account in the 'value for money' assessment

² See: Department of Industry, Innovation, Science, Research and Tertiary Education, 'Strengthening Australian Industry Participation', *Regulation Impact Statement*, p 13, 2013, (available online@ <http://ris.finance.gov.au/2013/02/27/strengthening-australian-industry-participation-regulation-impact-statement-department-of-industry-innovation-science-research-and-tertiary-education/>)

³ Western Research Institute Ltd- Prepared for Paper Australia Pty Ltd, 'DUE DILIGENCE ANALYSIS -Australian Paper', p 3/13, 2013.

agreed criteria which includes the return to the community from Australian manufacturing activity. A policy for mandating this approach for Government-supported projects should extend to the percentage value of Government support in relation to the value of the project.”

This rationale, as articulated by relevant Industry Associations, has support from employers who employ CFMEU manufacturing members. For example the Furniture, Cabinet and Joinery Alliance has stated:

“Government procurement policies should recognise the full value of local manufacture to government. For example when a government agency reviews tenders, it should have to factor in the much higher government tax take on Australian made product, and the reduced tax if job losses will arise from a shift to imports. Once jobs are lost – they are likely gone for good.”

“This is not a call for special treatment but a commercial argument that all aspects, outside of mere invoice price, must be taken into consideration – and ideally written into government policy - to ensure that Australian companies are being treated on a true “like-for-like” basis in government purchasing decisions.”⁴

And the Australian Forest Products Association:

“The Australian Forest Products Association (AFPA) has today called on the federal Coalition to recognise the true economic value of buying Australian made paper products such as office copy paper, newsprint and tissues...Local products provide additional tax revenues to governments and important flow-on employment and benefits. For every ream of Australian made copy paper for example, around \$1.81 is returned to governments in the form of taxes and charges”⁵

And:

“No one will have missed the Government announcing that all government cars must be Australian made in support of Australian jobs. But where is government procurement policy when our forest product manufacturers need it?”

“AFPA supports the call by Australia’s largest paper manufacturer, Australian Paper, and the Construction, Forestry, Mining and Energy Union for all levels of Australian

⁴ Kreitals Consulting Group, prepared for FCJ, ‘Furniture Cabinet Joinery Industry – Strategic Industry Plan’, 2012, p 25.

⁵ Australian Forest Products Association, MR: ‘Paper makers seek ‘true value’ procurement commitment’, 04/09/13, (available online @ <http://www.ausfpa.com.au/site/news.php?task=detail&id=0110>)

*Government to buy Australian made paper in order to support the thousands of local jobs generated by the domestic industry and their economic flow-on benefits. Australian Paper alone directly employs 1400 staff which in-turn provide follow-on employment for another 6000 Australians.*⁶

There is scope for import replacement in Government procurement beyond procurement by Commonwealth Agencies under the *Financial Management and Accountability Act 1997* (FMA Act) and bodies under the *Commonwealth Authorities and Companies Act 1997* (CAC Act). Peter Kelly, managing director of the only major remaining fruit cannery in Australia, stated that he is appalled no government-owned institutions such as hospitals, jails, parliaments, old people's homes or defence force barracks are instructed to buy Australian-grown and made food as a priority.⁷ Despite this, the terms of reference in this inquiry focusing on Government departments and agencies is a good place to start.

Relevant Government Policy:

Non-Discrimination:

The Australian Government's procurement policy dictates that potential suppliers to Government cannot be discriminated against due to size, degree of foreign affiliation or ownership, location, or the origin of their goods and services. In return for this concession to foreign suppliers, Australian suppliers are theoretically not disadvantaged when tendering for Government procurement in those countries where we have a trade agreement.

Commonwealth Procurement Rules:

Commonwealth procurement rules state:

*“That achieving value for money is the core rule of the CPRs. Approvers **must** be satisfied, after reasonable enquires, that the procurement achieves a value for money outcome. And that value for money in procurement requires:*

⁶ Australian Forest Products Association, MR: 'Buy Australian made wood and paper products', 07/08/13 (available online @ <http://www.ausfpa.com.au/site/news.php?task=detail&id=0105>)

⁷ Sue Neales, 'SPC boss seeks more support to aid growers', *The Australian*, 08/10/13, (available online @ <http://www.theaustralian.com.au/business/companies/spc-boss-seeks-more-support-to-aid-growers/story-fn91v9q3-1226734354293>)

- a) *encouraging competitive and non-discriminatory processes;*
- b) *using Commonwealth resources in an efficient, effective, economical and ethical manner that is not inconsistent with the policies of the Commonwealth;*
- c) *making decisions in an accountable and transparent manner;*
- d) *considering the risks; and*
- e) *Conducting a process commensurate with the scale and scope of the procurement.”*

And that:

“The price of the goods and services is not the sole determining factor in assessing value for money. A comparative analysis of the relevant financial and non-financial costs and benefits of alternative solutions throughout the procurement will inform a value for money assessment. Factors to consider include, but are not limited to:

- a) *fitness for purpose;*
- b) *a potential supplier’s experience and performance history;*
- c) *flexibility (including innovation and adaptability over the lifecycle of the procurement);*
- d) *environmental sustainability (such as energy efficiency and environmental impact); and*
- e) *Whole-of-life costs”⁸*

The Commonwealth Procurement Rules include the concepts of environmental sustainability and whole-of-life costs as non-financial considerations when assessing value for money in Commonwealth procurement decisions. The Department of Finance further advises that sustainable procurement practises can be demonstrated by including strategies to reduce end-of-life disposal, encourage sustainable solutions and measure and improve sustainability throughout the life of the procurement.

