

# Labor Senators Dissenting Report

1.1 Senators from the Australian Labor Party are concerned about a number of issues raised in evidence. This dissenting report addresses:

- whether the bills should be considered as a package or split and considered separately;
- whether there has been adequate consultation in the development of the bill;
- whether technical textiles and leather should have the same level of eligibility as other TCF sectors; and
- whether the bills provide sufficient support to small and medium businesses.

## Severing the connection between the bills

1.2 The Textile Clothing and Footwear Strategic Investment Program Amendment (Post-2005 scheme) Bill 2004 and the Customs Tariff Amendment (Textile Clothing and Footwear Post-2005 Arrangements) Bill 2004 have been introduced to the Parliament as a package. The government's intention, in doing this, was that the bills be considered together, with the passage of the SIP legislation dependent upon the passage of the tariff cuts.

1.3 During its consultations with industry, the Department of Industry, Tourism and Resources made it clear that the TCF industry would only get further assistance through SIP if the tariffs were passed. During the Committee's hearing on these bills, the TCF Union of Australia tabled a powerpoint slide used by DITR in its consultation process. This slide set out proposed spending on the TCF industry, amounting to nearly \$750 million in total, then concluded by stating that "these assistance measures are contingent on the legislation of the Tariff Reduction Schedule".<sup>1</sup>

1.4 Many parts of the industry essentially regarded this process as one of blackmail. The TCFU submission, for instance, stated:

The Federal Government is unnecessarily tying the tariff reduction bill to industry assistance in an obvious attempt to blackmail the industry into accepting unjustified and ideological tariff reductions that will wreck

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1 Tabled document, TCFUA, 3 August 2004.

further havoc on an industry already suffering the effects of previous reductions. There is no sensible reason to tie the two bills together.<sup>2</sup>

1.5 The Ballarat Regional Trades and Labour Council argued:

There is no real or logical reason to tie SIPS legislation for post 2005 assistance with tariff reduction legislation which does not come into effect until 2010. It is our view that the Federal government is seeking to force the industry to accept tariff reductions as the price for further industry assistance.<sup>3</sup>

1.6 The Goulburn Valley Trades and Labour Council made a similar argument:

There have already been substantial tariff reductions that have impacted the Goulburn Valley and there is no time related necessity to legislate further reductions. Even if further reductions are supported by this committee there is no need for tariff reduction legislation until 2009. There should be no coercion to force the industry to accept tariff reductions as the price for further industry assistance. There is no evidence that this will be of any benefit to Australians.<sup>4</sup>

1.7 The Australian Council of Trade Unions stated:

The Senate should separately consider the TCF SIP Amendment Bill and the Customs Tariff Amendment Bill. The former Bill deals with investment assistance measures to apply during the period 2005 to 2010, whereas the latter provides for rates of tariff to apply after 2010. The connection between the two bills is forced, inappropriate and should be severed.

1.8 No less than 24 of the 42 written submissions made to the Committee on this issue supported the separate consideration of these bills. This view was put by groups as diverse as the Victorian Trades Hall Council, the Migrant Women's Lobby Group of South Australia, and the Uniting Church.

1.9 The Labor Senators on this Committee agree that the bills should be considered separately. Labor will continue to support assistance for the TCF industry through the SIP scheme, subject to amendments outlined below. However, Labor Senators do not support the provisions of the Customs Tariff Amendment (Textile Clothing and Footwear Post-2005 Arrangements) Bill 2004.

1.10 During the hearings for this inquiry, officers from the Department of Industry, Tourism and Resources offered no specific reasons why the tariff cuts are necessary. Instead, they offered generalised, ideological statements such as their view that the

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2 Submission 1, TCFUA, p. 2.

3 Submission 2b, Ballarat Trades and Labour Council, p. 4.

4 Submission 7, Goulburn Valley Trades and Labour Council, p. 2.

tariff cuts 'drive competitiveness at the firm level and they are an incentive for the industry to move from industries which clearly cannot be competitive now.'<sup>5</sup> These views, unsubstantiated by data or analysis, do not provide a suitable basis for policymaking.