The National Waste Policy:

The Australian Government’s National Waste Policy aims to avoid the generation of waste, reduce the amount of waste for disposal, manage waste as a resource, ensure that waste disposal, recovery and re-use is undertaken in an environmentally sound manner and contribute to broader economic, environmental and social goals.⁹

⁸ Department of Finance and Deregulation (Financial Management Group), *Commonwealth Procurement Rules: Achieving Value for Money*, p 14,15, (available online @

http://www.finance.gov.au/sites/default/files/cpr_commonwealth_procurement_rules_july_2012.pdf)

⁹ Department of Environment, ‘About the National Waste Policy’ (available online @

<http://www.environment.gov.au/topics/environment-protection/national-waste-policy/about-policy>)

Forest Certification – Wood Product Market:

In 2009, the Primary Industry Ministers' Council in relation to *Forest Certification – Wood Product Market Access*:

“Agreed that governments should not adopt, endorse or fund policies or guides that are inconsistent with their own sustainable forest management policies.”¹⁰

ICT Sustainability Plan:

The ICT Sustainability Plan states that all copy paper used for internal printing must be 50% recycled, moving to 100% recycled by July 2015 for FMA Act Agencies, on the basis of improved waste management outcomes and other environmental benefits (the requirements of ES4).¹¹ ES4 specifies non-recycled content must originate from a certified sustainably-managed forest or other responsible sources. Certified sustainably-managed forests are those certified to the Australian Forestry Standard and/or certified as managed to standards endorsed by the Programme for the Endorsement of Forest Certification (PEFC) and or/ the Forest Stewardship Council (FSC). ES4 states that these requirements for copy paper should apply to paper used for external printing “where possible”.

Australian Industry Participation:

On 28 July 2009, the Australian Government released the Australian Government Procurement Statement. In this Statement, the Australian Government announced it would strategically apply the Australian Industry Participation National Framework (AIP National Framework) principles to large Commonwealth procurements (generally over \$20 million), by requiring potential suppliers to prepare and implement AIP Plans.¹²

As part of the *Australian Jobs Bill* legislation, the Australian government now requires that for major projects:

¹⁰ Primary Industries Ministerial Council, 'Forestry Certification- Wood Market Access', *Communiqué*, 06/11/09, p 4, (available online @ http://www.aph.gov.au/~media/Estimates/Live/rrat_ctte/estimates/sup_0910/daff/attachments/apd06attach.ashx)

¹¹ Department of Environment, 'ICT Sustainability Plan 2010-2015- Mandatory Environmental Standards', *GUIDELINE 4 Environmental Standard 4 (ES4) Recycled content office copy paper*, (revised 08/2013) (available @ http://www.environment.gov.au/system/files/pages/49aab615-7b18-47e6-9bff-78135e9056ff/files/es4-recycled-content_0.pdf)

¹² Department of Industry, Innovation and Science, 'Australian Industry Participation Plans in Commonwealth Government Procurement', *User Guide for Tenderers*, p 3 June 2010, (available online @ <http://www.innovation.gov.au/Industry/AustralianIndustryParticipation/Documents/AIPPlanTendererUserGuide.pdf>) The Australian Government Procurement Statement is available at the Department of Finance and Deregulation website: <http://www.finance.gov.au/procurement/procurement-coordinator/index.html>

*“Design specifications should take Australian industry capabilities and Australian standards into account so that Australian industry is not designed out of the project”.*¹³

It is reasonable that Government departments and agencies be held to the same level of accountability as major project proponents to not ‘design out’ Australian industry.

International Obligations:

Australia-US Free Trade Agreement, selected passages:

“National Treatment and Non-Discrimination

1. *Each Party and its procuring entities shall accord unconditionally to the goods and services of the other Party and to the suppliers of the other Party offering the goods or services of that Party, treatment no less favourable than the most favourable treatment the Party or the procuring entity accords to domestic goods, services and suppliers.*

2. *A procuring entity of a Party may not:*
 - (a) *Treat a locally established supplier less favourably than other locally established suppliers on the basis of degree of foreign affiliation or ownership; nor*
 - (b) *Discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.”*¹⁴

- *“For greater clarity, this Article is not intended to preclude a procuring entity from preparing, adopting, or applying technical specifications to promote the conservation of natural resources and the environment.”*¹⁵ (CFMEU underlined)

- *“Subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where*

¹³ AUSTRALIAN JOBS BILL 2013, ‘EXPLANATORY MEMORANDUM’ (Circulated by authority of the Minister for Climate Change, Industry and Innovation, the Honourable Greg Combet AM MP), p 35, (available online @ http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5031_ems_30ba7f04-0fa5-408c-8929-8055d9465c92/upload_pdf/380559.pdf;fileType=application%2Fpdf#search=%22legislation/ems/r5031_ems_30ba7f04-0fa5-408c-8929-8055d9465c92%22)

¹⁴ Australia-United States Free Trade Agreement, ‘Chapter Fifteen - Government Procurement’, Article 15.2 : General Principles, National Treatment and Non-Discrimination, 2005, (available online @ http://www.dfat.gov.au/fta/ausfta/final-text/chapter_15.html)

¹⁵ Ibid, Article 15.6: Information on Intended Procurements, Technical Specifications.

the same conditions prevail, or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining measures:

- (a) Necessary to protect public morals, order or safety; (CFMEU underlined)*
- (b) Necessary to protect human, animal or plant life or health; (CFMEU Underlined)*
- (c) Necessary to protect intellectual property; or*
- (d) Relating to the goods or services of handicapped persons, of philanthropic or not for profit institutions, or of prison labour'*

*The Parties understand that subparagraph 1(b) includes environmental measures necessary to protect human, animal or plant life or health.*¹⁶ (CFMEU Underlined)

"Article 22.2: Essential Security"

- *"Nothing in this Agreement shall be construed:*
 - (a) to require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests; or*
 - (b) To preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security or the protection of its own essential security interests.*¹⁷ (CFMEU Underlined)

Recommendation 1

The 2009 "Buy America" requirements in the USA is indicative of a way forward for the Australian Government. It was centered on the procurement of iron, steel and manufactured goods for construction and related projects concerning public buildings and works, and procurement of specified items of clothing or equipment for the Department of Homeland Security. Requirements in the American Recovery and Reinvestment Act stipulate that 'This section shall be applied in a manner consistent with US obligations under International Trade Agreements'ⁱ

¹⁶ Ibid, Article 15.12: *Exceptions*.

¹⁷ Australia-United States Free Trade Agreement, 'Chapter Twenty Two - General Provisions and Exceptions', *Article 22.2 : Essential Security* (available online@ http://www.dfat.gov.au/fta/ausfta/final-text/chapter_22.html)

The Australian Government could buy more Australian made paper and paper products instead of imports and mandate that builders engaged in construction of major Commonwealth funded capital projects do the same, in a way which is consistent with Australia's obligations under international trade agreements. This outcome would not only be good for the Australian economy and jobs but would also satisfy legitimate environmental, health and safety and national security objectives.

Current Arrangements: Paper Products

The Government's current procurement arrangements for paper and paper products do not adequately consider the need to promote the objective of the conservation of natural resources and the environment. In addition, the current arrangements do not fulfill the Government's obligations to its own essential security interests. The results of both of these outcomes are costly to jobs and communities.

Copy Paper:

The Australian Government has established a panel of suppliers for the supply of copy paper which is mandatory for FMA agencies. CAC agencies are able to opt into the panel arrangement.¹⁸ This arrangement does not provide value for money to the Australian taxpayer. In fact, the current arrangement has the effect of discriminating against Australian manufacturers with subsequent economic, environmental and social detriments to the Australian public and to the goal of achieving value for money.

The local landfill benefits of Australian made recycled paper deliver enhanced environmental benefits for Australia compared with imported recycled papers. For example, *Australian Paper's* recycling plant which is currently under construction in the Latrobe Valley, will divert up to 85,000 tonnes of wastepaper from Australian landfill every year. *Australian Paper* is already stockpiling significant volumes of locally generated wastepaper during the construction of the recycling plant at Maryvale. This waste would otherwise have ended up in Australian landfill. Unlike imported recycled paper, Australian made recycled paper is already helping the Government achieve many of the objectives outlined in the National Waste Policy. The new facility at Maryvale will produce 50,000 tonnes of recycled paper and is due for commissioning in the first half of 2014. Imported paper also has a much larger transport footprint due to long

¹⁸ Department of Finance, 'Stationery and Office Supplies Panel Arrangement', 2012, (available online @ <http://www.finance.gov.au/procurement/StationeryandOfficeSupplies.html>)

shipping journeys from their country of origin. The delivery of the National Waste Policy is a legitimate objective. Enhanced environmental benefits of procuring Australian made recycled paper are not achieved by current arrangements which result in many Government Departments and Agencies procuring imported recycled paper.

The Whole of Government (WoG) Stationery and Office Supplies (SOS) Panel was established by the Department of Finance after a request for tender in July 2011. The arrangement is from 7 March 2012 until 7 March 2015. The arrangement specifies that procurement of copy paper must be made from any one of three successful panellists which are office supplies companies namely *OfficeMax*, *Complete Office Supplies* and *Staples/Corporate Express*.¹⁹ Agencies are then able to enter deeds with any one or more of the three successful panellists for the supply of paper products. It appears that many Agencies' procurement officers and other procurers simply believe that value for money was assessed when selecting panelists for the WoG SOS arrangement. In their view, all copy paper on offer therefore represents value for money as long as it is broadly consistent with requirements of the ICT sustainability plan, with the final decision made on the basis of value for money with price being the discriminating and determining factor.

What is clear by observation of current arrangements is that adhering to procurement guidelines and rules is the responsibility of the procuring entity. For example the Department of Finance confirmed that through the WoG SOS Panel it has made ES4 compliant general use office copy paper available to agencies but that, 'it is each agency's responsibility to comply with the requirements of the *ICT Sustainability Plan*'²⁰ and, for example, that the requirement for certification to the National Carbon Offset Scheme (NCOS) in value for money assessments is not specifically required to be considered in procurement processes.²¹ This revelation contradicts the fact that value for money is the core principle underpinning the Australian Government procurement framework; and that should mean that all relevant financial and non-financial costs and benefits are taken into account over the entire life of the procurement to inform a value- for- money assessment. For instance, and to reiterate, Commonwealth Procurement Rules note that environmental sustainability (such as energy efficiency and environmental impact) is one of the factors relevant in determining value for

¹⁹ Ibid.

²⁰ Department of Finance and Deregulation, 'Senate Finance and Public Administration Legislation Committee' *ANSWERS TO QUESTIONS ON NOTICE ADDITIONAL ESTIMATES 2012-2013, Topic: Procurement of Paper*, (available online @ http://www.aph.gov.au/~media/Estimates/Live/fapa_ctte/estimates/add_1213/finance/f12.ashx)

²¹ Department of Finance and Deregulation, 'Senate Finance and Public Administration Legislation Committee' *ANSWERS TO QUESTIONS ON NOTICE ADDITIONAL ESTIMATES 2012-2013 Topic: Procurement Processes and the National Carbon Offset Scheme*, (available online @ http://www.aph.gov.au/~media/Estimates/Live/fapa_ctte/estimates/add_1213/finance/f13.ashx)

money. It is apparent that these non-financial factors are rarely being taken into account by procurers that buy paper manufactured overseas through the panel arrangement.

Compulsory submission of an approved AIP plan should have required the panellists of the WoG SOS to demonstrate how they would provide Australian manufacturers with full, fair and reasonable participation in the delivery of the contract. If this had occurred, suppliers would have been contractually required to implement these actions, and to develop an Implementation Report detailing evidence of AIP Plan implementation and the outcomes achieved. It appears that the Department of Finance did not require the tenderers in the Request for Tender for the establishment of the WoG SOS arrangement to submit Australian Industry Participation Plans despite just one item in the arrangement (copy paper) meeting the requirements of the \$20 million threshold. (The Australian Government and its agencies procure conservatively 6,500 tonnes of copy paper per year. This amounts to approximately \$13 million per annum). The WoG SOS arrangement is for a three year period with the option of two one-year extensions so the copy paper component alone represents between \$39 million and \$65 million.

The non-requirement for AIP plans appears to have resulted in a lack of full, fair and reasonable access for Australian paper manufacturers in the supply of copy paper in some deeds entered into by some agencies with some panelists, resulting in negative environmental outcomes because Australian made recycled paper is not being utilized to the extent it should be. For example, *OfficeMax*, actively discriminates against Australian made paper in its promotion of paper products to the market with the effect of it encouraging imported paper (including its own imported private label brand). The CFMEU has written evidence of *OfficeMax* providing false and misleading information to a potential procurer in Government regarding the source of wood fibre and the environmental sustainability of the non-recycled component of the Australian made alternative.²² This evidence is in addition to publically available procurement advice. The decision of the Department of Finance to endorse this advice walks a very fine line in regards to consistency with the policies of the Commonwealth regarding Forestry certification.²³

²² Evidence available to the committee on request.