1.11 It may of course be difficult for officers of the Department to make policy based on substantial data. During the hearing it became evident that the Department's latest manufacturing survey data for the TCF industry was current during 2001.<sup>6</sup> In other words, while the Department is proposing legislation which will cost jobs by providing industry with an incentive 'to move from industries which clearly cannot be competitive now' it has little data to indicate what the impact on the industry has been since 2001 – the first year of the current SIP scheme.

1.12 On the other hand, the Committee heard some substantial arguments against the imposition of the tariff cuts proposed in the Customs Tariff Amendment (Textile Clothing and Footwear Post-2005 Arrangements) Bill 2004. The Victorian Trades Hall Council, for instance, stated:

We believe there is a fundamental flaw in the government's insistence on tying the two bills together as it in effect requires industry to accept a reduction in tariffs in order to access assistance. The TCF industry has since 1991 greatly reduced its tariff protection. In some sectors such as clothing, tariffs have been reduced from 55% to 25% over the ten year period. These reductions have not, however, demonstrably helped the Australian economy and in fact have seriously compromised sections of the TCF industry through massive job losses and loss of critical mass.

Even according to the Productivity Commission's own recent economic modelling, further reductions in tariffs carry a very small benefit. It would cost every Australian 75 cents per year to support a domestic TCF industry. Further, in addition to the Thailand and US free trade agreements which will already undermine local TCF manufacturing, we are extremely concerned about the proposed China free trade agreement and the impact it will have on the industry. Whilst we are consistently being told of the perceived benefits of free trade, the experiences of most Australians is that it has led to significant job losses and no benefits to consumers.

The VTHC believes that as there is no evidence to show that tariff reductions will result in economic benefits for the Australian community but do result in community trauma due to job losses, the linking of the two bills is unfair. Industry should be entitled to assistance in dealing with the previous round of reductions without being forced into a new round.<sup>7</sup>

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5 *Transcript of Evidence*, Pettifer, 3 August 2004, p. 50.

6 *Transcript of Evidence*, Jumpertz, 3 August 2004, p. 53.

7 Submission 15, Victorian Trades Hall Council, p. 2.

1.13 Labor Senators consider that there is no logical reason why these two bills need to be considered together. Further, we consider that the Government has failed to adequately make a case for further tariff reductions in the TCF sector.

### **Recommendation 1**

**Labor Senators recommend that the Senate consider the bills separately.**

### **Recommendation 2**

**Labor Senators recommend that the Senate negative the Customs Tariff Amendment (Textile Clothing and Footwear Post-2005 Arrangements) Bill 2004.**

### **The consultation process**

1.14 Serious concerns have been expressed about several aspects of the consultation process undertaken by the Department. First, it is apparent that the Department has been more highly motivated to consult with organisations likely to support its own position. For instance, the Carpet Institute<sup>8</sup>, and the Council of Textile and Fashion Industries<sup>9</sup>, both of which support the bills, both expressed satisfaction with the consultation process.

1.15 Other organisations, more critical of the package, such as Fair Wear<sup>10</sup>, the Australian Association of Leather Industries<sup>11</sup>, the TCFUA<sup>12</sup>, the ACTU<sup>13</sup>, and Mr Andrew Minter from Fashion Clubwear<sup>14</sup> all told the Committee in evidence that they had not been consulted by the Department.

1.16 For a consultation process to provide effective information to the government and to the parliament, it must be an inclusive process which engages a wide variety of parties. A consultation process limited to those organisations who are already in substantial agreement with the Department will add nothing to the process.

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8 *Transcript of Evidence*, Szakiel, 3 August 2004, p. 2.

9 *Transcript of Evidence*, Garrett, 3 August 2004, p. 37.

10 *Transcript of Evidence*, Carstens, 3 August 2004, pp. 13-14.

11 *Transcript of Evidence*, O'Loughlen, 3 August 2004, pp. 17-18.