²³ The Department of Finance currently provides a link:

http://maps.finance.gov.au/office_administration/docs/Environmental_Symbols%20Accreditations.pdf to the company *OfficeMax's* Environment accreditation page (View symbols used to identify environment accreditations) On this page the description for PEFC is somewhat less enthusiastic than the description for FSC: **Forest Stewardship Council:** When you buy products with the FSC logo, your purchase is supporting healthy forests and strong communities. Under FSC certification, forests are certified against a set of strict environmental and social standards and material from certified forests is tracked all the way to the consumer through the chain of custody certification system.

Program for the Endorsement of Forest Certification: Certification that assures buyers of wood and paper products that they are supporting the sustainable management of forests.

There is no advice about the **Australian Forestry Standard**.

OfficeMax also promotes on its website an incorrect interpretation of what constitutes 'post-consumer waste' (a requirement of the recycled content as mandated in the ICT sustainability plan) which they attribute to their imported private label branded paper, but not the Australian made paper they offer.²⁴ Their definition falls short of including all elements making up post-consumer waste as recognized by the Australian Government in the revised ICT sustainability plan (ES4) citing *AS/NZS ISO 14021:2000 Environmental Labels and Declarations - Self-declared environmental claims (Type II environmental labelling)*. The Standard recognises that:

*"Post-consumer material includes material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the product which can no longer be used for its intended purpose. This includes returns of material from the distribution chain."*²⁵

The result is that there are no 'post-consumer recycled' symbols next to the Australian made paper products *OfficeMax* makes available in the *OrderMax* system, unlike its imported products.

OfficeMax and *Complete Office Supplies* also do not appear to offer an Australian made alternative containing 100% recycled content despite it being a purchasing requirement by July 2015 for FMA agencies with many agencies making the transition to procuring 100% post-consumer recycled content copy paper in anticipation of the deadline. For example, the Australian Packaging Covenant's survey of 2010–11 found that 78 per cent of reporting agencies purchase at least 50 per cent post-consumer recycled office paper and that some 37 per cent of reporting agencies have taken this one step further by purchasing 100 per cent post-consumer recycled office paper.²⁶ As an example of the problem, in response to the CFMEU's 'Don't Shred Pulp and Paper Jobs' initiative, a number of MP's have not been able to make the commitment in the 'Support for Pulp and Paper Workers Pledge' by setting the right example to the community by using Australian made paper because they 'prioritise the use of 100% post-consumer recycled materials'. Due to the deed entered into by the Department of Finance with *OfficeMax* exclusively for the provision of Senators, Members and

²⁴ <https://www.ordermax.com.au/ProductDisplay.aspx?Product=1992325> for instance it states: 'Post-Consumer Waste material is waste that has been recovered after having been used as a consumer item; i.e. paper from offices and homes, old newspapers and packaging.'

²⁵ Department of Environment, 'ICT Sustainability Plan', p 3.

²⁶ Department of Sustainability, Environment, Water, Populations and Communities, 'Sustainable Procurement in the Australian Government Report 2013', p 15, (available online@ <http://www.environment.gov.au/system/files/resources/b5791c16-bc27-4c9e-9281-fe4211be1597/files/sustainable-procurement-2013.pdf>)

former Prime Ministers' offices and requisite allowance²⁷ and *OfficeMax* not offering the Australian made 100% post-consumer waste recycled content paper option as part of their range, despite such paper being on the market, some MPs have felt that they have not been able to make the pledge.

The CFMEU is aware that Senator Madigan has put a number of questions in writing to the Department of Finance about the WoG SOS arrangement and particularly the deed entered into by the Department of Finance for the provision of Senators, Members and former Prime Ministers' offices and requisite allowance, following the last Senate Estimates hearing (appendix 1). We look forward to a prompt response from the Department so that this information can be considered by the Government in addition to this submission in its response to this Inquiry.

External Printing Paper:

Australian government agencies use approximately nine times the amount of paper for external printing (publications, pamphlets, forms and brochures) than they use internally (in the majority copy paper). As a result, as stated by the Australian National Audit Office, external printing 'has the potential to have a much greater environmental impact than office printing.'²⁸ Despite this, although the ICT sustainability plan mandates 50% recycled content in office paper progressing to 100% recycled content by 2015, its approach to paper for external printing is that requirements which are mandated for copy paper only need to occur "where possible".²⁹

There are two concerns here:

- The recycled content component requirement of the ICT sustainability plan only has to be satisfied "where possible."
- The non- recycled component requirements (fibre comes from sustainably managed forests or other responsible sources) of the ICT sustainability plan only has to be satisfied "where possible."

As a result, there is a significant opportunity for import replacement of paper in many Australian Government agencies' external printing in a way which would have real benefits not only for

²⁷ See: Department of Finance, 'Whole of Government Supplier Arrangement - Stationery and Office Supplies – OfficeMax', (available online @ http://maps.finance.gov.au/circulars_historical/Departmental/2013/09-oad-Whole_of_Government_Supplier_Arrangement_-_Stationery_and_Office_Supplies_-_Office_Max-20130423.html)

²⁸ ANAO, 'Green Office Procurement and Sustainable Office Management', *Audit Report No.25 2008–09*, p 63, 2009, (available online @ http://www.anao.gov.au/uploads/documents/2008-09_Audit_Report_25.pdf)

²⁹ Department of Environment, 'ICT Sustainability Plan', p 2/4.

Australian jobs, but also the environment. Unfortunately current arrangements are not indicating that these opportunities are being be seized upon.