12 *Transcript of Evidence*, O'Neil, 3 August 2004, p. 23.

13 *Transcript of Evidence*, Burrow, 3 August 2004, p. 26.

14 *Transcript of Evidence*, Burrow, 3 August 2004, p. 26.

1.17 Furthermore, to be effective and conducted in good faith, a consultation process must occur *before* the key decisions are made.

1.18 Labor Senators questioned the Departmental officers about their consultation process, and obtained a written response. A closer examination of the timing of these processes shows that most of them were not 'consultation' at all, but rather 'information'.

1.19 According to the additional information supplied by the Department, "the Minister wrote to key industry associations, major TCF companies, the Textile Clothing Footwear Union of Australia, and his state ministerial counterparts on 27 November 2003 advising them of the Government's Post-2005 TCF package."<sup>15</sup>

1.20 On the same day, 27 November 2003, the Minister issued a press release entitled 'Future Assistance Arrangements for the TCF Industry.' In it he announced:

a long term assistance package of \$747 million, and a five year pause on tariff reductions from 2005, for the Australian textiles, clothing and footwear (TCF) industries. The decision follows the Government's consideration of the Productivity Commission Review of TCF Assistance.<sup>16</sup>

1.21 If the Minister was writing to the industry on the same day that he announced, in substantial detail, the package which is presented almost unchanged in the current bills, then clearly his letters to industry were 'information' rather than 'consultation'.

1.22 The Department then informed the Committee that drafting instructions for the current bills were issued on 2 February 2004.<sup>17</sup> However, again according to the Department, its travelling series of consultation sessions took place between 23 February and 1 March 2004<sup>18</sup>. So, according to the Department, by the time it undertook widespread 'consultations', drafting instructions for these bills had been in the hands of the drafters for three weeks. These sessions certainly amount to information rather than consultation, notwithstanding the departmental contention that 'the industry consultation process conducted since the announcement of the package has played a role in informing the drafting instructions with respect to the formulation of the TCF Post-2005 Scheme.'<sup>19</sup>

1.23 It is not clear, on the basis of available evidence, that an actual consultation process, involving a wide range of stakeholders *prior to decisions being made*, was undertaken at any time in this process. Lamentably, for some key organisations, this

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15 Additional Information, Department of Industry, Tourism and Resources, p. 1.

16 Press Release, *Future Assistance Arrangements for the TCF Industry*, the Hon. Ian MacFarlane MP, 27 November 2003.

17 Additional Information, Department of Industry, Tourism and Resources, p. 2.

18 Additional Information, Department of Industry, Tourism and Resources, p. 1.

19 Additional Information, Department of Industry, Tourism and Resources, p. 2.

Inquiry represented their first opportunity to become involved in a genuine consultation process with regard to these bills.

### **Technical textiles and leather**

1.24 Under the proposed scheme, technical textiles and leather industries will be unable to access Type 2 grants (for research and development). The government rationale for this limitation is as follows:

The SIP is to help the industry to deal with any further structural adjustment that they need to make. The leather and technical textiles industries are on a five per cent tariff, and that situation is not going to change.<sup>20</sup>

1.25 Both the technical textiles industry and the leather industry sought, before this committee, full access to the SIP scheme. The Technical Textiles and Nonwoven Association argued:

Once again, I restate that our industry—the technical textiles industry—is undertaking fundamental structural changes. The World Trade Organisation agreement on textiles and clothing, the ATC, will continue to drive change for some time. We are in a global society. It is not as if this is going to go away. Therefore, our industry needs to further invest in capital equipment and R&D and to address the structural change which at this stage we have only just started. We need to stay ahead. We recommend that a small amendment be made to the proposed legislation and that we do go ahead and pass this legislation promptly, but with the amendment that R&D be included for the technical textiles sector for the post-2005 programs.<sup>21</sup>

1.26 The Australian Association of Leather Industries argued:

... we are spending lots of time and effort on R&D. We have got experts from around the world working in our factory, and we are claiming that under the SIP scheme at present. We will not be able to do that going forward. We have not finished getting ourselves in a position to be a highly differentiated, internationally competitive business. We are not ready. We are not quite there yet. We need more time.<sup>22</sup>

1.27 Labor Senators consider that both the technical textiles and the leather industries have made a sound case for access to type 2 grants. Both sectors appear to contain exactly the sorts of companies the SIP scheme is intended to encourage. Both appear to have a need for continued SIP support in order to establish world competitiveness. The Department was unable to respond to these arguments beyond restating the policy view outlined above. On balance, Labor Senators support the extension of eligibility to these two sectors.

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20 *Transcript of Evidence*, Pettifer, 3 August 2004, p. 53.

21 *Transcript of Evidence*, Taylor, 3 August 2004, p. 32.

22 *Transcript of Evidence*, Rich, 3 August 2004, pp. 17-18.

1.28 However, in order for Labor Senators to make a recommendation to this effect, we must be convinced that the additional claims flowing from this eligibility can be managed under the scheme. The Department was asked, on notice, to indicate what the cost of extending eligibility would be. It responded that the total for both sectors, over the 5 year life of the program to 2010, would be \$26 million.

1.29 Labor Senators noted that the SIP scheme has a history of underspending. In 2002/03, for instance, budget estimates of spending under the scheme were \$130, 700, 000. Actual expenditure was just \$109, 660, 170.<sup>23</sup> This represents a \$21 million dollar underspend in a single year. Against these figures, it seems obvious that the scheme would be able to accommodate Type 2 grants for leather and technical textiles without having an impact on support for other TCF sectors. Consequently, there is no reason to refrain from supporting the extension of the scheme.

### **Recommendation 3**

**Labor Senators recommend that Leather and Technical Textile research and development activity should be eligible activity for the purpose of Type 2 grants during the 2005-2010 phase of the SIP scheme.**

### **Access for small business**

1.30 The SIP scheme includes a \$200,000 expenditure floor for grant eligibility. Even allowing that some firms can build towards the target over a period of years, \$200,000 remains a formidable investment target for many small and medium businesses. As a result, many small businesses are shut out of the scheme. In evidence, the TCFUA described the effect of this threshold:

It is a scheme that, in reality, completely ignores the small and medium enterprises within the industry. Four hundred out of 4,900 companies in the industry received money under the current SIP. Sixty per cent of the work force is represented in those 400 companies, so it is perhaps not as great a discrepancy as it may first appear, but we are still talking about 4,500 companies and 40 per cent of the employment in the industry receiving no SIP funding.<sup>24</sup>

1.31 The 'skewing' of the SIP scheme towards larger enterprises appears to have little foundation in policy, other than an apparent desire not to spread SIP funding too thinly. The Productivity Commission made this argument in its report:

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23 DITR Annual Report 2002-03, p. 243, Table 28C.

24 *Transcript of Evidence*, Kitchener, 3 August 2004, p. 21.

The current minimum spending threshold and high compliance costs can make it difficult for small firms to secure SIP funding. The threshold is partly intended to reduce administrative costs by limiting the number of claimants and the likelihood of many small claims. But it also carries the assumption that small firms are not able to undertake significant investment or R&D/innovation, and that the future of the industry lies with large enterprises. As the Department's review of the SIP noted, any reduction in the threshold would also spread available funding more thinly and therefore reduce its capacity to improve the competitiveness of recipient firms.

Yet, just as there are many ways in which firms can improve their competitiveness, small firms can be as (if not more) competitive as large firms in certain activities. Indeed, smallness may be one of the characteristics which contributes to innovation, responsiveness and success in some market areas (eg clothing design and branding). From this perspective, the minimum threshold may detract from the Government's objectives for the sector. Again, however, getting the right balance between avoiding inappropriate discrimination against smaller firms, containing compliance costs and not spreading funding too thinly, poses challenges for program design.<sup>25</sup>

1.32 The Productivity Commission, in this quotation, identified the fundamental, illogical flaw in the design of the SIP scheme. Simply put, there is no basis for assuming that small and medium firms will be unable to invest in R&D or in plant and equipment. The government's own statements in the past have repeatedly identified the innovative strengths of small business. In July 2004, for instance, the government's *Committed to Small Business* statement included the following:

The ability of small business to grasp the opportunities presented by Australia's recent sustained period of economic growth, and use it to prosper and diversify, is testimony to the resilience and entrepreneurial skills of the sector ... [small businesses] are a key source of innovation, jobs and economic growth.<sup>26</sup>

1.33 If this is the case, then there appears to be no reason to shut out 'a key source of innovation' from a scheme intended to enhance innovation in the TCF sector.