We are aware of at least one example, by *IP Australia*, a CAC body, where specifications in a request for tender had a bias to imported papers through including specification of coated papers. The same tender specified a request for an uncoated imported brand of paper and a business card stock which specified 350gsm gloss coated even though most business cards used in Government and elsewhere are printed on uncoated stock. In effect, Australian made paper and Australian manufacturers had been 'designed out' of the tender. These specifications in the tender prompted the following questions from an Australian manufacturer:

"Paper specifications:

1. *Most stocks are coated which means that they are imported. Will uncoated stocks be considered, which opens the way for consideration of Australian made? (Coated papers are not made in Australia). Eg. Business cards, Brochures, Certificates*
2. *We are advised by the paper merchant (Spicers) that they have discontinued Expression Satin as they no longer deal in paper sourced from Indonesia. Do you have an alternative stock?*
3. *Nordset uncoated is specified. Our technical people advise that they are unaware of any particular reason why a standard offset should not perform as well, though there will be variations in smoothness and whiteness, as is expected between various offset brands of paper. Will Australian made offset paper be considered?*
4. *We note that Environmental Requirements states consideration of "tenderers approach to recycling of stock". Is the intent that stocks have recycled content? If so, will you nominate stock options for quotation must include recycled content? This is consistent with the Government's ICT Sustainability Plan (see attached ES4 Guidelines) and the National Waste Policy*
5. *Environmental accreditations held – what accreditations are required of the paper stocks? i.e.*
 - a. *PEFC / Australian Forestry Standard / FSC, or equivalent*

- b. ISO 14001 paper mill
- c. Recycled content
- d. Carbon neutral certification to the Australian Government's National Carbon Offset Standard"

Government agency use of external printing papers in terms of quality and quantity will depend on the business requirements of the agency. However, full, fair and reasonable access to Australian manufacturers and value for money should be required to be achieved, consistent with Commonwealth procurement rules and other Government policy. All efforts should be made to ensure that design specifications take Australian industry capabilities into account, preventing Australian industry being 'designed out'.

Large users of paper externally include the businesses involved with the Department of Human Services. As reported by the National Audit Office:

*"Medicare Australia commented: Medicare's internal copy paper consumption for 2007–08 is around 169 tonnes, compared to one of our government programs like the Pharmaceutical Benefits Scheme of 1480 tonnes of paper per annum. In Medicare's case, business paper well and truly overshadows internal copy paper."*³⁰

Here again trends are not positive. As confirmed by the Department of Human Services, imported paper has recently replaced the previously used paper manufactured at the *Australian Paper* mill at Shoalhaven for Pharmaceutical Benefits Scheme forms. This has occurred despite anecdotal evidence that the quality of the imported paper used is not providing value for money to the Agency due to quality issues. There have been a number of complaints which had to be addressed by the contractor.³¹

Further opportunities for import replacement will emerge at the completion of Boyer's \$84 million conversion of one of its paper machines (which formerly produced newsprint), due for commissioning in the first quarter of 2014. This investment will bring the capacity to produce coated paper of a catalogue and magazine grade back to Australia for the first time since coated paper capacity was lost at the closure of the Burnie and Wesley Vale Mills in 2009/10. Current arrangements do not encourage the feeling that this opportunity for import replacement will be adequately seized upon.

³⁰ ANAO, 'Green Office Procurement and Sustainable Office Management', p 63.

³¹ Department of Human Services, 'Senate Community Affairs Legislation Committee', *ADDITIONAL BUDGET ESTIMATES – 2012-1013 ANSWER TO QUESTION ON NOTICE*, Topic: Pharmaceutical Benefits Scheme – paper used for forms and prescriptions, (available online @ http://www.aph.gov.au/~media/Estimates/Live/clac_ctte/estimates/add_1213/DHS/Answers/017.ashx)

Envelopes:

Like the way Australian Government FMA Agencies procure copy paper through the above mentioned panel arrangement, the Department of Human Services procures 96 million envelopes per annum through a similar-style panel arrangement. In the establishment stage of the panel, tenders were evaluated against the following evaluation criteria with their relative level of weighting reflecting the importance of each criterion:

“Very important Criteria (integral or critical)

- *Price*
- *Demonstrated ability to supply envelopes in the quantities required by DHS- Supply the entire range*

Highly desirable criteria (important)

- *Demonstrated ability to supply sufficient quantities of envelopes with recycled content*
- *Demonstrated ability to deliver large quantities of envelopes ‘free in store’ to the delivery sites*

Desirable

- *Demonstrated evidence of the tenderers ability to provide envelopes that comply with the Australian Forestry Standard.”³²*

The way the Department procured products after the establishment of this panel reflects the approach taken by many procurers of copy paper who procure imported copy paper.

“Once established each panelist will be assessed as being able to meet the business needs of DHS for envelopes... at the Request for Quote stage value for money assessments are largely dependent on price as the main discriminating factor, given that each panelist is already considered to represent value for money.”³³

This is a false economy as other important value for money factors should be still relevant in the procurement decision, including:

³² The Department of Industry, ‘Draft for Deliberation: Australian Government Procurement of Paper’ for the *Pulp and Paper Advisory Group* (attachment b- Department of Human Services envelope procurement)

³³ Ibid.

- Where the recycling takes place.
- Certification to the Australian Government's National Carbon Offset Standard.
- Carbon miles in relation to transportation from overseas.
- The risk that overseas manufactured envelopes do not contain the required level of recycled content because of laxer standards (noting that the Department does not commission independent testing on supplied product).
- Other non-financial costs and risks.

With these legitimate value for money considerations not taken into account, the results become perverse. For instance, a supplier planning to supply with Australian manufactured envelopes, using Australian made paper, was unsuccessful at the Request for Quote stage to the advantage of an alternative supplier. The alternative supplier subsequently imported the envelopes from Thailand, with the envelopes made from paper manufactured overseas. The supplier intending to supply the contract with Australian made envelopes made with Australian made paper's quote was 'less competitive' by only \$8256 (less than 1% of the total value of the procurement)³⁴ and if non-financial elements of value for money were still being considered at this stage of the procurement decision, the quote would have gone to the supplier using Australian made paper with the envelopes manufactured in Australia.

The CFMEU is aware of independent testing of these imported envelopes which questions whether the recycled content claimed and required by the contract actually matches the content in the envelopes tested. We are happy to provide these test results to the inquiry for examination.