1.34 Given the underspend in the SIP scheme noted above, fears of 'spreading grants too thinly appears to be unwarranted.' It is true that small to medium businesses are inherently likely to be eligible for smaller grants, as the SIP scheme provides grants in proportion to spending. However if these companies can achieve significant innovative outcomes from those smaller grants, then surely this should be fully encouraged.

1.35 The proposed scheme does include a TCF Small Business Program, which is to receive \$25 million in funding over 10 years. While any additional support for

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25 Productivity Commission (2003) *Review of TCF Assistance*, Report No. 26, p. 79.

26 Prime Ministerial statement, *Committed to Small Business*, July 2004, p. 11.

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small business will be welcome, Labor Senators have two difficulties with the current proposal.

1.36 First, the amount of \$25 million is disappointingly small, especially in the context of an overall scheme of \$600 million. This point was made by witnesses before the Committee:

The government, in response to concerns that have been raised by companies during the Productivity Commission review process, has announced as part of its overall package a \$25 million program for small businesses over 10 years. I think that, when you look at the figures and see that 400 companies will receive \$60 million a year—the SIP is \$600 million over 10 years—whereas 4,500 companies will receive \$2.5 million a year, it is a fairly laughable equation in terms of fairness.<sup>27</sup>

1.37 Second, the Senate is asked to endorse this legislation while the program itself is 'sight unseen'. The TCF Small Business Program has not been developed, or (at the very least) has not been publicly released. Given the Department's poor record of consulting with the TCF industry on the development of the wider SIP scheme, Labor Senators have little confidence that small or medium enterprises will be properly consulted in the development of the Small Business Program. Labor Senators will closely monitor the development and implementation of the Small Business Program, and will ensure that any concerns expressed by small business are raised during the Senate estimates process.

## **Outworkers**

1.38 The Majority report concludes its discussion of outworker issues in the following terms:

The Committee is disappointed that, nearly seven years after the tabling of that report in December 1997, it is still hearing evidence of the continued and systematic exploitation of outworkers in the TCF industry.

1.39 While Labor Senators share this disappointment, we do not share the Committee Majority's apparent view that the Government is unable to do any more than stand by and hope that the TCF industry will voluntarily improve working conditions for outworkers. In evidence, the FairWear campaign argued that the process of self-regulation supported by this Committee's 1997 report has been unsuccessful:

The FairWear campaign has been involved heavily in the discussions and campaigning around the voluntary Homeworkers Code of Practice that is in place for retailers and manufacturers to become involved in monitoring and checking what is going on in their supply chains, from the top down.

FairWear have reached the conclusion that the voluntary mechanisms on their own are not able to work.<sup>28</sup>

1.40 Given that the current bills propose arrangements which will fundamentally change the TCF industry in Australia, it is disappointing that not one proposed measure, in a package worth some \$600 million, specifically addresses the challenges faced by outworkers in this industry. There are no measures to support those who remain in the industry (FairWear has suggested linking SIP grants to participation in the Homeworkers Code of Practice) and no specific measures to support the transition of outworkers out of the TCF industry and into other employment, despite the widespread understanding that reduced tariffs will force many outworkers out of the industry, and despite the widespread understanding of the language and cultural barriers which may prevent outworkers from accessing more generalised forms of support. Labor Senators are determined that outworkers should not simply be the invisible victims of the Government's tariff reduction program.

Senator Ursula Stephens  
**Deputy Chair**