This example is symptomatic of the costs to Government when failing to provide for the full, fair and reasonable participation of Australian industry for paper and paper products in Government procurement processes, particularly when non-financial costs are not sufficiently accounted for in value for money considerations at every stage of procurement, despite the requirement of Commonwealth Procurement Rules. The delivery of this particular contract of 48 million envelopes has cost the Government \$181,000 in foregone revenue ³⁵ (minus the \$8256 the government gained for procuring the cheaper product) compared to if the contract had been awarded to a supplier which used envelopes manufactured with Australian made paper (250 tonnes required). If the envelopes were subsequently manufactured in Australia this figure would have been much higher. It should be noted that losing the tender resulted in job losses in both the envelope and pulp and paper manufacturing sectors.

³⁴ Ibid.

³⁵ According to the independent WRI report into the economic contribution of *Australian Paper* and its operations as the basis for analysis which states the Government receives \$7,240 in revenue for the production of every tonne of paper.

Tissue Papers:

The Government market for tissue paper is \$100 million per annum. Australian tissue paper manufacturers face similar market barriers to Australian made copy, external printing grade paper and envelopes due to the inefficiency and discrimination of Whole of Government arrangements and tendering procedures described above. It is highly unlikely that value for money is subsequently being adequately measured by procurers in a way consistent with, for instance, the *Independent Australian Sustainable Tissue Products Procurement Guide*.³⁶ This guide robustly considers and compares non-financial costs associated with tissue production and supply to tissue manufacturers. These arrangements are ultimately to the detriment of Australian industry and subsequently to the Australian taxpayer.

National Security Considerations:

In addition to Australian industry being disadvantaged by Government inability to prepare, adopt, and apply technical specifications to promote the conservation of natural resources and the environment, as per the arrangements highlighted above, the current procurement arrangements also do not result in the fulfillment of the Government obligations related to its own essential security interests. For example, in World War II the mill at Burnie was the sole source of fine writing and printing papers for the whole of Australia.³⁷ This mill no longer operates and Australia could only rely on the Maryvale and Shoalhaven mills in a similar situation. During World War II, the Boyer Mill's output was used in a pool which kept Australian newspapers in circulation.³⁸ Having these facilities was the result of strategic Government support for the development of the industry between the first and second world wars, partly in recognition of the important role that they would potentially play in critical security situations.

The *Australian Paper* mill at Shoalhaven is currently the only producer in Australia of security papers including secure document papers and registered watermark grades where it conducts an internal and external security control system from purchase of materials to delivery of product.³⁹ However, the mill at Shoalhaven is under intense pressure from imports and has reduced employment by half since 2006 to less than 100 from the 600 plus workers that once worked there. Shoalhaven production includes Australian passports and the mill employs the only workers in Australia capable of producing the dyes for specialty watermark paper for this

³⁶ IndustryEdge Pty Ltd, *The Independent Australian Sustainable Tissue Products Procurement Guide*, 2012.

³⁷ Cohen, WE, 'Pulp and Paper from Australian Eucalypts Forestry Department', *Food and Agriculture Organization of the United Nations, Corporate Documentary Deposit* (available online @ <http://www.fao.org/docrep/x5347e/x5347e05.htm>)

³⁸ Ibid.

³⁹ Australian Paper, 'Watermark & Security Papers Australian Manufactured', (available online @ <http://www.shoalhavenpapermill.com.au/new%20changes/Security%20Brochure.pdf>)

sort of certificate documentation. If these skills, this system of internal and external security control and this manufacturing capacity is lost, it will likely be lost for good with severe negative consequences to essential national security.

The Shoalhaven mill has not made a profit for three years, despite cost cutting by the employer and employees. From 2006 the mill has undertaken machine closures, redundancies, voluntary wage/salary freezes, employees picking up residual tasks to keep the mill viable, shift cancellations and so on. The mill's ongoing operation relies on the fact that it has a very committed operator and would have otherwise closed years ago if not for the positive culture of the workers at the mill. See the article referenced below for further information about the current predicament facing operators of the mill at Shoalhaven and how the Government can provide a solution by buying more Australian made paper and using less imports.⁴⁰

Not having a capacity to produce fine writing, newsprint and especially security papers and documents as important to national security as Australian passports is incompatible with Australia's essential security interests. However, Government procurement arrangements are not currently undertaken in a way which supports the maintenance of these important manufacturing facilities. There is an opportunity through strategic Government procurement from the mill at Shoalhaven to assist the development of high quality manufacturing of security paper supplying a niche market, leveraging Australia's natural comparative advantages including high levels of security and low levels of corruption, to supply vital security documentation for Australia's use, and other niche markets globally.

Recommendation 2

Government Procurement of Paper and Paper Products:

The Australian Government should foster a situation that will lead to significant import replacement of paper used by the Australian Government, its departments and agencies by the promotion of the legitimate goals of environmental sustainability and essential national security being taken into account in value for money assessments in Government procurement.

This should be achieved by the creation of a body like the Australian Government Fleet team which is a business unit within the Department of Finance responsible for administering the contracts for the provision of motor vehicle fleet management and leasing services to

⁴⁰ Robert Crawford, Adam Wright, 'Paper Workers Pleader for Help' *South Coast Register*, 11/12/13, (available online @ <http://www.southcoastregister.com.au/story/1964016/paper-workers-plead-for-help/>)

Australian Government departments and agencies. It is apparent by the evidence presented in this submission that a similar arrangement is required for the provision of paper and paper products to Government departments and agencies. The body could initially work with the WoG SOS panel and other panels like the one established by the Department of Human Services for the envelope procurement until at least the expiry of the panel's terms. Panel members may still have a role after the expiry of the terms through delivery and supply.

The paper selection policy the administration of which will be the responsibility of the body would be different to the fleet selection policy ⁴¹ as it would need to reflect Australia's international trade obligations which apply to paper but not motor vehicles which are exempted from the procurement chapter of the USA/Australia Free Trade Agreement. However, the paper selection policy would require Government procurement to support the legitimate objectives of environmental sustainability and essential national security objectives. This would lead to significant import replacement of paper and paper products. Working documents the body could utilize for the achievement of at least the first objective of environmental sustainability and ethical procurement include the:

- *Independent Australian Sustainable Paper Procurement Guide* ⁴² (available to the committee on request)
- *Independent Australian Sustainable Tissue Products Procurement Guide* ⁴³ (available to the committee on request)

Current Arrangements: Building Products

The Australian Government is a significant influencer in the building and construction industry as an important consumer. For instance in 2011-12 the Australian Government procured \$4,540,458,316 worth of Structures and Building and Construction and Manufacturing Components and Supplies, representing 10.96% of all Government procurement.⁴⁴

Australia currently faces an emergency due to the flood of low-quality, sub-standard, non-conforming building products (NCP) imported from overseas which have saturated the

⁴¹ Department of Finance, 'Fleet Vehicle Selection Policy (as at April 2012)' (available online @ <http://www.finance.gov.au/vehicle-leasing-and-fleet-management/fleet-guidance-and-related-material.html>)

⁴² IndustryEdge Pty Ltd, *The Independent Australian Paper Procurement Guide*, 2012

⁴³ IndustryEdge Pty Ltd, *The Independent Australian Sustainable Tissue Products Procurement Guide*, 2012

⁴⁴ Department of Finance and Deregulation, *DATA MINING AND ANALYSIS OF AUSTENDER DATA 2011-12*, p 5 February 2013, (available online @ <http://www.finance.gov.au/sites/default/files/austender-data-analysis-2011-12.pdf>)

domestic market and pose a real risk to public safety and health. As put by Australian Industry Group Chief Executive Innes Willox:

“Use of non-conforming products across the building and construction sector is ‘widespread’... An extremely large proportion (92%) of companies responding to our survey reported non-conforming products in their supply chains. This raises important questions about quality and safety...”

“The impact of non-conforming products is a major concern for industry and this report clearly suggests the need to reform the current system to ensure quality and safety.”⁴⁵

Non-conforming product can increase safety risks to employees and the public. A number of examples were provided by respondents in the report referred to by Mr Willox of safety risks attributed to NCP. These included:

- *Glass windows falling from multi-story buildings onto pedestrian walkways;*
- *Sign structure falling onto a busy road;*
- *Collapse of aircraft hanger whilst under construction;*
- *Collapse of formwork resulting in a death;*
- *Electrical cable recall due to the risk of fire and electric shock;*
- *Non-conforming structural steel fabrications.⁴⁶*

As cited in the report and attributed to the Australian Steel Institute:

“The construction products industry in Australia is faced with a choice: it can follow a path of the lowest cost denominator in which case be exposed to the worst in quality the world can produce, or, it can implement product conformity systems similar to what is in place in most of the developed world that inform the client of achievement of levels of quality compliance benchmark.”⁴⁷

And by the Australian Windows Association:

⁴⁵ Ai Group, MR, ‘Non-conforming products widespread across building and construction sector’, 21.11.13, (available online @: <http://www.aigroup.com.au/portal/site/aig/standards/nonconformingproductresearch>)

⁴⁶ The Australian Industry Group, ‘The quest for a level playing field: The non-conforming building products dilemma’, p 5, November 2013, (available online @ http://www.aigroup.com.au/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/LIVE_CONTENT/Publications/Reports/2013/REPORT_NCP_FINAL.pdf)

⁴⁷ Australian Steel Institute, Ibid, p 8.

“The AWA expresses deep concern regarding extent of the NCP products in the industry and questions the resulting impact on SME manufacturers and the contribution to the worst building stock in the country. What level of failure is required before someone does something.”⁴⁸

Major funded and supported capital projects have not been immune from this crisis. For instance, the report to which Mr. Willox refers outlines a number of examples of non-conforming imported products used on Federal Government projects including:

- Thousands of imported poor quality bolts that investigation concluded did not reach the Australian Standard used in the construction of a hangar, contributing to the collapse of the hangar seriously injuring 12 workers at RAAF Fairbairn in 2003.⁴⁹
- A Worksafe ACT investigation into the loss of a panel in the ASIO building that followed the loss of another 20 panels ⁵⁰

In addition to this, the CFMEU is investigating a number of examples of apparent sub-standard glass and formwork products used or in use on projects which have received Major Commonwealth funding including the Royal Hobart Hospital where the specification nominates South China Glass as well as products used on the Frankston Hospital Extension.

Recommendation 3

Procurement of Building Products in Major Commonwealth Funded Projects

The Australian Government needs to play a leadership role in the building and construction industry by ensuring imported non-conforming building products are not used in major funded and supported capital infrastructure projects. This should happen regardless of the funding source, for instance, projects funded under the National Rental Affordability Scheme incentive should be included in this arrangement.

⁴⁸ Australian Windows Association, Ibid, p 48.

⁴⁹ Ewa Kretowicz, ‘Faulty bolts blamed for Fairbairn site accident’, *the Canberra Times*, April 1, 2012 (available online@ <http://www.canberratimes.com.au/act-news/faulty-bolts-blamed-for-fairbairn-site-accident-20120331-1w5t9.html>)

⁵⁰ Ewan Gilbert ‘ASIO building loses another glass panel’, *ABC Online*, Fri 5 Oct 2012 (Available online@ <http://www.abc.net.au/news/2012-10-04/asio-building-loses-another-glass-panel/4296314>)

This is necessary to ensure health and safety, which, as explored, is a legitimate objective for the regulation of trade under Australia's international trade obligations, including the procurement chapter in the USA/ Australia Free Trade Agreement. Non-Conforming products, regardless of how cheap they are compared to Australian made products, never represent value for money for the Government when risking the life and limb of Australian workers and the general public.

When health and safety is at risk, the precautionary principle is a must. It is clear on the evidence that the current system of standards conformance compliance assurance is insufficient. For example, according to Mr Willox:

“Non-conforming products are allowed onto the market due to inadequate surveillance, audit checks, testing, verification and enforcement”⁵¹

Under the circumstances, the only way to currently ensure health and safety is by the Government mandating the use of Australian made goods which meet Australian Standards wherever they are available, and where they can be supplied. This requirement in Government funded and supported capital infrastructure projects should be implemented immediately, at least for the products examined in the AIG report, pending satisfactory Government response and stakeholder satisfaction with the response to recommendations in the report, particularly the recommendation that:

“Stakeholders, in consultation with all tiers of Government, examine how to best address the gaps and weaknesses in the building and construction sector conformance framework.”⁵²

As a solution the CFMEU has promoted in communication with all political parties prior to the 2013 election the establishment of an agency or commission to implement an intelligence-led, risk based approach to standards conformity compliance assurance on imports through;

- Conformity assessment and monitoring
- Sampling testing

⁵¹Mr Innes Willox, AI Group, MR.

⁵² AIG, 'The quest for a level playing field', p 7.

- Administration of the penalty regime for infringements including for false and misleading claims about adherence with standards
- Development of mandatory standards for products which are clearly unsafe or unsuitable but for which no mandatory standard(s) exist
- Developing and enforcement of branding and labeling requirements.

The Government should explore the above CFMEU proposal and may also consider the *Fair Trade (Australian Standards) Bill*⁵³ currently before the Senate as a potential way forward to providing a satisfactory response. However, in the interim a precautionary response to health and safety requires the mandating of the use of Australian made products.

In addition, suppliers found to be supplying product that fails safety and other standards should be put on a list of suppliers not to be used for future projects, sending a strong signal to all suppliers that the Government places product quality and compliance with standards as a non-negotiable criteria for public capital projects.

We would be happy to provide further assistance or appear before a hearing of the inquiry, should a hearing be held.

⁵³ See: 'Fair Trade (Australian Standards) Bill', 2013, (available online @ http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s920)

ii Use of American Iron, Steel, and Manufactured Goods under Section 1605 of the Recovery Act.

(a) None of the funds appropriated or otherwise made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) Inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the *Federal Register* a detailed written justification as to why the provision is being waived.

(d) This award term shall be applied in a manner consistent with United States obligations under international agreements.

(e) AWARDTERM-- The award term required by 2 CFR Part 176, Subpart B is set out in full as *Recovery Act Award Terms - Addendum to Award Term A.2* below.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the *Federal Register* a detailed written justification as to why the provision is being waived.

(d) This award term shall be applied in a manner consistent with United States obligations under international agreements.

(e) AWARDTERM-- The award term required by 2 CFR Part 176, Subpart B is set out in full as *Recovery Act Award Terms - Addendum to Award Term A.2* below. (Underlined CFMEU)

Appendix 1: Questions Tabled by Senator Madigan in Senate Estimates: Department of Finance: Topic Whole of Government (WoG) Stationary and Office Supplies (SOS)

I. I understand that the Whole of Government (WoG) Stationary and Office Supplies (SOS) panel arrangement makes mandatory all procurement (for all Agencies under the Financial Management and Accountability Act 1997) of copy paper to be exclusively purchased from any of three panellists established in March 2012 following a June 2011 Request For Tender, the panellists being:

- Complete Office Supplies (COS) PTY LTD.
- Corporate Express
- OfficeMax Australia Limited.

II. I understand that the Panel Arrangement has been established for an initial period of three (3) years with two (2) extension options of one (1) year each, which may be exercised at the discretion of the Department of Finance.

Q1:

In the Request for Tender used to establish the panel, the tender evaluation assumedly included an ability to meet the Commonwealth's requirements.

• Did the requirements outlined include:

- That the Price and Pricing structure offered on all products will be constructed in a way which, while providing value for money, supports the viability of Australian manufacturers?
- An ability and willingness of the panellist to demonstrate for the life of the arrangement that it can manage any conflict of interest issues in terms of any potential advantage that it might gain by selling imported product instead of Australian made product, including product it sells in the form of a private label?

Q2:

If not already specified, will any of the above requirements be specified prior to the Department of Finance agreeing to extensions?

1. Contract entered into by the Department of Finance for the provision of office requisites and stationery for Members and Senators

I. I understand that individual Agencies may choose to enter into deeds with any of the three suppliers in the Whole of Government (WoG) Stationary and Office Supplies (SOS) panel, based on their business needs.

II. I understand that procurement of general use copy paper must also be in line with the mandatory environmental standards in the ICT Sustainability Plan 2010-2015 (ES4) which requires it to have a minimum post-consumer recycled content of 50 percent by July 2011 with progression to 100 percent recycled content by July 2015.

III. Referring specifically to the most recent contract entered into by the Department of Finance for the provision of office requisites and stationery for Members and Senators, and the successful panellist was OfficeMax.

Q1:

The contract for this service was previously held by Office Max (from 01/07/07) and the value was \$15,000,000 over 5 years and there were no confidentiality provisions in that contract. Is this the same case with this contract? If not, where does it differentiate?

Q2:

I assume all purchases have to comply with the ICT sustainability Act, as the Department of Finance is under the Financial Management and Accountability Act 1997?

Q3:

So the paper offered by Office Max currently which is eligible for purchase is limited to:

- OfficeMax® 50% Recycled Copy Paper,
- REFLEX Pure White A4, 80gsm 50% Recycled paper,
- OfficeMax 100% Recycled White A4 80gsm Copy Paper,
- Canon 100% Recycled Copy Paper A4,

-
- Australian 80% Recycled White A4 80gsm paper (Box 5 only)?

Q4:

Is the Department aware of any other Agencies views that there is a potential risk in entering a deed with OfficeMax exclusively due to the limited range of products in some of its catalogue?

Q5:

Is the department aware of any Australian made paper which fits the requirements of the ICT Sustainability plan on the market but is not offered to Members and Senators through this panellist?

Q6:

Under the ICT sustainability plan 100% recycled content is a requirement by July 2015 but currently no Australian Made 100% recycled content is available through Officemax, is there a clause in the COS arrangement or the deed for the provision of office requisites and stationery contract for an Australian made paper that meets the upcoming 100% requirement, being required to made available when 100% becomes mandatory?

Q7:

Will this provision be included in the requirements for an extension of the provision of the office requisites and stationary contract and/or the COS arrangement?

Q 8:

Is the department aware of any financial advantage to be gained by any panellists by it selling imported paper in comparison to Australian made, and particularly paper containing the panellist's private label to this market?

Q 9:

It would stand to reason that they would want to promote their private label even if they do not gain a higher margin on its sales compared to alternatives- for instance by using it as a 'price leader' to assist in negotiations with alternative imported and local suppliers to it?

Q 10:

In the contract, is their disclosure of how OfficeMax deals with this issue in terms of its price and pricing structure?

Q 11:

For OfficeMax® 50% Recycled Copy Paper, what is the source, including country of origin or the non-recycled content?